

June 21, 2005
Wrap-Up Edition

Legislative Link

A legislative update provided by the United Way of Florida, Inc.

WHAT'S INSIDE:

KidCare Victory	2
Why Reform Medicaid	3
Medicaid & Health Care	4
Congress to Slash Medicaid	5
VPK Funding	5
Florida Pre-K Teachers	5
Hurricane Sales Tax Holiday	6
Hurricane Housing Bill	7
2-1-1 Goes Down	7
Children's Summer Nutrition Act Passes	8
2005 Bills of Interest	8

2005 SESSION . . . SMOOTH

The 2005 Florida Legislative Session – like all sessions – had its own personality and character. For the first time in several years a collegial and professional atmosphere prevailed, with the House and Senate largely conducting business as they should. Unfortunately, the decorum and approach embraced by House and Senate leaders could not overcome the darkness that overshadowed most of the Session. Nearly half of the session was conducted under the cloud of the Terry Schiavo debacle, and the second half was dominated by the death of Representative David Coley from cancer and the abductions and killings of two girls – in separate incidents – by registered sex offenders, giving rise to legislation that will clamp down more on those offenders in the future.

For the first time in six years, Legislators also appeared to be more interested in looking ahead to the next (2006) elections than bowing to the desires of Governor Jeb Bush, who is heading into the last two years of his term. Two of the Governor's priorities – addressing the class size amendment and expanding school vouchers - died, and his other two highest priorities – Medicaid reform and growth management – were addressed in legislation that passed but hardly resembled the Governor's more aggressive proposals. In the end, the more moderate Senate tempered those proposals and prevailed over the more ideologically propelled and Governor-friendly House.

Of course, the \$5 billion bonanza the Legislature had to spend helped grease the legislative wheels, making it much easier to amicably settle sometimes large differences. The \$63.1 billion budget included increases across the board for education (\$1.3 billion), health and human services and Medicaid (\$1.2 billion), growth management (\$1.5 billion), the state Rainy Day Fund (\$1.2 billion), and about \$225 million in tax cuts.

All-in-all, it was a pretty good session for human services. Legislation positively addressing Medicaid reform, Healthy Families funding, Independent Living/Road to Independence, Healthy Kids, Hurricane Housing Assistance, and others will improve the quality of life for millions of Floridians. On the other hand, failure to adequately fund nursing home care and the state's fledgling Voluntary Prekindergarten program stick out as two of several issues that should have been addressed far better than they were. Pretty normal for a legislative session, and far better than the last couple of sessions.

This is your 2005 Wrap-up Edition of the Legislative Link. It provides insights and overviews of legislation that both passed and failed. Read and enjoy, and if you have any questions, please feel free to contact the United Way of Florida.



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SOME BILLS OF INTEREST

HB 209 – School Students/Psychotropic Medication – see p. 9

SB 1208 – Long-Term Care Partnership Program – see p. 16

HB 227 – Summer Nutrition Act – see p. 9

SB 1314 – Independent Living – see p. 16

CS/CS/SB 434 – Individuals with Disabilities – see p. 10

SB 1502 – Children’s Hearing Help Fund – see p. 18

HB 569 – Florida KidCare Program – see p. 11

SB 1525 – Elderly Affairs – see p. 18

HB 577 – Interstate Compact for Juveniles – see p. 11

HB 1659 – Parental Notice of Abortion Act – see p. 19

SB 838 – Medicaid – see p. 12

SB 1722 – Multiservice Senior Centers – see p. 20

SB 1090 – Minors/Psychotropic Medication – see p. 15

HB 1917 – Juvenile Justice – see p. 20

KIDCARE VICTORY!

Last year, facing a 90,000 child waiting list to access the Kid Care program, the Legislature did a wonderful thing. It provided funding so all of those children could get into the program.

Unfortunately, the Legislature also abolished the waiting list, restricted enrollment to two one month periods each year, and added additional paperwork requirements that advocates feared would unnecessarily shut thousands of children out of the program. Advocates were right. The Agency for Health Care Administration reports that the number of children enrolled in KidCare fell by more than 122,000 between June 2004 and May 2005, from 331,281 to 208,018.

The 2005 Legislature fixed the problem by passing HB 569 which, among others, provides that parents can enroll their children in the KidCare program year-round. Paperwork requirements were reduced, but remain burdensome.

Another unfortunate outcome of the 2004 Legislature’s decision is that \$35 million of state funds that could have been used to provide health care to children last year – plus the additional \$88 million in federal matching funds, reverted to the state and federal treasuries. Lost opportunities.

Reasons why the English language is so hard to learn:

- The soldier decided to desert his dessert in the desert.
- Since there is no time like the present, he thought it was time to present the present.
- A bass was painted on the head of the bass drum.

WHY REFORM MEDICAID???

Just about everyone who has analyzed Florida's Medicaid program agrees that its increasing costs – about \$1 billion a year – are unsustainable. Something must be done. As a result, the 2005 Legislature – spurred on by an aggressive Medicaid overhaul proposed by Governor Bush – moved forward with Medicaid reform. Thanks to Senate moderates who feared moving forward to quickly in the face of a multitude of unanswered questions, the pace of reform is much slower than both the Governor and the House would have liked. Given the extraordinary size and complexity of the Medicaid program, this slower more reasoned approach puts Florida on a much wiser course to Medicaid reform.

But one must ask why the Executive and Legislative branches at both the state and federal levels are focused so exclusively on Medicaid.

Yes, Medicaid costs are skyrocketing. But Medicaid coverage is less expensive than comparable private sector coverage, private insurance costs are increasing at a much faster pace, Medicaid program administrative costs are only a third that of the private sector, and more than 45 million Americans have no health insurance – the vast majority of whom come from working families. When you combine that number with the 53 million people on Medicaid, about one-third of the US population is without insurance or on government subsidized insurance. And the costs keep skyrocketing.

Medicaid is merely a piece of the overall health care puzzle. Until Congress and the Legislature garner the political courage to take

steps necessary to reign in these unsustainable – and societally harmful – escalating health care costs, they can do all they want to Medicaid, and the costs will continue to increase at a rate that is unsustainable unless services are significantly reduced and fewer Medicaid recipients are covered. As the solution de jour, this approach promises to increase the number of uninsured and thereby result in higher overall health care costs. Not much of a solution.

Cynics claim politicians are rushing to address Medicaid reform because it is much easier to lay the blame for increasing costs and put the “solution” on the backs of the poor, who are politically the least powerful in our country. This is probably true, although it may be a much smaller factor than some claim.

While Medicaid is complex, the complexity of the nation's health care system makes Medicaid look like a two-year-old's 10 piece puzzle. Addressing the health care situation in America – it won't be able to be done on a state-by-state basis – will take comprehensive, politically charged reform. It will take a level of courage that federal legislators have not yet shown. Until they get the collective backbone to move forward on such reform, however, the plight of the poor, elderly, and disabled on Medicaid will be annually aggravated in order to achieve cost savings that over the long term will never be realized, because of escalating health care costs. One can only hope that this recognized Medicaid crisis will lead Legislatures around the country and other community and political leaders to demand a national health care “fix”.

Church Bulletin Bloopers. . . .

Weight Watchers will meet at 7 PM at the First Presbyterian Church. Please use large double door at the side entrance.

Eight new choir robes are currently needed due to the addition of several new members and to the deterioration of some older ones.

