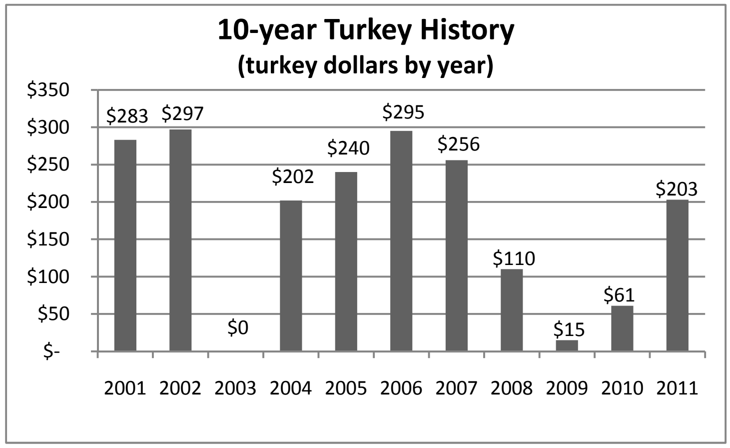
The 2011 Florida TaxWatch Turkey Watch Report

Turkeys Circumvent Accountability, Fair Procedures, Budget Priorities and Integrity



Turkeys are back. Despite a budget year that legislators described as the toughest on record, a surprising large number of member projects and other projects historically referred to as "turkeys" found their way into the FY 2011-12 state budget. The 2011 Legislature achieved some very ambitious and worthwhile goals – reforming Medicaid, criminal justice and the state pension system. It re-organized government and strengthened the state's economic development system. It also was able to balance the budget without raising taxes when facing an historic $4 billion shortfall. The last couple of years have seen a possibly unprecedented deep examination of the state budget and government has become much leaner. The Legislature also enacted a number of cost-savings ideas—including many recommended by the Florida TaxWatch Government Cost Savings Task Force.

But the legislators also agonized over many deep cuts, including critical state services like education and health and human services, and lamented that there was just not enough money to go around. This makes the return of such a large number of turkeys so disappointing. Many of these were added late in the conference – even after the conference committees had finished their work and unresolved issues were "bumped" to the leadership. This year Florida TaxWatch has identified 105 appropriations worth $203 million as budget turkeys, the most since 2007.

> ***"The most delicious of all privileges—spending other people's money."***
>
> John Randolph,
> Early 19th Century
> Member of Congress

The Florida TaxWatch annual Turkey Watch spotlights legislative projects placed in the budget without proper opportunity for public review and debate, which circumvent lawfully established procedures, or which non-competitively benefit a very limited special interest or local area of the state. **The "budget turkey" label does not condemn a project's worthiness,** but instead focuses on the budget process, including instances where the Legislature has not followed its own policies and procedures to ensure the highest standards of accountability and government efficiency.

The 2011 Turkey List consists largely of appropriations to specific organizations that were added in conference and appropriations that bypassed established selection processes or competitive bidding. Most of these projects could be considered local member projects. Some flexibility was allowed for earmarks to historically funded projects, excluding funding in proviso over what was in the base for a specific project.

Appropriations added in conference. This type of appropriation is generally a clear-cut "turkey" as defined under Florida TaxWatch criteria, especially if directed toward a specific organization or locale. A project added in conference means that it was usually not requested by an agency nor recommended by the Governor, and was not included in either the House or Senate budget as passed by the respective chamber. This lack of scrutiny was highlighted in a grand jury's indictment of a past Speaker of the Florida House of Representatives (who was cleared of charges) when it stated: "The appropriation process that gives unbridled discretion to the President of the Senate, Speaker of the House of Representatives and Appropriation Chairmen needs to be changed. The procedure currently in place requires that our elected Legislators vote on a final budget that they have no knowledge about because it is finalized in a meeting between only two legislators. This process allows taxpayer money to be budgeted for special purposes by those few legislators who happen to be in a position of power." While this is not to suggest that any of these appropriations rise to the level purported in that case, it does serve as an important reminder that there can be serious problems with adding appropriations, especially to private or local recipients, late in the process. And perhaps more importantly, it is not fair to all legislators, and therefore unfair to all citizens of the state.

Transportation projects not in the DOT work program. This is another type of appropriation that has historically been a clear-cut turkey. The Department of Transportation has an effective legislatively established process, beginning with local input, which determines how and where our state transportation dollars are spent. Items inserted into the budget outside of the work program process result in delay or elimination of projects that did go through the process. Adherence to this established process is especially important this year after the Legislature swept $150 million from the State Transportation Trust Fund (STTF) to help balance the budget. As it often does, the Legislature swept a number of trust funds—this year the sweeps total $529 million. Usually, the trust fund revenues are transferred to the general revenue fund. But this year, the Legislature transferred the STTF money to the State School Trust Fund – which is used for the Florida Educational Finance Program (FEFP) and class size reduction costs.

