

**Agenda
LCIR Meeting
March 8, 2004
11:30 a.m. – 1:30 p.m.
Room 117, Knott Building
Tallahassee, Florida**

Opening Comments

Discussion of Federal Funds to Florida

- **LCIR Staff Presentation**
- **Vic Miller, Senior Fellow, Federal Funds Information for States, Consultant**

Update on Reauthorization of TEA-21 – Florida Department of Transportation

Review of draft legislative proposals relative to urban revitalization interim project

Discussion of LCIR Interim Projects for 2004

Other Business

MEMORANDUM

TO: LCIR Members
FROM: Marsha Hosack
RE: **Draft** Minutes for the LCIR Meeting February 16, 2004 in Tallahassee, Florida
DATE: February 27, 2004

Senator Burt Saunders, LCIR Chair, called the meeting to order at 11:35 a.m. The attendance of the committee members was as follows:

PRESENT

Senator Saunders
Representative Hasner
Senator Lynn
Senator Miller
Representative Brandenburg
Representative Slosberg
Councilman Gonzalez
Secretary Castille
Mr. Greer
Councilwoman Starace (via conference call)

ABSENT

Representative Rivera
Senator Haridopolos
Mr. Potter
Commissioner Riggs
Commissioner Staub

Opening Comments

Senator Burt Saunders welcomed the members to the meeting. He acknowledged that City Councilwoman Carmella Starace would be participating in the meeting via conference phone.

Senator Saunders announced that the next meeting of the LCIR would most likely be March 8. He said it would be the only meeting LCIR would have during Session, and the Committee likely will meet after Session in Central Florida

Senator Saunders asked the members to be thinking of interim projects the Committee might do during this next year. He suggested that members may submit interim projects to staff.

Senator Saunders asked for a motion to approve the minutes from the December 8, 2003 LCIR meeting. A motion was made and the vote was unanimous to approve the minutes.

Revisions to Federal Laws and Regulations to Address Medicaid Prescription Drug Over-Prescribing and Medicaid Fraud

Senator Saunders made opening comments regarding Medicaid prescription drug over-prescribing abuse and Medicaid fraud. He pointed out that this discussion may result in interim work for the committee staff. As Chair of the Senate Health, Aging and Long Term Health Committee, Senator Saunders formed a select subcommittee to study the issue of Medicaid over-prescribing and Medicaid fraud and abuse. This was in response to a series of articles in the Sun-Sentinel entitled, "Drugging the Poor", that

outlined the human tragedy associated with the abuse of prescription medicine such as Oxycontin, Xanax and many others.

The select subcommittee was also formed in response to a report on recipient fraud in Florida's Medicaid program issued by the 17th Statewide Grand Jury in Case SC-02-2645. The Statewide Grand Jury studied the diversion of tens of millions of dollars of prescription drugs by large numbers of Medicaid recipients. There are few if any consequences to Medicaid recipients who sell their expensive medications to illegal drug dealers and wholesalers. According to the report, efforts to deal with recipient fraud have been hampered by a lack of effective state statutes, federal limitations that restrict Florida's attempts to control this fraud, and lack of awareness by some state and federal officials of the extent of this fraud. The result is the waste of hundreds of millions of dollars, the exploitation of Medicaid recipients and the tainting of our supply of critical life-saving medication." The grand jury went on to find that the societal cost of this illicit trade in pharmaceuticals cannot be overstated.

Senator Saunders shared that he also has learned firsthand of tragic consequences through the death of a son of a friend as well as learning of the deaths of many other Floridians. It is estimated that 5 people die a day in Florida as a result of prescription drug fraud and abuse. Senator Saunders said that this tragedy has been repeated all too often and Florida needs to do something.

Senator Saunders stated that 1/3 of the illicit drug trade in the United States is reported to involve prescription drugs. Many of these drugs are initially purchased through government programs such as Medicaid. In Florida, Senator Saunders recommends that a three prong approach to deal with this should be taken. First, significant state legislation to deal with the issues should be enacted to give law enforcement the necessary legal tools to investigate and prosecute Medicaid providers and recipients who are guilty of Medicaid prescription fraud abuse. Second, provide the necessary resources to effectively deal with this. Resources should go to the Florida Department of Law Enforcement, the Office of the Attorney General, and the Agency for Health Care Administration.(AHCA) Where the LCIR gets involved is the third prong. This involves working with our federal partners to identify problems in rules governing Medicaid to ensure that we're able to deal effectively with Medicaid providers and recipients who are violating the law. As was indicated in the Grand Jury report, there are few if any real sanctions for Medicaid recipient fraud and abuse. Third, there are many loopholes in federal regulations dealing with Medicaid that make it difficult for Florida regulators to get a handle on this problem even if we change state law. Senator Saunders said he would be working with our federal partners to outline those areas in federal statutes and regulations that have to be addressed if we're going to be effective in dealing with Medicaid prescription drug fraud and abuse in Florida. The estimates are that we can save hundreds of millions of dollars in our Medicaid program if we can get our hands around this Medicaid prescription drug fraud.

Senator Saunders introduced **Bob Sharpe, Medicaid Administrator at AHCA**. Mr. Sharpe summarized a list of proposals at the state and federal levels that would be helpful in combating fraud.