MEDICAID & HEALTH CARE Facts

Health Care – Generally

- 45 million Americans - 15.6% of the U.S. population - have no health insurance coverage – a number equal to the combined population of 24 states.¹
- More than 8 out of 10 people who are uninsured are in working families.²
- About 2/3 of uninsured adults in Florida (63.1%) have a paying job.³
- In 2004, the cost of employer-based health benefits increased at a rate five times higher than that of wages, and family share of such coverage increased by more than 60% since 2000.¹⁴
- In 2001, 1.5 million American families filed for bankruptcy and half of them cited medical causes.¹³

Medicaid – Generally

- The Medicaid program paid for over 41 percent (\$37.2 billion) of the total cost of care for persons using nursing facility or home health services in 2001.⁴
- 38 million (74.5%) of today's 51 million Medicaid recipients are low-income children and adults, and 13 million (25.5%) are seniors and people with disabilities.⁵
- 70 percent of Medicaid spending goes to pay for services – primarily long-term medical and nursing home care - for the program's 13 million seniors and disabled patients.⁶
- Florida Medicaid costs are \$14.7 billion and projected to raise 8 percent next year.¹⁰
- Florida's Medicaid program serves over 2.1 million people – 1.2 million children, 582,395 people with disabilities, and 304,122 seniors. While children account for about 50% of participants, they account for only 15% of the costs.¹⁵

Medicaid vs. Private Health Care Coverage

- Medicaid costs 30% less for adults and 10% less for children than private insurance.⁷
- Medicaid delivers care to children at about \$200 less than private insurance and \$600 less for adults⁸
- Private sector health care costs are growing almost three times faster than Medicaid costs (almost 14% increase in private sector costs in 2003 versus only about 5% for Medicaid)⁹
- Medicaid costs are lower than private health insurance on a per-person basis, and are growing at less than half the rate of growth of private insurance.¹¹
- Private sector health insurance administrative costs are almost double the administrative costs for Medicaid, at 13.6% versus just under 7%, respectively.¹²

See footnotes on page 23.

Something to Think About . . .

If the plural of tooth is teeth, why isn't the plural of booth beeth? One goose, 2 geese. So one moose, 2 meese? Doesn't it seem crazy that you can make amends but not one amend. If you have a bunch of odds and ends and get rid of all but one of them, what do you call it? Is it an odd, or an end?

CONGRESS POISED TO SLASH MEDICAID

At the end of April, the House and Senate in Washington D.C. narrowly adopted a \$2.56 trillion federal budget for 2006. The budget resolution includes \$10 billion in cuts over four years to Medicaid, beginning in 2007. This is much less than the original \$60 billion in cuts over ten years first requested by President Bush in February. The resolution directs the Senate Finance Committee and the House Energy Commerce Committee to agree to redirect specific reductions by September 16, which will go into place in fiscal year 2007. As a result of the cuts, Florida will lose about \$449.9 million in federal Medicaid funding between 2007 and 2010, with \$112.5 million lost in 2007. This translates into 68,800 children and 13,100 Florida seniors losing Medicaid coverage that year.

VPK FUNDING: IS IT ADEQUATE?

Since the Legislature passed Voluntary Pre-Kindergarten (VPK) legislation during its December 2004 Special Session, advocates have ardently voiced their concern that the Governor's and Legislature's price tags for the program – amounting to \$2,500 per student – is much too low. Based upon the VPK legislation that passed last December and upon well documented research and funding of VPK programs in other states, the Policy Group for Florida's Children and Families concluded that legislators should invest a minimum of \$3,800 per student into the program. The 2005 Legislature decided \$2,500 would suffice.

The Senate initially proposed spending \$406 million on the VPK program, but ultimately agreed to the House position: \$387 million, including 5 percent for administration.

Even at \$2,500 per student, the \$387 million appeared to be low to advocates. It was. The

Legislature made it work by lowering the number of students who will enroll in the program, from 70 percent to 66.66 percent. By lowering the projected percentage of participation, the House numbers work nicely at \$2,500 per child. The actual range of funding that will be available to counties, based upon a disparity formula for each district, will range between about \$2,300 and \$2,650.

Legislators refused to acknowledge the concerns raised by advocates regarding program quality - particularly related to teacher standards, assessment, curricula, and program length - because they are convinced that the VPK program will provide 4 year olds the tools they need to be prepared to enter school. That remains highly questionable, as the program will only be 3 hours long, contains no tiered-reimbursement so programs can afford better educated teachers, no assessment, no longitudinal study, and no approved curriculum. Time will tell.

Florida Pre-K Teachers – Lowest Paid in Nation

In early May, the National Institute for Early Education Research (NIEER) released a study showing that Florida ranks dead last in median teacher hourly wages among the 40 states with prekindergarten programs receiving state dollars. In addition, the study shows Florida next-to-last as far as educational levels of its pre-kindergarten teachers during the 2003-2004 school year. Alaska was at the bottom, but the majority of pre-K teachers had no more than a high school diploma or GED in both states.

Florida's new VPK program will not improve the situation for prekindergarten teachers, who hold the future in their hands. The new program, which starts in August with the new school year, requires Pre-K teachers merely to have a CDA together with a 5-hour course on emergent literacy. Perhaps some day Florida will be like West Virginia, where two-thirds of its VPK teachers have Master's Degrees. In the near term, that is merely a pipe dream, as legislators refuse to recognize that –like virtually every other profession – knowledge and training translates into greater success in VPK, too.

HURRICANE SALES TAX HOLIDAY

While the numbers are not yet in, Floridians are expected to have saved more than \$9 million in state and local option sales taxes during the 12-day sales tax holiday on hurricane-related items approved by the 2005 Legislature that took place during the first 12 days of the 2005 hurricane season, June 1 to June 12.

The sales tax holiday did not apply to clothing, books, or school supplies, or to any leased item.

The following items were specifically identified as being eligible for this special sales tax holiday for hurricane preparedness:

Qualifying items selling for \$20 or less:

- Any portable self-powered light source
- Battery-powered flashlights
- Battery-powered lanterns
- Gas-powered lanterns
- Candles

Qualifying items selling for \$25 or less:

- Any gas or diesel fuel container

Qualifying items selling for \$30 or less:

- Batteries, including rechargeable (listed sizes only)
- AA-cell
- C-cell
- D-cell
- 6-volt (excluding automobile and boat batteries)
- 9-volt (excluding automobile and boat batteries)
- Coolers (food-storage; nonelectrical)
- Ice chests (food-storage; nonelectrical)
- First aid kits (first aid kits are always exempt from sales tax, regardless of the sales price)

Qualifying items selling for \$50 or less:

- Radios (self-powered or battery-powered)
- Two-way radios (self-powered or battery-powered)
- Weather band radios (self-powered or battery-powered)
- Tarpaulins (tarps)
- Flexible waterproof sheeting (visqueen)
- Ground anchor systems
- Tie-down kits

Qualifying item selling for \$750 or less:

- Portable generator that will be used to provide light or communications, or to preserve perishable food in the event of a power outage due to a hurricane.

"I woke up one morning and all of my stuff had been stolen... and replaced by exact duplicates."
Steven Wright

HURRICANE HOUSING BILL PASSES

The 2005 Legislature passed HB 1889, which includes \$250 million in funding for affordable housing recommended by the Hurricane Housing Work Group. The Work Group, chaired by Lt. Governor Toni Jennings, developed interim and long-term strategies to spend this one-time funding to mitigate the impact of the hurricanes on the people and communities in the state.

The law provides:

- \$208 million for the Hurricane Housing Recovery Program, including:
 - \$165.9 million for hardest hit or Tier I Counties (Escambia, Charlotte, St. Lucie, DeSoto, Santa Rosa, Indian River, Hardee, Brevard, Polk, Okeechobee and Martin)
 - \$31.1 million for Tier II Counties (Osceola, Palm Beach, Highlands, Volusia, Lee and Orange)
 - \$10.3 million for Tier III Counties (Putnam, Marion, Okaloosa, Hendry, Dixie, Glades, Seminole, Lake, Sumter, Levy and Bradford)
- \$42 million for the Rental Recovery Loan Program

Under the provisions of the bill, the Florida Housing Finance Corporation will be authorized to adopt emergency rules to implement the recommendations expeditiously.

For more information on the recommendations of the Governor's Hurricane Housing Workgroup please visit, <http://www.myflorida.com>.