Florida TaxWatch, along with many other organizations, led by the Florida Road Builders Association, has repeatedly urged the Legislature to not raid the State Transportation Fund. This very short-sighted measure would cost Florida thousands of jobs. While the sweep does not qualify for the turkey label, Florida TaxWatch recommends the Governor veto the sweep, if provisions can be made to fill the resulting hole in the State School Trust Fund. Vetoing turkeys can help.

Other projects that bypass established selection processes or competitive bidding. Some local projects that were placed into the budget before conference, either in the House or Senate budget, are also designated turkeys because they bypass established selection processes or competitive bidding. For example, the Department of State has a grant process for Cultural and Museum Grants. Specifying a specific recipient in proviso language circumvents that peer review selection competitive process.

Similarly, awarding contracted services to specific providers bypasses competitive bidding and agency input into where limited funds are needed most.

A Word About Higher Education PECO Funding

Another area that has historically been a source of turkey-labeled projects is spending for university and community college building projects. This year, circumstances complicated our turkey review process for these projects.

Both the Florida College System and the universities' Board of Governors prepare Public Education Capital Outlay (PECO) budget requests and a prioritized three-year capital outlay request. Historically, Florida TaxWatch has used these to determine if building projects were turkeys. If a project is not on the approved list for the upcoming budget year, it is designated a turkey. Flexibility to fund projects in the out years is allowed provided that all the projects on the first year are funded. As with other parts of the budget, projects added in conference are usually called a turkey, regardless of the inclusion on the approved lists.

This year, the PECO Revenue Estimating Conference determined there would be only $120 million available for PECO appropriations and that would all be for cash expenditures. They determined there was no bonding capacity for new projects.

The House budget did not fund any new projects; it funded cash allocations to each institution to cover items such as maintenance, repair, renovations and utilities. The Senate proposed a couple of statutory changes to increase bond capacity. One was to expand the class size reduction lottery bond program to include other educational facilities. This would provide an additional $30 million in bonding capacity and these historically PECO funded projects would be backed by lottery revenues. The other change was to direct the State Board of Education—in making the determination of the amount of bonds that can be serviced by the gross receipts tax--to disregard the effects of a $26.15 million tax refund. The Revenue Estimating Conference had included that refund in its forecast. This provided an additional $130 million of additional bonding capacity. This allowed the Senate to include 18 projects worth $120 million. Then when the conference report on the budget came out, another 12 projects worth $55 million had been added. Interestingly, many of these added projects were of higher priority than many of the ones in the Senate budget.

Because the state has already exceeded its debt ratio (debt service to revenue available), any additional bonding of college and university construction is questionable. Due to this and the relatively high priority of some of the conference additions, our turkey review process was more complicated than usual. However, Florida TaxWatch used it normal criteria and did not apply the turkey designation to anything on the college and university requests for 2011-12 that was also not added in conference. The fact that many of the conference additions were of high priority made this a difficult call. Ultimately, the previously discussed problems with adding items in conference, as well as the added bonding burden placed on the state, led to the conference additions making the turkey list.

What Else Could A Turkey Buy?

One of the best arguments for stopping turkeys is the many essential state services to which the funds spent on budget turkeys could otherwise have been appropriated. The value of the opportunity cost of state funds is especially high this year, when many core government services suffered funding cuts. Not all of the $203 million in turkeys could be used in other parts of the budget -- $65 million comes from bond proceeds. But $71 million in general revenue turkeys could have been easily spent elsewhere and the non-bonding total of $138 million (GR and trust funds) could have been spent with further legislative action. Here are just a few alternatives to turkeys.

- **Student Funding –** $138 million could increase per student funding for K-12 by $53.

- **Medicaid Cuts –** Eliminate most of the 6.5 percent Medicaid reimbursement rate cut to nursing homes worth $163 million.

- **Saving Transportation Jobs –** Using the savings from general revenue alone, the sweep of the State Transportation Trust Fund could have been cut almost in half, savings thousands of jobs.

- **Helping All Florida Employers** - $91 million could have paid the interest due in 2012 on the federal loans the state took to prop up the Unemployment Compensation Trust Fund. This could have provided some relief to employers who are facing massive increases in their unemployment compensation tax rates.

- **Tax Relief –** Offset the first year cash reduction in revenues from reducing the corporate income tax rate from 5.5 percent to 4.5 percent.

The Florida TaxWatch Budget Turkey Review Process

The annual Florida TaxWatch Turkey Watch is a review of the state budget passed by the Legislature. It highlights appropriations that were determined by Florida TaxWatch to have bypassed the proper appropriations review process. These items are recommended to the Governor for line-item veto.