First, federal law has restraints on situations under which AHCA could take action against a beneficiary for Medicaid fraud. Federal law provides for criminal penalties for acts involving federal health care programs, and allows for suspension of Medicaid benefits for up to one year, of individuals convicted of certain federal crimes. AHCA would like to codify into state law similar remedies. The National Association of State Medicaid Administrators has a template for state legislation that includes this kind of sanction.

Federal law should be broadened to include that the administrator of a Federal health care program may limit, restrict, or suspend the Medicaid eligibility of individuals convicted of offenses under state law for acts involving federal health care programs, including the following: drug trafficking; trafficking in other goods and supplies paid for by Medicaid; illegal use of a Medicaid identification card; illegal transfer of a Medicaid identification card; doctor shopping for the purpose of illegally obtaining controlled substances; altering a prescription; intentionally receiving duplicative, excessive, contraindicated or conflicting health care services for personal gain; and misrepresenting symptoms or conditions to receive unnecessary medical care, goods or supplies. The state's Medicaid budget is projected next year to be \$14 billion – some of that is because of recipient abuse. To combat this, federal should be amended to authorize the administrator of a Federal health care program to impose fines and penalties (including restriction/suspension/termination of benefits) upon the conviction in state or federal court of an individual for acts involving federal public assistance programs.

Second, federal Medicaid law only authorizes criminal prosecution of beneficiary fraud, and does not authorize administrative remedies by the administering agency. This makes the process for sanctioning much more expensive and time consuming, which serves as a barrier to prosecution unless fraud cases are for very large dollar amounts. Federal legislation should be amended to authorize an administrative remedy process for Medicaid, which would allow for more coordinated action between the Agencies in taking action for beneficiary fraud and abuse, and would allow for a less costly and complex process for levying sanctions.

Third, states allow a provider to bill Medicaid for seeing a patient for any approved service. States can lock patients suspected of Medicaid fraud or abuse into seeing only certain providers or using specific pharmacies, but the process for doing so is burdensome. States should be given greater flexibility to lock patients into providers, pharmacies, etc., and to have greater management of the state's provider network. Federal law should be changed to grant broader authority to states to limit Medicaid beneficiaries' freedom of choice of providers to preferred/enrolled providers.

Fourth, when an overpayment that results from fraud or abuse is discovered (and therefore reported to the federal Centers for Medicare and Medicaid Services, or CMS) the state has to report it and to immediately refund the federal portion of the amount owed by the provider prior to the appellate process. Collecting debts owed to the state is a difficult process. For various reasons (bankruptcy, refusal to pay, imprisonment of debtor) the amount due may not be collected. Yet, the state has to reimburse the federal share right away. Even if the overpayment is collected at a later date, the result is that the state is "floating" funds to the federal government. At any given time, the state gives millions of dollars to the federal government that ultimately will not remain with the federal government. The process calling for reimbursement upon reporting the overpayment is a disincentive for the state to report the overpayment.

Fifth, Medicaid debts are not treated well under federal and Florida's bankruptcy laws. The state is not a secured creditor, nor does it receive priority over the claims of other creditors. The state has to bring a separate suit against the debtor and often the debt can be discharged. Providers can largely avoid debts to the government that are essentially financed with tax dollars. AHCA proposes that an exception be created in federal law regarding overpayment cases, that the agency can get automatic stays, and that Medicaid debt be upgraded in its priority standing.

Sixth, an agreement is currently in place under which CMS will conduct a computer matching program with AHCA to study claims, billing, and eligibility information to detect suspected instances of

Medicare and Medicaid fraud and abuse. Utilizing fraud detection software, the information will then be used to identify patterns of aberrant practices requiring further investigation. Florida is one of six states to participate in this matching program and this contract is in effect for 18 months after the execution, expected to be in April 2004. The Agency believes that this national project should be made permanent and extended to all states to assist in identifying duplicate payments, duplicate services and much more.

Finally, AHCA proposes that the federal government give enhanced matching for the Medicaid Program Integrity functions, which currently receive approximately 50% federal matching funds. Federal matching for Medicaid Program Integrity (MPI) functions should be increased to 90% for MPI system and other development activities, and 75% federal matching for MPI operations. The Medicaid Fraud Control Unit (MFCU) in the Office of the Attorney General currently receives an enhanced federal match (75-90%) for its fraud functions. By increasing the federal matching funds to align with that of MFCU, MPI would be able to increase its investigative abilities and resources to monitor aberrant billings and look at possible fraud and abuse in more detail. States could increase their investments in their integrity programs.

Mr. Sharpe concluded his remarks. Rep. Slosberg offered his insights into the topic of program integrity. He referred to an OPPAGA program integrity study, which found there was a \$3-4 billion potential for fraud. The fraud division has gone from 70 members to 120. When Rep. Slosberg went to the program integrity office, he found that the computer systems did not detect fraud. He said the fraud division should be more aggressive and that the chairman should not be someone new every year. He also stated he was promised that it would be outsourced. The Program got expanded, but there is no accountability.

Senator Saunders pointed out that in FY2000-'01, the Medicaid integrity division was given additional funding and technical enhancement and asked Mr. Sharpe to consider this when responding to Rep. Slosberg's comments. He reiterated that the Committee's focus is on federal efforts to combat fraud.