DORMITORY: When you rearrange the letters: DIRTY ROOM

EVANGELIST: When you rearrange the letters: EVIL'S AGENT

PRESBYTERIAN: When you rearrange the letters: BEST IN PRAYER

DESPERATION: When you rearrange the letters: A ROPE ENDS IT

2-1-1 GOES DOWN

Florida's 2-1-1 providers serve about 80 percent of Florida's population (13.5 million people) in 38 counties throughout the state. Unfortunately, people who live in the other 29 counties don't have access to this incredibly valuable service, service that equates to the 911 telephone number for human services and volunteerism.

Why don't they have access? Simply put, because of money . . . lack of it. Florida's communities – United Ways, Children's Services Councils, County governments, etc. – currently invest more than \$7 million to 2-1-1 each year. Those communities see the value of 2-1-1 every day, and experienced its extraordinary benefits following the 2004 hurricanes.

HB 751 and SB 1604 would have appropriated \$5 million to take 2-1-1 statewide. While it passed the House, it died in the Senate Appropriations Committee.

CHILDREN'S SUMMER NUTRITION ACT PASSES!

The Summer Food Service Program (SFSP) for children is a federally funded program operated nationally by the United States Department of Agriculture (USDA). In Florida, the Food and Nutrition Management Office of the Department of Education (DOE) administers the program. The SFSP is intended to "provide food service to children from needy areas during periods when area schools are closed for vacation." Needy areas, or areas in which poor economic conditions exist, mean areas where at least 50 percent of the children are eligible for free or reduced price lunches.

It is estimated that over 1.1 million children in Florida are eligible for free or reduced price lunches. In the summer of 2003, the average daily attendance in Florida for the Summer Food Service Program was 115,535. This number represents the fourth consecutive decrease in the average number of lunches served. In 1999, 197,140 meals were served per day. Currently, summer food programs reach approximately 1 out of every 10 children in Florida qualified for free and reduced price lunches.

The DOE attributed at least some of the decrease to the reduction in the number of summer school programs being offered at Florida schools. In response the department is attempting to provide information to other non public school potential sponsors, including faith-based providers. Instituting summer food sites at those schools

offering summer reading camps is another option that may be explored to increase the number of sponsors.

The 2005 Legislature passed SB 752, attempting to ensure there is a summer food nutrition program in every school district. The bill creates the "Ms. Willie Ann Glenn Act, and provides that each district school board shall develop a plan by May 1, 2006, to sponsor a summer nutrition program beginning the summer of 2006 to operate sites in the school district within 5 miles of at least one elementary school at which 50 percent or more of the students are eligible for free or reduced-price school meals and for 40 consecutive days; and within 10 miles of each elementary school at which 50 percent or more of the students are eligible for free or reduced-price school meals. A district school board can exempt itself from the above requirements by including the issue on an agenda at a regular or special district school board meeting that is publicly noticed, providing residents an opportunity to participate in the discussion, and voting on whether to be exempt. This process would have to take place every year.

The bill also provides that the superintendent of schools may collaborate with municipal and county governmental agencies and private, not-for-profit leaders in implementing the plan.

2005 BILLS OF INTEREST

HB 17 – Developmental Disabilities (Kravitz and others)

This bill amends s. 409.912, F.S., and directs the Agency for Health Care Administration (AHCA) and the Agency for Persons with Disabilities to develop a model Medicaid home and community-based waiver program to serve children diagnosed with Familial Dysautonomia, also known as Riley-Day Syndrome. The Agency for Health Care Administration is further directed to seek a federal waiver and, upon approval, implement the program subject to the availability of funds and any limitations provided in the General Appropriations Act. The bill authorizes AHCA to adopt the rules necessary to administer this waiver program.

Funding in the amount of \$171,840 from General Revenue and \$246,160 from the Medical Care Trust Fund is appropriated to AHCA for the purpose of implementing this act during FY 2005–2006.

Currently, families with children who suffer with FD receive no financial assistance from the publicly funded Agency for Persons with Disabilities unless the condition is combined with a covered developmental disability. The implementation of this bill could provide some assistance to these children and their families.

If approved by the Governor, these provisions take effect July 1, 2005. Vote: Senate 38-0; House 111-0

HB 151 –Health Care Act/Access/Poverty Level (Sorensen)

The bill revises the definition of “low income” under the Access to Health Care Act, to extend eligibility for volunteer, uncompensated health care services to persons who are without health insurance and whose family income does not exceed 200 percent, rather than 150 percent, of the federal poverty level.

If approved by the Governor, these provisions take effect July 1, 2005. Vote: Senate 39-0; House 113-0

HB 157 –Road Rage Reduction Act (Sorensen)

Road Rage Reduction Act; provides popular name; provides legislative intent; requires operators of motor vehicles in left-most lane to yield right-of-way to vehicles moving faster on certain highways; requires operators of motor vehicles to drive in right-hand lane on certain highways; provides for assessment of points for violating specified provisions that require operators of motor vehicles to drive on right side of road, etc. Amends 316.081, 322.27. EFFECTIVE DATE: 07/01/2005 except as otherwise provided.

HB 189 –Hospice Facilities (McInvale)

This bill requires the construction and renovation of hospice residential and inpatient facilities and units to be governed by the Florida Building Code. In keeping with this change, the bill deletes a requirement for the Department of Elderly Affairs to adopt rules for physical plant standards for hospice residential and inpatient facilities and units. The bill directs the Agency for Health Care Administration to provide technical assistance to the Florida Building Commission in updating the Florida Building Code to include hospice facilities.

If approved by the Governor, these provisions take effect July 1, 2005. Vote: Senate 38-0; House 114-0

HB 209 – School Students/Psychotropic Med (Barreiro)

House Bill 209 defines psychotropic medication and prohibits recipients of state funds from requiring a student to be prescribed or administered psychotropic medication as a condition of receiving educational or school-based services. Such services include, but are not limited to, school enrollment, class attendance, extracurricular activity participation, or school-related event attendance. The bill provides requirements for the administration of psychotropic medication. Prior to the evaluation of a student for any specified mental disorder, the bill requires that parents must be notified that behaviors could be the result of underlying physical conditions, that the parent should consider consulting a medical doctor to rule out physical causes, that the parent has the right to decline the evaluation, and that the evaluation and subsequent classification could be documented.

A similar provision was enacted as section 6 of SB 1090.

Subject to the Governor’s veto powers, the effective date of this bill is upon becoming a law.

HB 227 – Ms. Willie Ann Glenn Act (Greenstein)

House Bill 227 creates the Ms. Willie Ann Glenn Act, requiring each district school board to develop a plan to sponsor a summer nutrition program. School boards may exempt themselves from sponsoring the program and instead may encourage not-for-profit entities to sponsor a summer nutrition program. The program may be implemented in collaboration with municipal and county governmental agencies and private, not-for-profit organizations, and any not-for-profit entity may serve as a nutrition site or sponsor. The bill requires the Department of Education to annually provide each district with a list of local organizations that intend to participate in the summer nutrition program.

Subject to the Governor’s veto powers, the effective date of this bill is July 1, 2005.

SB 356 – Substance Abuse Treatment (Lynn)

This bill amends the definition of “licensed service provider” provided by s. 397.311(18), F.S., to include a service component for “intensive inpatient treatment.” This component includes a planned regimen of professionally directed evaluation, observation, medical monitoring, and clinical protocols that are provided 24 hours a day, seven days per week in a highly structured, live-in environment. The changes proposed by this bill more accurately describe the services that are being provided by facilities that are experiencing problems with third party reimbursement. It is anticipated by some in

the substance abuse provider community that designating this new service component will have a positive impact on the providers' ability to collect third party payments.

A definition is created for "medical monitoring," one of the services included in the "intensive inpatient treatment" component that is not typically included in other residential treatment levels. This bill specifies that "medical monitoring" means oversight and treatment 24 hours per day by medical personnel of clients whose subacute biomedical, emotional, psychosocial, behavioral, or cognitive problems are so severe that the clients require intensive inpatient treatment by an interdisciplinary team. Medical personnel, as used in the term "medical monitoring," is limited to persons who are Florida-licensed medical physicians, osteopathic physicians, physician assistants, or nurses.