It must be stressed that this is not a critique of an individual project's merit, value or "need," but instead the review looks at how an item makes it into the budget, often pointing to instances where the Legislature has not followed its own set policies and procedures in the budget process. The analysis focuses legislative projects placed in the budget without full opportunity for public review or which circumvent competition and lawfully established procedures. These appropriations often benefit a very limited special interest, a specific local area of the state, or a specific private organization.

An example: After the House and Senate each pass their respective budget, a conference committee is formed to compromise the differences between the two. From a good public policy perspective, this should not be the time to add new projects into the debate. By doing so, the conference committee circumvents the established budgeting process and may afford only a few legislators the opportunity to make the decisions on how state funds will be appropriated. Because the final Conference Report cannot be amended – it can only be voted up or down – this places the rest of the Legislature in the position of having to vote the entire budget down in order to object to specific items. Again, many of these projects may be worthwhile, but the fact remains that special earmarks ignore or limit fiscal and performance accountability, agency flexibility and discretion, and often bypass competitive selection processes.

Most of these appropriations are local projects and tend to be "member projects" – appropriations requested by individual legislators for their district. The extent to which the state should fund local projects is a debatable issue, but when it does, care must be taken that a broad and public consensus has been reached on whether the state should be assisting with the funding of the specific type of local project. We should then ensure that the selected projects must have received sufficient review, followed any selection process that may have been properly established, and competed against other similar projects across the state.

It is important to understand that every year the state funds billions of dollars worth of "local" projects. These can be part of a statewide system for which it is generally accepted that the state has some responsibility, such as transportation or school construction. There are also state programs to fund projects that are perhaps more local in nature, such as parks, public libraries, and cultural programs.

Generally, these local projects are not specifically named in the appropriations act. The Legislature decides the level of funding and the funds are distributed to the projects selected through established processes. Securing local project funding outside of such processes – or funding one for which a process does not exist – requires that it be added by name to the budget document. These projects are clear examples of traditional "turkeys" and form the core of the Turkey Watch review.

Examples of Turkeys

1. Projects that did not go through review and selection processes that are established in state law or rule. Examples include transportation, school construction and local parks. Projects that go through the process but are funded ahead of higher priority projects (as determined by the process) can also be turkeys.

2. Appropriations that were inserted in the budget during conference committee deliberations, meaning they did not appear in either the Senate or House final budget.

3. Subsidies to private organizations, councils or committees that can and should obtain funding from private sources.

4. Local government projects benefiting local area residents but lacking significant local funding support and/or overall benefit to the state as a whole.

5. Appropriations that circumvent competition and mandate that a specific vendor or project receive funding.

6. Projects or programs added late in the process that bypass legitimate review and proper evaluation because they were not in an agency budget request or the governor's recommended budget or were not on the agenda for legislative committee hearings.

7. Other turkeys may include: appropriations from inappropriate trust funds, duplicative appropriations and appropriations contingent on legislation that did not pass.

> *"Public money ought to be touched with the most scrupulous conscientiousness of honor. It is not the produce of riches only, but of the hard earnings of labor and poverty."*
>
> Thomas Paine

Research Process

The first step of the Florida TaxWatch review is to go through the final budget passed by the Legislature (conference report) in order to highlight specific appropriations that were added to the budget after the Governor's recommended budget. The focus is on appropriations for which the recipient is specifically named—such as a city or county, an organization, or a vendor. Appropriations in the Governor's budget are rarely considered in the turkey review. This is not to say that the Governor's budget is free of waste, questionable projects, or even parochial spending. However, if an appropriation in the Governor's budget makes it to the conference report, that generally means that it was reviewed and approved at all levels—agency, executive, and legislative. It should be noted that the Governor's budget contains far fewer specifically named recipients than the conference report.

This year was different in that the Governor produced a different looking budget. Instead of well over 3,000 line-items spread over 444 pages as are contained in the current (FY 2010-11) budget, the Governor's recommended appropriation bill has 469 line-items over 166 pages. Usually, Governor's line-item numbering is the basis for the House and Senate budget. Deviations from that are noted with an alpha-numeric line-item—such as 145A. Since the Legislature did not adopt the Governor's new format, it was much more difficult to compare the documents.

The next step in the TaxWatch review process is to determine when the item entered the process—whether during the agency budget request, the Governor's recommendations, via appropriations committee bills, the final House and Senate budgets, or in the conference report. Generally, the earlier an item has entered the process the better—turkeys tend to show up later in the appropriations process. Usually, almost all conference-added items receive the turkey designation. Florida TaxWatch carefully considers allowing for some legislative flexibility if a project is truly beneficial statewide and was added due to unique and/or special circumstances, such as authorization to spend federal money that may have become available late in the appropriations process and therefore would not be utilized otherwise.

In further recognition of legislative prerogatives, Florida TaxWatch usually does not designate items that were funded in both the House and Senate final budgets as turkeys, except under special circumstances, such as bypassing an established competitive process for local projects.