Mr. Sharpe told the committee that Medicaid integrity is not directly under his direction. He said that the process has gotten increasingly aggressive in detecting, preventing and prosecuting abuse. If AHCA suspects fraud, it must refer the case to the Medicaid Fraud Control Unit in the Office of the Attorney General for further action.

With regard to outsourcing, AHCA has outsourced certain functions such as audits. AHCA has contracted with data companies for data and decision support systems and in data mining the 130 million cases it reviews. As for investigating functions, Mr. Sharpe said he does not think the agency ever committed to fully outsourcing cases. Providers have expressed concerns that if contractors are paid on contingency basis, they might be overzealous. There were similar concerns about auditors trying to catch pharmacies in paperwork discrepancies, rather than on substantive issues.

Mr. Sharpe said that the agency wants to get real time information regarding billing by taking advantage of new technical advances. AHCA has contracted with Gold Standard to put a Personal Data Assistant (PDA) in the hands of prescribing doctors. This way, a doctor can find out right away what, if any, other drugs the recipient is taking. The agency has 1000 doctors using PDAs, but wants to expand it to 3000. Other vendors have offered ideas about how to increase the use of technology in other ways, as well.

Senator Saunders introduced **Mark Thomas, with the Attorney General's Office.**

Mr. Thomas said pricing of pharmaceuticals is a big issue. Given confusion from the current pricing system, the OAG offered proposals to change federal law.

First, the OAG proposes that federal law be amended to add a definition of "Average Sales Price" analogous to the definitions of ASP provided in several current Department of Justice Corporate Integrity Agreements with manufacturers that arose from settlement negotiations (e.g., the recent Bayer and GlaxoSmithKline Corporate Integrity Agreements). The newly enacted Medicare pharmacy bill has a definition of AWP, which stands for "Average Wholesale Price" or more commonly known as "Ain't What's Paid" but it is not particularly helpful for anti-fraud purposes.

Second, there should be a federal requirement for manufacturer certification of their prices. It is not currently required that manufactures report meaningful sales prices. The State of Texas has required certification under state law for many years. A federal law requiring price certification would be very helpful.

Third, there appears to be some conflict between the legal requirements of the Food & Drug Administration (FDA) and the Centers for Medicare and Medicaid Services (CMS) as to whether the unique identifier code of individual pharmaceuticals (the National Drug Code, or NDC) should be changed in the event the pharmaceutical is "rebottled" or "relabelled" after the manufacturer sells the drug. The NDC is an 11 digit number. The first 5 digits identify the manufacturer, the next 4 is the drug compound, and the final 2 reflects the size package. When a drug is rebottled, very large containers of drugs are broken down into many small retail-distribution size containers. The FDA law appears to require the NDC to stay the same in the event of rebottling. Conversely, the CMS regulations seem to indicate that any time a drug is rebottled, it need be assigned a new unique NDC. The significance of the matter lies in the federal/state Medicaid drug rebate program administered by CMS (manufacturers pay a percentage of Medicaid's initial cost back to the states as a rebate). Rebottling increases the ultimate cost of the drugs, which increases the amount of drug rebate paid to the states. Drugs sold by the barrel are less expensive and have a smaller rebate. Blister packs cost more. Manufacturers ignore the CMS law and hide behind the FDA law when paying rebate on rebottled drugs because it allows them to pay a lower rebate on an unchanged NDC, even when the drug is rebottled. Thus, Medicaid pays for high-priced "small-bottle" dispensing, but the manufacturers pay lower-cost "big-bottle" Medicaid rebates. Health and Human Services and FDA laws need to be amended to take rebottling changes into consideration when pricing is determined.

Senator Saunders thanked the staff of various agencies for working on this issue and so quickly. Although it is a relatively new subject, Florida appears to be at the forefront of addressing the issue. Senator Saunders reported that he had provided the information from the agencies in written testimony to the United States House of Representatives Government Reform Committee's Subcommittee on Criminal Justice, Drug Policy, and Human Resources in Winter Park, Fla.

Urban Revitalization Interim Project

Chairman Saunders introduced Marsha Hosack, Executive Director of the LCIR to update members on this agenda item. She commented that the *1998 LCIR Report on the Development of a State Urban Policy* resulted in legislation which created the Urban Infill and Redevelopment Grant Assistance Program. The legislation required Office of Program Policy Analysis and Government Accountability (OPPAGA) to complete a review of the program, to be completed in 2004.

Therefore OPPAGAs review would function as an introduction to the current work of the LCIR.

Shunti Houston, OPPAGA, Senior Legislative Analyst, stated that OPPAGA staff found the designation of Urban Infill and Redevelopment Areas to have uncertain impact but are generally perceived as useful by local governments. She commented that limited data is available on the program's impact on local conditions such as property values, crime rates, or employment because local governments were not required to compile and report quantitative data. The Evaluation and Appraisal Reports which are required by the states' comprehensive planning laws, to include such information are not due for several years and may be of varying usefulness because the Department of Community Affairs (DCA) was not specifically required to develop a standard methodology for the local governments to compile and report the information.