Additionally, this bill amends s. 394.499, F.S., to authorize the Department of Children and Family Services and the Agency for Health Care Administration to expand the children's behavioral crisis unit demonstration model currently located in the SunCoast Region to other areas of the state after July 1, 2005. Community mental health and substance abuse treatment providers benefit from the authorization to develop additional treatment sites and children who are suffering with concurrent mental health and substance abuse disorders will have improved access to treatment.

If approved by the Governor, these provisions take effect July 1, 2005. Vote: Senate39-0; House 117-0

SB 404 – Health Care (Saunders)

Health Care; delays provisions requiring nursing home staffing increase; revises guidelines re reimbursement of Medicaid providers; revises Medicaid prescribed drug spending control program; directs AHCA to implement, & authorizes it to seek federal waivers for, program of all-inclusive care for children; requires AHCA to publish managed care reimbursement rates annually, etc. Amends Ch. 409, 400.23. EFFECTIVE DATE: 07/01/2005 except as otherwise provided.

CS/CS/SB 434 – Individuals with Disabilities (Commerce and Consumer Services)

This bill significantly amends ss. 413.08 and 413.081, F.S., by updating the language so that it coincides with federal language in the Americans with Disabilities Act of 1990, which preempts state and local law and regulations in this area when the federal law affords greater protection to the individual with a disability. This is accomplished by including the following definitions in statute using language that is similar to the federal statutes: housing accommodation, individual with a disability, hard of hearing, physically disabled, public accommodation, and service animal.

The bill also changes and expands the way in which public accommodation facilities must provide access to service animals that accompany individuals with disabilities. A service animal is allowed in "all areas of a public accommodation that the public or customers are normally permitted to occupy." Documentation that a service animal is trained is not a precondition to service, but a public accommodation may ask what tasks the animal performs in order to distinguish between a service animal and a pet. Further, a public accommodation may not impose a fee for bringing a service animal into a public accommodation, but an individual with a disability is liable for damage caused by and care/supervision of the service animal, and a public accommodation can exclude or remove any animal from the premises if the animal's behavior poses a direct threat to the health and safety of others.

Finally, the bill provides that The Florida Americans with Disabilities Act Working Group and the Commission on Human Relations jointly provide the Executive Office of the Governor with information on how the state can better accommodate individuals with disabilities who are accompanied by service animals.

SB 498 – Immigrant Children/Residency Status (Margolis)

Senate Bill 498 clarifies the requirements for seeking Special Immigrant Juvenile Status (SIJS) and lawful permanent residency for undocumented alien children who have been abused, neglected, or abandoned and who are under the jurisdiction of the court. It directs the Department of Children and Families (DCF) or a community-based care provider to determine whether a child is a citizen of this country by the time of the first judicial review for the child. It provides guidance to DCF, community-based care providers, and the courts as to the findings necessary to support a petition for SIJS and an application for lawful permanent residency. It requires DCF or the community based care provider to seek SIJS status and permanent residency within 60 days after the entry of a court order determining that such action is in the best interest of the child. It allows the jurisdiction of the court to be extended for the sole purpose of permitting the

continued consideration of the application and petition of the child when the application and petition have been submitted prior to the child's 18th birthday.

If approved by the Governor, these provisions take effect July 1, 2005. Vote: Senate 40-0; House 115-0

HB 569 – Florida KidCare Program (Garcia)

This bill allows continuous, year-round enrollment in the Florida KidCare program by removing statutory language restricting open enrollment to January and September of each year. The bill also provides that a KidCare application is valid for a period of 120 days from the date it was received. At the end of the 120-day period, if the applicant has not been enrolled in the program, the application is rendered invalid and the applicant must be notified of the action. The applicant may then resubmit the application after notification.

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

SB 574 – The Official Fruit of Florida (Haridopoulos)

Official Fruit of Florida; designates orange as official fruit of State of Florida. Creates 15.0315. EFFECTIVE DATE: Upon becoming law.

HB 577 – Interstate Compact for Juveniles (Needelman)

Currently, ss. 985.501– 985.507, F.S., regulate the movement of juveniles across state lines and are collectively referred to as the Interstate Compact on Juveniles. The compact was established in 1955 to manage the interstate movement of adjudicated youth, the return of runaway youth, and the return of youth to states where they have been charged with delinquent acts. Due to changes in technology, transportation, laws, and population, however, the original compact has become outdated and has led to increasing concern about the safety of the public, as well as the welfare of juveniles.

To address these issues, the Council of State Governments developed a new Interstate Compact for Juveniles and has been encouraging and supervising introduction of this legislation throughout the United States. As of May 4, 2005, 24 states have enacted the new compact.

HB 577 adopts the new compact in Florida. Significant changes to Florida's original compact include:

- Creation of a national compact governing commission composed of a gubernatorial appointee from each member state.
- Provision of rulemaking-making authority to the governing commission for the purpose of specifying policies that govern the interstate movement of juveniles.
- Authorization of sanctions for a compacting state's failure to comply with compact requirements.
- Establishment of a national independent compact operating authority to administer day-to-day compact activity.
- Creation of a mandatory state funding mechanism to support national compact operations.
- Establishment of a council in each member state to oversee the state's participation in the compact.
- Providing for repeal of the legislation authorizing the compact every two years, unless reenacted.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2005, or upon enactment of the compact into law by the 35th compacting state, whichever occurs later.

SB 724 – Affordable Housing/Elderly (Margolis)

The State Apartment Incentive Loan (SAIL) program is designed to stimulate production of affordable, multi-family rental housing for very-low income individuals and families. The SAIL program provides first, second, or other subordinated mortgage loans or loan guarantees to sponsors, including for-profit, nonprofit, and public entities, to provide housing affordable to very-low-income persons. The Florida Housing Finance Corporation is responsible for the management of this program.

SAIL funds are reserved for specified tenant groups. The designated tenant group categories include: commercial fishing workers and farm workers; families; persons who are homeless; and elderly persons. Currently, 24 percent of the total amount is reserved for the elderly. Ten percent of the amount reserved for the elderly must be allocated to the Elderly Housing Community Loan Program to provide loans for building preservation, health, or sanitation repairs or

improvements which are required by federal, state, or local regulation or code, or life safety or security-related repairs or improvements to such housing. Loans issued under this program may not exceed \$200,000 per housing community for the elderly.

This bill increases the maximum loan amount under the SAIL program for projects funded through the Elderly Housing Community Loan Program from \$200,000 to \$750,000 per housing community.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2005.

CS/CS/SB 758 – Child Protective Investigations (Judiciary Committee)

Committee Substitute for Committee Substitute for Senate Bill 758 prohibits the use of information contained in a report from a closed investigation of child abuse, neglect, or abandonment in any way which adversely affects the interests of a person when that person has not been identified as a caregiver responsible for the abuse, neglect, or abandonment.

The prohibition extends to closed investigations of institutional abuse, neglect, or abandonment, as well, but the committee substitute provides that when the person is a licensee of the Department of Children and Family Services (DCF), the information may be considered if relevant in relicensing or revocation-of-license decisions when three or more instances have occurred over a five-year period.

The bill also authorizes staff of a children's advocacy center to access DCF records generated as a result of reports of child abuse, abandonment, or neglect to the child abuse hotline. All records of such reports and all records resulting from those reports are currently made confidential and exempt by the provisions of s. 39.202, F.S., and are available only to entities listed in s. 39.202, F.S. This bill adds the staff of children's advocacy centers to the list of those who may have access to the reports.

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

SB 838 – Medicaid (Peadar, Jr.)