After a list of potential turkeys is developed, each item is researched and the relevant state agency is contacted to confirm that the agency did not include the item in the agency's legislative budget request. For the most part, an item requested by an agency is not a turkey. The agency also provides information as to whether the appropriation is consistent with the agency's mission, if the agency has been involved with the appropriated item previously, and if any proviso language unnecessarily restricts the agency or the item's options. Florida TaxWatch also establishes whether the agency funds similar programs to the item(s) in question and, if so, how those projects are selected.

Information can also be obtained from the Governor's Office, the Legislature, and the potential recipient of the funds.

BUDGETING WITHOUT DISCIPLINE

Just as the Rule of Law is critically essential in a civil society, so is the integrity, transparency and accountability of the budget process to ensure the highest and best use of the taxpayers' hard earned money.

10-YEAR TURKEY HISTORY

Year	Number of Items on Florida TaxWatch List	Amount	Of Florida TaxWatch Recommendations	
			Number & % Governor Vetoed	Amount & % Governor Vetoed
2011	105	$203 million	To come	To come
2010	41	$61 million	14 34%	$11.4 million 18.9%
2009*	10	$15 million	0 (0.0%)	0 (0.0%)
2008**	132	$110 million	1 (0.8%)	$840,000 (0.8%)
2007	505	$256 million	301 (60%)	$141 million (55%)
2006	489	$295 million	306 (63%)	$151 million (51%)
2005	413	$240 million	252 (61%)	$125 million (52%)

2004	227	$202 million	133 (59%)	$129 million (64%)
2003	0	0	n/a	n/a
2002	450	$297 million	198 (44%)	$69 million (23%)
2001	528	$283 million	302 (57%)	$179 million (63%)

* Governor Crist vetoed only two provisions of the budget, neither of which were spending projects.

** Governor Crist vetoed only three provisions.

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About Florida TaxWatch

Florida TaxWatch is a statewide, non-profit, non-partisan research institute that over its 31 year history has become widely recognized as the watchdog of citizens' hard-earned tax dollars. Its mission is to provide the citizens of Florida and public officials with high quality, independent research and education on government revenues, expenditures, taxation, public policies and programs and to increase the productivity and accountability of Florida Government.

Florida TaxWatch's research recommends productivity enhancements and explains the statewide impact of economic and tax and spend policies and practices on citizens and businesses. Florida TaxWatch has worked diligently and effectively to help state government shape responsible fiscal and public policy that adds value and benefit to taxpayers.

This diligence has yielded impressive results: since 1979, policy makers and government employees have implemented three-fourths of Florida TaxWatch's cost-saving recommendations, saving the taxpayers of Florida more than $6.2 billion—approximately $1,067 in added value for every Florida family.

Florida TaxWatch has a historical understanding of state government, public policy issues, and the battles fought in the past necessary to structure effective solutions for today and the future. It is the only statewide organization devoted entirely to Florida taxing and spending issues. Its research and recommendations are reported on regularly by the statewide news media.

Supported by voluntary, tax-deductible memberships and grants, Florida TaxWatch is open to any organization or individual interested in helping to make Florida competitive, healthy and economically prosperous by supporting a credible research effort that promotes constructive taxpayer improvements. Members, through their loyal support, help Florida TaxWatch to bring about a more effective, responsive government that is accountable to the citizens it serves.

Florida TaxWatch is supported by all types of taxpayers -- homeowners, small businesses, large corporations, philanthropic foundations, professionals, associations, labor organizations, retirees – simply stated, the taxpayers of Florida. The officers, Board of Trustees and members of Florida TaxWatch are respected leaders and citizens from across Florida, committed to improving the health and prosperity of Florida.

With your help, Florida TaxWatch will continue its diligence to make certain your tax investments are fair and beneficial to you, the taxpaying customer, who supports Florida's government. Florida TaxWatch is ever present to ensure that taxes are equitable, not excessive, that their public benefits and costs are weighed, and that government agencies are more responsive and productive in the use of your hard-earned tax dollars.

The Florida TaxWatch Board of Trustees is responsible for the general direction and oversight of the research institute and safeguarding the independence of the organization's work. In his capacity as chief executive officer, the president is responsible for formulating and coordinating policies, projects, publications and selecting the professional staff. As an independent research institute and taxpayer watchdog, Florida TaxWatch does not accept money from Florida state and local governments. The research findings and recommendations of Florida TaxWatch do not necessarily reflect the view of its members, staff, distinguished Board of Trustees, or Executive Committee and are not influenced by the positions of the individuals or organizations who directly or indirectly support the research.

Florida TaxWatch Values:

♦ Integrity ♦ Productivity ♦ Accountability ♦ Independence ♦ Quality Research

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