In the absence of the quantitative data, OPPAGA staff was able to gather qualitative data through surveys, site visits, and interviews with local government representatives. Local government representatives perceived urban infill and redevelopment assistance planning grants useful because they bring key stakeholders together to address common concerns and prioritize redevelopment goals. However, DCA was not required by law to follow-up after grants were closed. Therefore there is no data to determine if the strategies had been implemented.

Ms. Houston offered two recommendations for the committee to consider: 1) the Legislature should require grant recipients of future programs to a) compile information on program-related activities and changes in local conditions, and b) regularly report information on activities and performance to administering agencies and the Legislature; and 2) require OPPAGA or another entity to conduct a review of all state urban redevelopment programs collectively to better determine how they are used to assist local government revitalization efforts.

Senator Miller, asked if there were any rules for DCA to follow-up with these communities and gather information on the local conditions. Ms. Houston stated that there are rules for the grant program itself but once the grants were closed, DCA was not required to do any follow-up under the law or agency rules.

Chairman Saunders thanked Ms. Houston for the presentation. He introduced staff analyst Chuck Hungerford, who provided the committee with a history of the progression of the urban revitalization project. He noted that at the committee's December 8, 2003 meeting, Ms. Pelt, another LCIR analyst, had previously provided members with an overview of the project findings and policy options.

Mr. Hungerford supplied a recap of the projects findings to provide context for the committee's consideration of the policy options. He noted that both the *LCIR 1998 Report on the Development of a State Urban Policy* and the *2000 Report on the Development of a State Rural Policy* revealed some common themes, including that substantive redevelopment requires the collaborative efforts of local stakeholders to develop a holistic plan, as well as implement and evaluate or monitor the progress of the plan. Mr. Hungerford commented that the Urban Infill and Redevelopment Grant Assistance Program included such a collaborative approach.

Mr. Hungerford then presented eight policy options for the committees' consideration, these included: 1) Encourage the comprehensive-collaboration planning process as condition for participation in state programs. This option would not require any action currently but as future

programs are created a requirement that documentation of this collaborative component can be added; 2) Fund the Urban Infill and Redevelopment Grant Assistance Program, which would require an appropriation; 3) Enhance city-county coordination and cooperation regarding Community Redevelopment Agencies (CRAs), through activities such as holding workshops, and directing staff to monitor the issue during the 2004 Legislative Session; 4) Amend s.212.097, F.S., to authorize an eligible business within a currently designated high crime area to transfer unused tax credits thereby raising revenues to improve need cash flow for business located in these communities. This item is currently in a Senate Bill 1708 sponsored by Chairman Saunders; 5) request OPPAGA do a comprehensive review of state economic development activities which could be accomplished either through the passage of a bill or a letter of transmittal from Senate or House leadership to OPPAGA; 6) Continue to assist and promote creation of the South East Crescent Authority (SECA); accomplished through a joint resolution; 7) Further assist local governments in accessing federal and state grant programs; and 8) Continue urban revitalization project for the 2004-2005 interim with a focus on the creation, management, and financing of Community Redevelopment Agencies.

The Committee decided to continue the project. With regard to the other items, the Committee directed staff to draft language that would be reviewed and possibly placed in legislation. Chairman Saunders noted that Senator Miller and Representative Brandenburg agreed to work with staff to introduce a resolution to encourage Congress to create a South East Crescent Authority.

Chairman Saunders thanked Mr. Hungerford for his presentation.

Intergovernmental Impact Report

Chairman Saunders, introduced staff analyst Kay Pelt, who provided an overview of the Draft Intergovernmental Impact Report. She reported that there were 433 bills passed by the Legislature during the 2003 general and special legislative sessions that were not subsequently vetoed by the Governor. Of these 433 bills, LCIR staff identified 56 bills, which contained 68 mandate provisions that impact counties or municipalities. She explained the contents of the report.

School District Administrative Costs

Richard Drennon, LCIR Analyst, presented the K-12 Education Administrative Costs Draft Report. The report measured K-12 education administrative costs in a variety of ways using audited financial information from each school district, supplemented by unaudited financial reports submitted by each school district to the Department of Education. This information covered the fiscal school year ending June 30, 2002 – the most recent information available.

The Committee was briefed on the limitations of the findings due to the application of accounting definitions as affected by the differences in the size and structure of administrative organization of school districts in Florida. The complexity and subtleties of measuring K-12 education administrative costs was emphasized. The report did not include recommendations, but identified administrative costs to the extent possible given the limitations of the data.

The report was approved by the Committee.

Local Government Perspectives on State-Local Revenue Sharing Programs

Florida League of Cities – John Wayne Smith -- Mr. Smith stated that municipalities, for the last several years, have been interested in having the Legislature review the ability of municipal governments to export their tax burden as can the State or county governments. He noted that this issue has become increasingly important due to the fact that the state sales tax is the major funding source of state revenue-sharing with local governments.

Mr. Smith stated that the County and Municipal Revenue Sharing Programs were originally created with non-sales tax revenues for the purpose of financially assisting county and municipal governments that could no longer collect revenues locally. Certain revenue collections were deemed by the State to be more efficiently accomplished by state government.

Mr. Smith noted that circumstances have changed in the years since these programs were originally enacted. Municipal governments no longer rely on the same revenue sources as in years past, and municipalities today are much more reliant on the state sales tax.