This bill contains both short and long-term Medicaid reform activities, demonstration projects, and studies designed to improve efficiency and achieve sustainable growth in Florida's Medicaid program. Specifically, the bill:

- Requires the Agency for Health Care Administration (AHCA) to contract with a vendor to identify and counsel providers whose clinical practice patterns are outside normal practice patterns to improve patient care and reduce inappropriate utilization.
- Authorizes AHCA to use more single-source contracting to reduce costs, without limiting access to care.
- Requires AHCA to determine if purchasing medical equipment is less expensive than rental and authorizes AHCA to facilitate purchases in lieu of long-term rentals in order to protect against fraud and abuse.
- Requires that provider service network contracts currently in effect shall be extended for a period of 3 years and provides a definition for a provider service network.
- Directs AHCA to pilot test an integrated, fixed payment long-term care delivery system in two, nondesignated areas of the state, with one site having voluntary participation and one site having mandatory participation. The bill specifies the types of long-term care funds to be combined under the system and the types of health plans that can participate in the system. Implementation of the long-term care delivery system is contingent upon the approval of the federal waiver by the Legislature. The Office of Program Policy Analysis and Government Accountability (OPPAGA) is directed to evaluate the long-term care pilot program.
- Requires AHCA to consider business cases for changing reimbursement rates for certain services if the change reduces costs in other parts of the Medicaid program.
- Requires the Comprehensive Assessment and Review for Long-term Care Services (CARES) staff to identify Medicare patients in nursing homes who are being inappropriately disqualified from coverage under Medicare and assist with appeal of the disqualification, contingent on whether this authority is determined to be a reimbursable service under Medicaid rules.
- Requires AHCA to contract with an entity to develop a real-time utilization tracking system or electronic medical record for Medicaid recipients.
- Requires AHCA to develop emergency department diversion programs in conjunction with those being developed in the private sector as a result of HB 1629 from the 2004 Legislative Session.

- Modifies the Medicaid prescription drug utilization program to permit dispensing practitioners to participate in the Medicaid pharmacy network regardless of their proximity to other dispensing entities. The bill requires AHCA to implement a prescription-drug-management system to coordinate proper clinical practices among physicians and pharmacists. The bill requires AHCA to study whether its reuse program can be expanded to reduce the unnecessary destruction of drugs.
- Allows mental health crisis care to be provided in licensed crisis-stabilization facilities if it is less costly.
- Specifies waiver authority for AHCA to establish a statewide Medicaid reform initiative contingent upon federal approval to preserve the upper-payment-limit funding mechanism for hospitals and contingent upon protection of the disproportionate share program authorized pursuant to ch. 409, F.S. It further provides that phase one of this demonstration project shall be implemented in two geographical areas. One site shall include only Broward County, a second site shall initially include Duval County and shall be expanded to include Baker, Clay, and Nassau Counties within 1 year after the Duval County program becomes operational. Upon completion of the evaluation, after 24 months of operation of the pilot projects, AHCA may request statewide expansion. Statewide phase-in to additional counties is contingent upon review and approval of the Legislature.

The bill enumerates the powers, duties, and responsibilities AHCA shall have with respect to the development of the demonstration program. AHCA is required to:

1. Include the delivery of all mandatory services specified in s. 409.905, F.S., and optional services specified in s. 409.906, F.S., as approved by the Centers for Medicare and Medicaid Services and the Legislature. Services to recipients under plan benefits are required to include emergency services;
2. Recommend Medicaid-eligibility categories to be included in the program;
3. Determine and recommend actuarially sound, risk-adjusted capitation rates;
4. Determine and recommend program standards and credentialing requirements for health plans to participate in the program including allowing federally-qualified health centers, federally qualified rural health clinics, county health departments, and other public providers to participate in the reform program if willing;
5. Develop a system for assisting recipients in choosing among health plans in the program (choice counseling), including types of materials that must be provided, multi-lingual requirements, anti-fraud and recipient recruiting requirements, verification requirements that a recipient received choice counseling; and authority to allow the agency to contract for the service;
6. Develop a grievance procedure for recipients and providers;
7. Develop and recommend a monitoring system to prevent fraud and abuse by plans, their providers, and recipients;
8. Develop a system where plans compensate school districts for services they must provide to their students on Medicaid; and
9. Develop a system that addresses special needs of children with chronic medical conditions, persons with developmental disabilities, and children in foster care.
10. Provide an opt-out option to allow recipients to purchase employer-sponsored coverage, but allows a recipient to reenroll in Medicaid within a certain timeframe if the opt-out option was not the best choice for the individual.

The bill requires AHCA to post all waiver applications to implement this program on its Internet website 30 days prior to submission to the federal government. All waiver applications must be provided to the House and Senate 10 days before submission to the federal government and all waivers approved by the federal government may not be implemented without review and approval of the Legislature as a whole.

The bill requires OPPAGA and the Auditor General to conduct an evaluation of the pilot to be provided to the Governor and the Legislature no later than June 30, 2008, to consider statewide expansion.

- Requires that Medicaid lung transplants be reimbursed using a global payment methodology and appropriates funds for these services.
- Requires that at least 5 percent of Medicaid audits to detect Medicaid funds lost to fraud and abuse be conducted on a random basis.
- Requires Medicaid recipients to be provided explanations of benefits.
- Requires AHCA to study the legal and program barriers to enforcing copayments in the Medicaid program.

- Requires AHCA to develop recommendations to improve third-party liability recoveries and ensure that Medicaid is the payor of last resort.
- Requires OPPAGA to study and confirm the value of nursing home diversion programs.
- Requires AHCA to study mechanisms for collecting patient-responsibility payments from persons in the diversion programs.
- Requires OPPAGA to conduct a study of Medicaid buy-in programs, and whether the Medically Needy program can be redesigned to be a Medicaid buy-in program.
- Requires OPPAGA, in consultation with the Attorney General's Medicaid Fraud Control Unit and the Auditor General, to study potential fraud and abuse by pharmaceutical manufacturers in their pricing and rebate practices in Medicaid. Requires the report to be submitted to the Legislature and Governor by January 1, 2006.

The bill repeals provisions of SB 404, the Health Appropriations Conforming bill, that changes the agency's rule-making authority related to rate setting in ch. 120, F.S., removes rates from provider contracts, allows the agency to adjust Medicaid rates in provider contracts with only a 48-hour notice, and removes a provider's right to an administrative hearing under ch. 120, F.S. Instead, the bill requires the Senate Select Committee on Medicaid Reform to study how provider rates are established and modified.

The bill also provides Medicaid HMOs a 2.8 percent rate increase.

The sums of \$7,129,241 in recurring General Revenue Funds, \$9,076,875 in nonrecurring General Revenue Funds, \$8,608,242 in recurring funds from the Administrative Trust Fund, and \$9,076,874 in nonrecurring funds from the Administrative Trust Fund are appropriated and 11 full time equivalent positions are authorized for the purpose of implementing this act.

If approved by the Governor, these provisions take effect July 1, 2005. Vote: Senate 39-1; House 88-24

HB 885 –Regional Autism Centers (Goldstein)

The bill increases the number of regional autism centers from six to seven and requires service delivery to be consistent for all Centers for Autism & Related Disabilities (CARD).

The bill transfers the service areas of Indian River, Martin, Okeechobee, St. Lucie, and Palm Beach Counties to the new CARD housed within the Department of Exceptional Student Education at Florida Atlantic University. The current CARD at the University of Miami is expanded to include the Department of Psychology at that institution.

The constituency board for each CARD is encouraged to raise funds equivalent to 2 percent of the total funds allocated to that center in each fiscal year.

The bill also prohibits direct medical intervention or pharmaceutical intervention in any CARD on or after July 1, 2008.

Specific Appropriation 96 of the General Appropriations Act for 2005-2006 provides \$5,575,000 for the CARD centers.

Subject to the Governor's veto powers, the effective date of this bill is upon becoming a law.