Mr. Smith mentioned that municipal governments are also heavily reliant on another sales tax-based revenue sharing program, the Local Government Half-cent Sales Tax, in which county and municipal governments share a portion of the state sales tax. The program was created for the purposes of providing ad valorem tax relief and assisting local governments in funding infrastructure needs as identified in growth management plans.

According to Mr. Smith, the municipal share of the Local Government Half-cent Sales Tax proceeds averages about 33 percent statewide. When the County and Municipal Revenue Sharing Programs are compared, the disbursements are about the same.

Other factors were cited by Mr. Smith as reasons why state revenue-sharing contributions to municipal governments are less than those to county governments. The Municipal Revenue Sharing Program contains a provision providing for a guaranteed entitlement to Miami-Dade County, and the County's entitlement currently accounts for 23 percent of total proceeds. This guaranteed entitlement reduces the monies available for distribution to municipalities; although, he did note that legislation passed during the 2003 session would gradually phase-out this entitlement to Miami-Dade County.

Mr. Smith suggested that if the Committee is interested in reviewing the issue of state revenue-sharing and municipal governments' access to sales tax revenues, then it needs to also consider local option sales tax issues. Of the \$950 million in local option sales tax revenues currently available to local governments, he noted that less than \$100 million is distributed to municipalities. Since the local option sales taxes were enacted in order to assist local governments' funding of growth management needs, the amounts available to municipalities have been very low if considered in the context of population growth. He stated that the state's population, in the aggregate, is evenly dispersed between the incorporated and unincorporated areas.

According to Mr. Smith, local option sales taxes enacted in recent years; e.g., the Charter County Transit System Surtax, the Indigent Care and Trauma Center Surtax, and the School Capital Outlay Surtax represent county or school district revenue sources. Current law does not require those proceeds to be shared with municipal governments. Consequently, the incremental effects of these various enactments take away or "cheat" the political capacity of municipalities to receive these

monies.

Mr. Smith opined that one possible policy option for consideration would be an authorization to allow municipalities to levy a local option sales tax by referendum. Without considering the local option sales tax issues, he stated that any review of state revenue-sharing programs would be unfair.

In closing, Mr. Smith stated that there are important issues that the State could review in trying to provide additional infrastructure funding to municipal governments. The issue of a tax's exportability is important in light of the state's tourism-based economy. Many municipalities serve as host communities for tourist-based attractions; however, those communities do not benefit fiscally as much as they might like since the ability of municipal governments to access or receive sales tax monies is dependent on the State or county governments.

Small County Coalition - Chris Doolin --Mr. Doolin acknowledged that a review of the state revenue-sharing with local governments would likely be contentious and suggested that the dialogue needed to be framed in the context of service provision. Federal, state, and local governments are partners in the provision of services to their client – the public, including the private sector.

Mr. Doolin stated that the Small County Coalition would very much like a legislative review of minimum levels of service provision, including a review of what services are required, what services are provided, what sources of revenue are available, and what programs are available to assist in providing needed services. If circumstances exist so that the level of funding is not sufficient to provide services, then those circumstances or conditions should be reviewed.

According to Mr. Doolin, some local governments within the Coalition are struggling fiscally within the context of existing revenues. He noted that studies have documented the case of limited infrastructure and revenue capacity. Consequently, the Coalition would like to encourage a review of local service provision.

Mr. Doolin stated that the issue of local service provision is and has been an important one to the Coalition. A number of small counties have complained of limited revenue capacity due to the 10 mill ad valorem tax cap. Consequently, the Coalition is interested in the issue of revenue capacity in relation to local services as well as look at the issue of local effort. He noted that any study should also review the per capita costs of providing local services.

Senator Lynn agreed with Mr. Doolin that small counties are in dire need. In the rural communities within her district, she has been made aware of the significant economic and social service needs that exist. She noted that while more populous urban counties can better absorb (although uncomfortably so) the fiscal burden of increased service provision, many rural communities cannot due to limited revenue capacities. She expressed hope that the Committee might study the issue of revenue capacity in relation to the provision of local services in light of local funding effort.

Florida Association of Counties - Bob McKee --Mr. McKee stated that the primary revenue sharing programs for county governments include the Local Government Half-cent Sales Tax, County Revenue Sharing, and the former Pari-mutuel Tax distribution to counties, which is now funded by a portion of the state sales tax. The real importance of such monies is their availability for funding infrastructure since counties are limited as to the extent to which their home-rule revenue sources can be bonded.

According to Mr. McKee, the Local Government Half-cent Sales Tax monies are important to county governments for a number of reasons. These monies represent a source of bondable monies for funding local infrastructure. Additionally, these funds serve as a way to provide local property tax relief as well as ensure minimum levels of funding for small counties.

Mr. McKee expressed concern as to the reduction in the State's commitment to county governments via the state revenue sharing programs. He noted the \$102 million reduction in County Revenue Sharing in 1999 and the \$43 million reduction in County Revenue Sharing in 2000. Additionally, as part of HB 113-A implementing Revision 7 to Article V of the State Constitution, he noted the \$30 million reduction to County Revenue Sharing and the \$90 million reduction to county governments via the Local Government Half-cent Sales Tax Program. In conclusion, he noted the nearly one quarter billion dollar reduction to state revenue sharing to county governments in the last five years.