SB 904 – Privatization of Foster Care (Dockery)

This bill relieves community-based care agencies and their subcontractors providing foster care and related services from the obligation of including references to the State of Florida or including the logo of the Department of Children and Families (DCF) in their advertising and descriptions of their programs unless the agency or subcontractor receives more than 35 percent of their total funding from the state.

If approved by the Governor, these provisions take effect upon becoming law. Vote: Senate 38-1; House 109-0

HB 1041 – Women’s Health and Safety Act (Bean)

This bill creates the “Women’s Health and Safety Act,” to require the Agency for Health Care Administration to adopt separate rules for licensed abortion clinics that perform abortions only during the first trimester of pregnancy and for those licensed abortion clinics that perform abortions after the first trimester of pregnancy. The rules may not impose an unconstitutional burden on a woman’s freedom to decide whether to terminate her pregnancy.

The rules for abortion clinics that perform abortions after the first trimester of pregnancy must address an abortion clinic’s physical facilities, clinic supplies and equipment standards, clinic personnel, medical screening and evaluation of each abortion clinic patient, abortion procedure, recovery room standards, follow-up care, and incident reporting. These rules must require an abortion clinic to designate a medical director who is licensed in Florida and who has admitting privileges at a licensed hospital or has a transfer agreement with a licensed hospital within reasonable proximity of the clinic. The rules must require that a physician, registered nurse, licensed practical nurse, advanced registered nurse practitioner, or physician assistant be available to all patients throughout the abortion procedure. A registered nurse, licensed practical nurse advanced registered nurse practitioner, or physician assistant who is trained in the management of the recovery area must remain on the premises of the abortion clinic until all patients are discharged. The rules must require an abortion clinic to report to the Agency for Health Care Administration, in writing within 10 days of the occurrence, each incident that results in serious injury to a patient or a viable fetus at an abortion clinic. If a patient death occurs, other than a fetal death properly reported pursuant to law, the abortion clinic must report it to the agency no later than the next workday.

If approved by the Governor, these provisions take effect July 1, 2005. Vote: Senate 30-9; House 97-19

SB 1090 – Minors/Psychotropic Medication (Campbell)

This bill amends s. 39.407, F.S., establishing the process by which children in the custody of the Department of Children and Families are provided psychotropic medications.

- Unless a parent’s rights have been terminated, the bill provides that the prescribing physician must first attempt to obtain express and informed consent from the parent prior to prescribing a psychotropic medication for a child except in certain specified circumstances. The provisions in s. 394.459, F.S., relating to express and informed consent, are strengthened.
- If a parent’s express and informed consent is not obtained, the department may, after consulting with the prescribing physician, seek court authorization to provide the psychotropic medication to the child. The evaluating physician is to be provided all pertinent medical information known to the department. Section 39.402, F.S., is amended requiring the parent to provide all known medical information to the department.
- If the department seeks court authorization to initiate or continue a psychotropic medication, the bill specifies that the motion be supported by specific documents, including a signed and detailed medical report, and, if any party objects to the motion, the bill requires that a hearing be held.
- The court is authorized to order the discontinuation of prescribed psychotropic medication if a psychiatrist, if available, or another physician states that, more likely than not, discontinuing the medication would not cause significant harm to the child or if the child’s treating physician states that continuing the medication would cause significant harm due to a diagnosed non-psychiatric medical condition.
- The bill provides for the court’s periodic review of a child receiving psychotropic medication.
- The department is directed to adopt rules to ensure that children receive timely access to clinically appropriate psychotropic medications and to address other related issues.

This bill also creates s. 1006.0625, F.S., relating to public schools. The term “psychotropic medication” is defined, and a public school is prohibited from denying a student access to programs or services because a parent refuses to place the student on psychotropic medication. The bill authorizes school personnel to share observations of a student’s performance with the student’s parent and offer options and other assistance but prohibits such personnel from compelling any specific actions by the parent or from requiring that a student take medication. The bill provides that a parent may refuse

psychological screening of a student and that any medical decision made to address a student's needs is a matter between the student, parent, and a competent health care professional chosen by the parent.

If approved by the Governor, these provisions take effect July 1, 2005. Vote: Senate 40-0; House 118-0

HB 1099 – Assistive Technology Advisory Council (Justice)

HB 1099 revises Florida's Assistive Technology Advisory Council (Council) to comport with newly enacted requirements in the Assistive Technology Act of 2004, specifically the establishment of the Advisory Council.

This bill provides for membership of the Council, revises the Council members' terms of service, and revises the duties of the Council. The bill establishes the public policy and advocacy committee which is designed to review federal and state legislation and agency policies and practices and to identify facilitators of and barriers to access and utilization of assistive technology services, devices, and funding sources.

In accordance with Federal law, this bill requires the Council to do the following:

- Investigate finance options to increase access to and funding for assistive technology devices and services.
- Develop assistive technology demonstrations, reutilization programs, and loan programs.
- Provide training and technical assistance to increase knowledge and awareness of the uses and benefits of assistive technology devices and services.
- Promote public awareness activities designed to provide information relating to the benefits of assistive technology devices and services.
- Promote coordination and collaboration among public and private entities that are responsible for policies, procedures, or funding for the provision of assistive technology devices and services.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2005.

SB 1208 – Long-Term Care Partnership Program (Peaden, Jr.)

The bill directs the Agency for Health Care Administration to establish the Florida Long-term Care Partnership Program to provide incentives for individuals to purchase long-term care insurance. A person who participates in the partnership is able to qualify for coverage for the costs of long-term care under Medicaid without first being required to substantially exhaust or "spend down" his or her assets. The amount of countable assets for purposes of determining eligibility for Medicaid would be reduced by \$1 for each \$1 of benefits paid by an individual's long-term care partnership program policy.

Prior to the next legislative session, the agency is required to develop a plan for implementation of the Florida Long-Term Care Partnership Program in the form of recommended legislation.

The bill would take effect upon becoming law, except that the amendments relating to Medicaid eligibility are effective contingent upon action by Congress to amend section 1917(b)(1)(c) of the federal Social Security Act.

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

SB 1314 – Independent Living (Rich)

This bill amends s. 39.013, F.S., authorizing a youth in foster care to petition the court for continued jurisdiction for up to one year after their 18th birthday for the purpose of determining whether appropriate services have been provided to the formerly dependent foster child. This bill further provides for continued court jurisdiction up to the 22nd birthday for those formerly in foster care with pending Special Immigrant Visa status solely for the purpose of allowing the continued consideration of the petition and application by federal authorities. The court is directed to encourage the Statewide Guardian Ad Litem office to provide greater representation to foster children aging out of foster care.

This bill amends s. 39.701, F.S., requiring the Department of Children and Family Services to provide information in each judicial review report that the young adult was informed regarding the Medicaid program; of the young adult's right to petition the court for continued jurisdiction; that, if eligible for the Road-to-Independence Scholarship, of the young adult's ability to remain in a licensed foster home; and that the child has been encouraged to attend all judicial review

hearings occurring after his or her 17th birthday. This bill also amends s. 409.1451, F.S., expanding the young adult's current right to remain with the licensed foster family or group care provider with whom the child was residing at the time of reaching their 18th birthday, to provide that the young adult may reside in another licensed foster home or group care provider arranged by the department.

Additionally, this bill requires the department to enroll in the Florida KidCare program young adults who were formerly in foster care if they do not have health insurance or are not eligible for Medicaid and requires the Independent Living Advisory Council to study and report to the Legislature on the most effective way of providing health insurance for young adults formerly in foster care not eligible for the Florida KidCare program.

A nonrecurring sum of \$1,100,000 is appropriated from the General Revenue Fund to the Department of Children and Family Services to implement the provisions of this act.