Mr. McKee mentioned that certain small counties have been held harmless to the impacts of these statewide reductions due to additional sales tax monies allocated to the "Small County Kicker" (i.e., the Emergency distribution provided by the Local Government Half-cent Sales Tax Program). He noted increased funding of \$2.2 million in 2000 and \$4.7 million in 2004.

Mr. McKee stated that one of the Association's legislative priorities for this year is to increase funding to small counties via the emergency distribution. The Association is proposing that a portion of the recently repealed General Revenue Service Charge proceeds from counties' local option fuel tax levies be redirected to the Local Government Half-cent Sales Tax Program for distribution to small counties via the Emergency distribution. According to Mr. McKee, this change would provide \$11 million in additional funding to small counties. He noted that this proposal, as currently specified in Senate Bill 1956, had unanimous statewide support among county commissioners.

In conclusion, Mr. McKee stated that county commissioners also voted unanimously to oppose any other reduction, redistribution, or capping of growth state revenue sharing with county government.

As part of the Governor's Rural Initiative proposal for the 2004 legislative proposal, Secretary Castille stated that one criterion considered in the evaluation of counties' fiscal health was the value of one mill of ad valorem levy.

In closing, Chairman Saunders reminded the members that the Committee was just taking testimony from interested parties at the present time and was not being asked to approve a report.

LCIR Interim Projects for 2004-2005

Senator Saunders encouraged members to suggest interim projects to LCIR staff prior to the next meeting. He noted that possible projects raised at the meeting included the continuation of the urban revitalization project with a focus on CRAs and the review of government fiscal capacity. He noted the broad jurisdiction of the committee allowed for a variety of topics to be considered for future projects.

The meeting adjourned at 1:25 p.m.

MEMORANDUM

TO: LCIR Members

FROM: Chuck Hungerford, Senior Legislative Analyst
Kay Pelt, Legislative Analyst

RE: Draft Legislative Proposal on Urban Revitalization Project

DATE: March 3, 2004

During the February 16, 2004 LCIR meeting, staff were directed to prepare draft legislation for relevant policy options resulting from the Urban Revitalization in Florida's Distressed Communities interim project for the Committee's consideration at its March 8, 2004 meeting. Draft legislation for these options is attached. These options are summarized below.

Section 2 amends s.212.097, F.S., to authorize an eligible business within a currently designated high crime area to transfer unused tax credits. This change will enable small businesses located within distressed communities to sell their tax credits and improve their cash flow.

Section 8 amends s. 163.2517, F.S. to encourage institutions of higher education to participate in future initiatives under the Urban Infill and Redevelopment Grant Assistance Program.

Section 9 amends s. 163.2526, F.S., to include performance measurement standards for evaluating local impacts from Urban Infill and Redevelopment Assistance Grants. This measure is in response to the recommendations from the recent review and evaluation of the Urban Infill and Redevelopment Assistance Grant Program present by the Office of Program Policy Analysis and Government Accountability (OPPAGA).

Section 10 directs the Office of Tourism, Trade, and Economic Development to develop methods and procedures to assist state and local governmental entities to better access state and federal grants for revitalization programs for distressed urban communities.

Section 11 directs OPPAGA to review current state economic development programs relative to revitalization of Florida's distressed communities and to provide a report to the Legislature by January 31, 2005.

1 Amendment to the Urban High Crime Area Job Tax Credit Program (proposed to be
2 renamed Designated Urban Job Tax Credit Area Program) authorizing the transfer of tax
3 credits is currently included in section 2 of SB 1708 by Senator Saunders and section 2,
4 HB 617 by Representative Kilmer. Each bill includes a similar amendment authorizing
5 transfer of tax credits to the Rural Job Tax Credit Program contained at s. 212.098, F.S.
6

7 Section 2. Section 212.097, Florida Statutes, is amended to read:

8 212.097 (16) An eligible business may transfer any unused credit in whole or in
9 units of no less than 25 percent of the remaining credit. The entity that acquires the credit
10 may use it in the same manner and with the same limitation as described in this section.
11 Such transferred credits may not be transferred again, although they may succeed to a
12 surviving or acquiring entity subject to the conditions and limitations described in this
13 section.

14
15 Remaining policy options appear as amendments to SB 1708.

16
17 Section 8. Paragraph (2) of Section 163.2517 Florida Statutes, is amended to read:

18 **163.2517 Designation of urban infill and redevelopment area.--**

19 (2)(a) As part of the preparation and implementation of an urban infill and
20 redevelopment plan, a collaborative and holistic community participation process must be
21 implemented to include each neighborhood within the area targeted for designation as an
22 urban infill and redevelopment area. The objective of the community participation
23 process is to encourage communities within the proposed urban infill and redevelopment
24 area to participate in the design and implementation of the plan, including a "visioning"
25 of the urban core, before redevelopment.

26 (b)1. A neighborhood participation process must be developed to provide for the ongoing
27 involvement of stakeholder groups including, but not limited to, community-based
28 organizations, neighborhood associations, financial institutions, faith organizations,
29 housing authorities, financial institutions, existing businesses, businesses interested in

30 operating in the community, schools, and neighborhood residents, in preparing and
31 implementing the urban infill and redevelopment plan.

32 (c) If a community college, university, or other institution of higher education, are within
33 the geographical vicinity, local government grant applicants are encouraged to involve
34 such institutions in the visioning and collaborative planning process, and to enter into
35 agreements that the institution will contribute resources and expertise to the
36 redevelopment effort.

37 Section 9. Section 163.2526 Florida Statutes, is amended to read:

38 **Review and evaluation.--**

39 (1) Before the 2004 Regular Session of the Legislature, the Office of Program Policy
40 Analysis and Government Accountability shall perform a review and evaluation of ss.
41 163.2511-163.2526, including the financial incentives listed in s. 163.2520. The report
42 must evaluate the effectiveness of the designation of urban infill and redevelopment areas
43 in stimulating urban infill and redevelopment and strengthening the urban core. A report
44 of the findings and recommendations of the Office of Program Policy Analysis and
45 Government Accountability shall be submitted to the President of the Senate and the
46 Speaker of the House of Representatives before the 2004 Regular Session of the
47 Legislature.

48

49 (2) Subsequent to June 1, 2004, local governments awarded grants pursuant to 163.2523
50 shall make annual reports to the Florida Department of Community Affairs on
51 performance measures identified in the urban infill and redevelopment plan pursuant to
52 163.2517(3)(n).

53 (a) Local government that receive planning grants shall report their progress in creating
54 urban infill and redevelopment plans. In creating a plan, local governments are required
55 to:

56 1. use a collaborative and holistic community participation process and prepare a plan
57 that describes redevelopment objects of the area;

58 2. report information on stakeholder involvement in creating plans;

59 3. specify whether goals of the plan are consistent with community input they received;

- 60 4. specify whether plans were adopted by local governments; and
61 5. identify which local incentives were approved to encourage private investment.
62 (b) Local governments that receive implementation grants shall report:
63 1. progress in implementing activities specified in their urban infill and redevelopment
64 plans;
65 2. changes in economic and demographic indicators over time and how these changes
66 compare to objectives specified in their urban infill and redevelopment plans; and
67 3. information on the types and dollar amounts of financial incentives used to encourage
68 private investment in designated areas.

69 (c) Grant recipients shall establish appropriate measures such as inputs, outputs, and
70 outcomes and standards for evaluating the impact of the grants on local conditions.
71 These measures and standards shall be directly linked to goals for redeveloping an area
72 specified in the grant recipients' urban infill and redevelopment plans pursuant to
73 163.2517. Grant recipients shall also compile baseline data on conditions existing prior
74 to an area's designation that can be used to assess changes in conditions over time.
75 Depending on goals of a grant recipient's urban infill and redevelopment plan, baseline
76 data may need to compiled on property tax revenues, property tax values, net job
77 creation, and changes in characteristics of resident population to include employment
78 rates, high school graduation rates, homeownership rates, and median income levels.

79
80 (3) The Department of Community Affairs shall be required to provide technical
81 assistance to planning and implementation grant recipients. Such assistance shall include
82 assisting grant recipients in creating appropriate measures such as inputs, outputs, and
83 outcomes and standards, and uniform data collection procedures to ensure that reliability
84 and consistency of data that will be used to evaluate performance. The department shall
85 also promulgate rules to specify reporting requirements for grant recipients.

86

87 Section 10

88 The Office of Tourism, Trade, and Economic Development of the Executive Office of the
89 Governor shall develop methods and procedures: to assist state agencies and local
90 governments to access state and federal grants for revitalization programs for distressed

91 urban communities; to develop and maintain a current listing of available federal grants;
92 to assign appropriate staff as contacts for information on each grant; and to provide
93 technical assistance necessary for local governments to submit completed grant
94 proposals. Such methods may include the expansion of the existing rural resource
95 directory data base to include grants available to urban areas and designation of one or
96 more state entities to provide such assistance as necessary.

97

98 Section 11

99 The Office of Program Policy Analysis and Government Accountability shall with the
100 assistance of the LCIR and other legislative committee and agency staff as appropriate,
101 identify and review current state economic development programs created by statute
102 relative to revitalization of Florida's distressed communities and provide a report to the
103 Legislature by January 31, 2005. The project shall profile the implementation of these
104 programs, including the use of incentives; review the programs' impact through site
105 visits, identify best practices contributing to the successful implementation of the
106 programs, and identify state practices that facilitate or impede the programs'
107 implementation by local governments.

108

109 Specifically, the report shall:

- 110 1. Identify and profile state economic development programs, including the use of
111 incentives, to be included in the review;
- 112 2. Through site visits, review how local governments use the state programs alone or
113 in combination to help spur revitalization of distressed communities;
- 114 3. Consider in its fieldwork municipal or county jurisdictions with small (less than
115 30,000 population), medium (between 30,000 and 75,000 population), and large (more
116 than 75,000 population) populations;
- 117 4. Identify best practices contributing to the successful implementation of these
118 programs; and
- 119 5. Identify state practices that facilitate or impede the use of these programs.