If approved by the Governor, these provisions take effect July 1, 2005. Vote: Senate 39-0; House 115-0

CS/CS/SB 1348 – Indoor Smoking Places (Commerce and Consumer Services)

At the November 2002 General Election, voters approved Amendment No. 6, to prohibit tobacco smoking in enclosed indoor workplaces. The stated purpose of this constitutional revision, codified as s. 20, art. X, Florida Constitution, was to protect people from the health hazards of second-hand tobacco smoke by prohibiting workplace smoking. The constitutional amendment provided limited exceptions to the prohibition on indoor smoking for private residences, retail tobacco shops, designated smoking guest rooms at hotels and other public lodging establishments, and stand-alone bars. The constitutional amendment required the Legislature to implement the “amendment in a manner consistent with its broad purpose and stated terms.” Implementing legislation was subsequently enacted by the 2003 Legislature. The constitutional amendment provided that a stand-alone bar is “...any place of business devoted during any time of operation predominantly or totally to serving alcoholic beverages... in which the serving of food, if any, is merely incidental to the consumption of any such beverage.” The implementing legislation defined the term “merely incidental” to limit a stand-alone bar from deriving more than 10 percent of its gross revenue from the sale of food.

This bill expands the threshold of allowable food sales from 10 percent to 20 percent for a stand-alone bar that is located in a building that is individually listed in the National Register of Historic Places. The bill creates a window of opportunity to qualify for the expanded exception, by specifying that the stand-alone bar must have submitted an application to the Department of State seeking to obtain this designation on or before 90 days after the effective date of this act.

The bill also addresses several regulatory and enforcement provisions that have been identified as problematic since the Act initially took effect. The bill clarifies that a proprietor or other person in charge of an enclosed indoor workplace may not permit another person to smoke in the workplace. It defines the term “person” to have the same meaning as in the rule of statutory construction in s. 1.01, F.S. The bill applies the penalty provisions for stand-alone bars to alcoholic beverage vendors who permit smoking in alcoholic beverage licensed establishments. Under current law these penalties only apply to alcoholic beverage vendors who have received a stand-alone bar designation from the Division of Alcoholic Beverages and Tobacco [DABT] within the Department of Business and Professional Regulation.

The bill also provides that a law enforcement officer may issue a citation to any person who violates the provisions of the Clean Indoor Air Act and specifies the minimum information that a citation must contain. The bill provides that if any person refuses to comply with a proprietor's request to stop smoking, a law enforcement officer may remove the violator from the premises.

The bill repeals the requirement that designated stand-alone bars must file an “agreed upon procedures report” signed by a certified public accountant with the DABT every three years. The bill subjects a stand-alone bar's alcoholic beverage license to revocation or suspension under s. 561.29, F.S., if the stand-alone bar knowingly makes a false statement on the annual affidavit required by s. 561.695, F.S., attesting to the percentage of food sales.

This bill is not expected to have a significant fiscal impact on state or local governments. Subject to the Governor's veto powers, the effective date of this bill is July 1, 2005.

SB 1450 – Arthritis Prevention and Education (Klein)

The bill creates the “Arthritis Prevention and Education Act,” to require the Department of Health to establish an arthritis prevention and education program and to conduct a needs assessment to identify research on arthritis, the needs of persons with arthritis, and services available to persons with arthritis. The department must establish and coordinate a statewide partnership on arthritis to collaborate on and address arthritis issues in Florida, and use strategies consistent with existing national and state efforts to raise public knowledge on the causes and nature of arthritis, personal risk factors, the value of prevention and early detection, ways to minimize preventable pain through evidence-based self-management interventions, and options for diagnosing and treating the disease. The department must establish, promote, and maintain an arthritis prevention and education program and carry out other related duties, to the extent that funds are specifically made available to implement the bill. The bill authorizes the Secretary of Health to accept grants, services, and property from various sources to fulfill the obligations of the program and to seek any federal waiver that may be necessary to maximize funds from the federal government.

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

CS/CS/CS/SB 1476 – Department of Children and Family (Health and Human Services Appropriations)

The bill removes a provision of law exempting the Department of Children and Family Services (DCF) from the requirements of ch. 287, F.S. In addition, the bill requires that, when DCF uses the exemption from competitive procurement set forth in s. 287.057(5)(f)13., F.S., to procure services from postsecondary institutions, DCF must provide an opportunity for all postsecondary institutions to bid on the procurement. The bill provides that when this exemption is used, it applies only to the contract between DCF and the postsecondary institution and not to any services or commodities provided by the postsecondary institution agency through a private vendor.

The bill sets forth the requirements and processes for DCF contract managers and contract monitors.

The bill authorizes DCF to enter into agreements, not to exceed 23 years, with a private contractor to finance, design, and construct a secure facility, as described in s. 394.917, F.S., of at least 600 beds and to operate all aspects of daily operation within the facility. It describes allowable financing structures for the facility and directs DCF to begin implementation of this initiative by July 1, 2005. This section of the bill is repealed July 1, 2006.

The bill directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct two reviews of the contract management and accountability structures of DCF and to report its findings to the Legislature by February 1, 2006 and February 1, 2007.

The bill amends s. 409.1671, F.S., to conform definitions.

If approved by the Governor, these provisions take effect July 1, 2005. *Vote: Senate 39-0; House 118-0*

SB 1502 – Children’s Hearing Help Fund (Fasano)

The bill requires the Department of Highway Safety and Motor Vehicles, to include a check-off for a voluntary \$1.00 contribution to the Children’s Hearing Help Fund which is administered by the Sertoma Speech and Hearing Foundation of Florida, Inc. The organization has completed the statutory requirements authorizing it to seek Legislative enactment of the voluntary contribution check-off.

Subject to the Governor’s veto powers, the effective date of this bill is July 1, 2005.

HB 1525 – Elderly Affairs (Lopez-Cantera)

This bill deletes the requirement for the Agency for Health Care Administration in consultation with the Department of Elder Affairs to integrate the Frail Elder Option program into the Nursing Home Diversion program. The bill also deletes the requirement for the agency and the department to integrate the Aged and Disabled Adult Medicaid waiver and the Assisted Living for the Elderly Medicaid waiver into one waiver program.

The bill revises the eligibility requirements relating to financial solvency for entities providing services in the Nursing Home Diversion program. It requires the agency to use a federally approved, actuarially certified rate methodology to develop reimbursement rates for the long-term care community diversion pilot project.

The bill allows the department to move forward on implementation of the pilot program allowing Community Care for the Elderly lead agencies to transition over a period of time into full providers of service under the nursing home diversion program.

The bill deletes the requirement for the department's Comprehensive Assessment Review and Evaluation Services (CARES) program staff to annually review at least 20 percent of case files of Medicaid nursing home residents.

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

HB 1559 – Respite Care/Intergenerational Program (Joyner)

This bill requires the Agency for Health Care Administration to create a pilot project for an assisted living facility that will provide respite care for a maximum period of 14 days for children and adults who have disabilities and for elderly persons having special needs. The project must be located in Miami-Dade County and operated by a not-for-profit entity. The pilot project will last for 5 years, and AHCA must report to the Legislature after 4 years regarding the effectiveness of the project.

If approved by the Governor, these provisions take effect upon becoming law. Vote: Senate 39-0; House 115-0

HB 1659 – Parental Notice of Abortion Act (Kottkamp)

This bill will implement s. 22, Art. X, State Constitution, which authorizes the Legislature to require by general law for notification to a parent or guardian of a minor before the termination of the minor's pregnancy. The bill requires a physician to give actual notice in person or by telephone 48 hours before the termination of a minor's pregnancy. If actual notice is not possible after a reasonable effort has been made, the physician performing the termination of pregnancy or the referring physician must give constructive notice in writing, signed by the physician, and mailed at least 72 hours before the termination of the minor's pregnancy to the last known address of the parent or legal guardian. Constructive notice must be sent by certified mail, return receipt requested, with delivery restricted to the parent or legal guardian. After the 72 hours have passed, delivery of the constructive notice is deemed to have occurred. Violation of the notification requirement constitutes grounds for disciplinary action against the physician under the physician's practice act.