120

121 Section 12. This act shall take effect July 1, 2004.

MEMORANDUM

TO: LCIR Members

FROM: Chuck Hungerford, Senior Legislative Analyst
Kay Pelt, Legislative Analyst

RE: Draft Resolution for Federal Initiative to Create the SouthEast
Crescent Authority

DATE: March 4, 2004

During the February 16, 2004 LCIR meeting, staff were directed to work with Senator Miller and Representative Brandenburg in preparing draft legislation that calls for Congress to continue to assist and promote the federal initiative to create the SouthEast Crescent Authority. Five such multi-state entities have been established by Congress for economic development purposes, leaving the southeastern states as the only region without one.

A draft resolution in support of this federal initiative is attached for the Committee's review.

DRAFT DRAFT DRAFT DRAFT DRAFT

Senate Concurrent Resolution No. ____
A concurrent resolution in support of the federal
initiative to establish a regional approach to
economic development in the Southeast

1 Whereas, several academic studies, including the December 2001 *Southeast Crescent*
2 *Authority: A Proposal for Economic Growth in the Southeastern United States* conducted by
3 East Carolina University, and the January 2003 *Study on Persistent Poverty* by the University of
4 Georgia and the Georgia Rural Development Council, among others, have shown that there is a
5 region in the Southeast that has been persistently poor for decades;

6
7 Whereas, this region is the poorest region of the country;

8
9 Whereas, past policies for breaking the cycle of poverty in the region have failed, and
10 different approaches are needed;

11
12 Whereas, all of the people of the 7-state region, including Florida, Alabama, Georgia,
13 Mississippi, North Carolina, South Carolina, and Virginia bear a tremendous burden from the
14 continuous cycle of poverty;

15
16 Whereas, the region is economically disadvantaged as compared with other regions in
17 industry sectors when measured by the production of goods and services per person;

18
19 Whereas, the most highly distressed areas of the region have a lower output of goods and
20 services than either the Appalachian Regional Commission or the Delta Regional Authority
21 counties;

22
23 Whereas, these areas have an average household income that is \$2,000 less per person
24 than the Appalachian Regional Commission or Delta Regional Authority counties, and a per
25 capita income \$5,000 less than the national average;

26
27 Whereas, the economy of the rural areas and components of the urbanized South are at
28 risk because they lack an able workforce and the tools with which to build wealth;

29
30 Whereas, the economic situation in the region will continue to worsen unless and until
31 the region gains the innate ability to produce and sustain wealth through the creation of goods
32 and services in manufacturing, service, and/or agriculture;

33
34 Whereas, critical gaps exist in education, health, housing, transportation, technology, and
35 sewer and water infrastructure in the region;

1 Whereas, despite its poverty, this region is not presently served by a federally supported
2 initiative similar to the Appalachian Regional Commission, which has shown much success in
3 reducing economic distress through support for local job-creation strategies and projects; and
4

5 Whereas, there is clear evidence for a new partnership between the states and the federal
6 government to break the cycle of poverty through targeted, strategic support for local job-
7 creation activities; now, therefore be it
8

9 *Resolved*, That we, the Florida Legislature, do hereby support the need for a new
10 approach as to breaking the cycle of persistent poverty through the creation of the SouthEast
11 Crescent Authority or a similar regional entity as reflected in pending Congressional legislation;
12 and,
13

14 *Resolved*, That we, the Florida Legislature, do hereby pledge to work to strengthen
15 Florida's efforts to share information, and to make full participation in the workforce for all our
16 region's citizens a priority for all the South

Possible Interim Projects

- **Federal Funds Survey** – In order to assist the Legislature in developing strategies to maximize Florida's receipt of federal grants-in-aid, conduct an analysis of federal grant programs to identify potential areas that the State may choose to target in order to potentially access more funds. The LCIR's project objective would be to make specific recommendations that policymakers may determine to pursue to ultimately increase Florida's receipt of federal funds. The Committee would survey state agencies in order to ascertain factors that disadvantage and advantage Florida in its receipt of federal funds under specific grant programs.
- **Local Government Fiscal Capacity/Delivery of Services** -- Conduct a study of local government costs and local government revenue capacity. To the extent possible, the study would include the following items:
 - A comparative analysis of the costs of services provided by local governments within the context of existing standards and/or requirements; e.g., state agency standards, federal standards, and minimum levels of service in local comprehensive plans, etc.
 - A comparative analysis of local governments' fiscal capacities, via local revenue-generating and state revenue-sharing and other relevant funding programs, to fund the costs of local services provided.
 - Legislative policy recommendations to address documented fiscal capacity issues pertaining to the ability of local governments to fund local service needs.

The LCIR would consult with appropriate legislative staff, state agency staff, local government representatives as deemed necessary in the conduct of this study.

- **Annexation/Enclaves** -- Legislation is being introduced this session relative to annexation that includes interlocal service boundary agreements, among other provisions. If a bill passes, the committee could evaluate the proposed interlocal service boundary agreement. Specifically, how successful it has been helping to eliminate enclaves and other inefficiencies in service delivery.

If the bill fails, the committee could review components of the annexation issue such as trying to inventory how many enclaves exist, how many are 40 acres or less, 100 acres or less, over 100 acres. This information would be of use in ongoing discussions of annexation.

- **Urban Revitalization** – Continue the urban revitalization project for the 2004-2005 interim with an emphasis on CRAs, identifying local government participation in federal and state programs supporting revitalization of distressed communities, and evaluating how state and federal programs may be more useful to local revitalization efforts.