Notice is not required if: a medical emergency exists and there is insufficient time for the physician to comply with the notice requirements; the person entitled to notice waives in writing his or her right to notice; the minor is or has been married or is emancipated; the minor waives notice because she has a minor child dependent on her; or notice is waived by the judicial waiver procedure that is established in the bill.

A minor may petition any circuit court in a judicial circuit within the jurisdiction of the District Court of Appeal in which she resides for a waiver of the notice requirement, and she may file the petition under a pseudonym or through the use of initials, as provided by court rule. The court must advise the minor that she has a right to court-appointed counsel and must provide her with counsel upon her request at no cost to the minor. The court must rule within 48 hours unless the 48-hour limitation has been extended at the request of the minor. If the court does not rule within 48 hours and the limit has not been extended, the petition is granted and the notice requirement is waived.

If the court finds by clear and convincing evidence that the minor is sufficiently mature to decide whether to terminate her pregnancy, the court must issue an order authorizing the minor to consent to the termination of pregnancy without notification of a parent. If the court finds by a preponderance of the evidence that there is evidence of child abuse or sexual abuse of the petitioner by a parent or guardian, or that the notification of a parent or guardian is not in the best interest of the minor, the court must issue an order authorizing the minor to consent to the termination of pregnancy without notification of a parent or guardian. If the court does not find one of the following — that the minor is sufficiently mature to decide, that there is evidence of child abuse or sexual abuse of the minor by a parent or guardian, or that notification of a parent or guardian is not in the best interest of the petitioner — the court must dismiss the petition.

The bill requires a written transcript of all testimony and proceedings and requires confidentiality of the proceedings under s. 390.01116, F.S. A separate public records bill, CS/SB 798 amended s. 390.01116, F.S., to apply the public records exemption to the provisions of this bill. (See Session Summary by the Judiciary Committee.)

The bill requires an expedited and confidential appeal, provides for waiver of filing fees and court costs, and provides that counties are not required to pay for court-appointed counsel. The bill requests the Supreme Court to adopt rules and forms for petitions, including provisions addressing confidentiality; and requires the Supreme Court to report annually to the Governor and the Legislature on the number of petitions filed, and the timing and manner of disposal of the petitions.

If approved by the Governor, these provisions take effect upon adoption of rules and forms by the Supreme Court, but no later than July 1, 2005. Vote: Senate 36-3; House 96-14

SB 1722 – Multiservice Senior Centers (Fasano)

This bill changes the definition of “multiservice senior center” in s. 430.203, F.S., moves the definition and purpose of the centers to a newly created section of statute, and further specifies the purpose of these centers. The bill provides that a multiservice senior center is:

- A community facility that is a focal point for the organization and provision of a broad spectrum of services suited to the diverse needs and interests of independent older persons;
- An entity authorized to partner with an aging resource center in order to provide easier access to long-term care services by seniors and their families who reside within the local community;
- A setting that provides opportunities that enable participants to stay connected to their communities and support networks; and
- A setting designed to offer preventive screenings, activities, and services that may divert seniors from more extensive in-home services and to help reduce, delay, or prevent premature institutionalization.

The bill specifies that multiservice senior centers should be centrally located and easily accessible by seniors with varying levels of physical abilities. Multiservice senior centers are encouraged to seek national accreditation by the National Institute of Senior Centers.

If approved by the Governor, these provisions take effect July 1, 2005. Vote: Senate 39-0; House 117-0

HB 1917 – Juvenile Justice (Justice Appropriations)

HB 1917 further implements provisions relating to juvenile detention cost apportionment between the state and counties that passed during 2004 Special Session A (ch. 2004-473, L.O.F.).

The bill creates a minimum risk, non-residential commitment option for juveniles. This essentially reinstates day treatment as a commitment option for judges which was rejected in 2000. The bill also contains provisions related to cost of care collections from parents of juveniles in minimum risk programs and youth that abscond from these programs.

The bill provides that Wakulla, Sumter, and Highlands counties are eligible for grant funding for their detention costs for fiscal year 2005-06, but does not change the basic eligibility criteria set in current law.

The bill increases background screening requirements for personnel working with youth and provides a General Revenue appropriation of \$123,241, for implementation. The bill creates a task force on juvenile sexual offenders and a task force on certification of provider staff. The bill also includes a provision allowing for up to 72 hour home visits by youth in high risk facilities who are in the last 60 days of their programs.

Subject to the Governor’s veto powers, the effective date of this bill is July 1, 2005.

CS/CS/SB 2550 – Assistive Technology Devices and Services (Commerce and Consumer Services)

CS/CS/SB 2550 requires the development of interagency agreements by the Florida Infants and Toddlers Early Intervention Program, the Division of Blind Services, the Bureau of Exceptional Education and Student Services, the Division of Vocational Rehabilitation, and the Voluntary Prekindergarten Education Program. The agreements are intended to ensure that any assistive technology (AT) device issued to a young person as part of his or her individualized education plan remains with that child as he or she transitions through the educational system. The agreements are also intended to provide a system for ensuring that young persons with disabilities and their families, educators, and employers are informed about the utilization and coordination of AT devices and services that may assist in meeting the young person's transition needs.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2005.

SB 2600 – Appropriations (Ways and Means)

This bill is the General Appropriations Act, which provides moneys for the annual period beginning July 1, 2005 and ending June 30, 2006, to pay salaries, expenses, capital outlay – buildings, and other improvements, and for specified purposes of the various agencies of state government.

EDUCATION

- Total Education Budget - \$25.4 billion. This is an increase in the operating budget of \$1.8 billion (7.8 percent) over the current year.
- \$387.1 million in new General Revenue to implement the new voluntary **Pre-K program** for 4 year olds.
- An increase of \$1.33 billion (8.85 percent) for the FEFP. This increase:
 - Includes \$556.2 million in additional state funds to continue reducing **class size** by 2 students annually until the constitutionally required maximum class sizes are achieved; and
 - Provides an increase of \$355.41, or 6.15 percent in funds per student.
- Provides \$21 million for competitive grants to expand job training in **high demand areas**, including teaching & nursing.
- Limits **tuition increases** by state universities and community colleges to 5 percent.

HEALTH AND HUMAN SERVICES

AGENCY FOR HEALTH CARE ADMINISTRATION

- **Medicaid Price Level and Workload - \$1,862.1 million** - Provides \$725.9 for Medicaid workload because of changes in caseloads and utilization of services and \$1,146.5 million related to price level increases in reimbursement rates for institutional facilities, rural health clinics, federally qualified health centers, county health departments, prescription drugs, and other services. The Medicaid caseload for FY 2005-2006 is projected to be 2.3 million people.
- **Restore Medically Needy Program – \$393.3 million** - Restores all Medicaid services to an estimated 36,000 Medically Needy program eligibles, effective July 1, 2005. The Medically Needy program would have been limited to prescribed drugs only beginning July 1, 2005.
- **Restore Medicaid Coverage for Adult Dentures - \$20.7 million** - Restores funding to continue coverage for Medicaid adult denture services to an estimated 25,000 indigent adults. This program would have been eliminated July 1, 2005.
- **Restore Medicaid Pregnant Women with Incomes between 150 - 185 percent of the Federal Poverty Level - \$60.8 million** - Restores funding to provide Medicaid services to an estimated 3,400 Medicaid eligible pregnant women with incomes between 150 percent-185 percent of the federal poverty level. This program would have been eliminated July 1, 2005.
- **Increase Reimbursement for Kidney Dialysis - \$2.7 million** - Increases reimbursement for kidney dialysis treatment in freestanding dialysis centers from \$85 to \$125 per treatment.
- **Delay Nursing Home Staffing Increase - (\$67.8 million reduction)** – Delays the increase in nursing home staffing from 2.6 hours of direct care per resident per day to 2.9 hours until July 1, 2006.
- **Revised Medicaid Preferred Drug List - (\$292.0 million reduction)** - Reduces prescribed drug services as a result of modifications to the Medicaid preferred drug list which includes cost-effective therapeutic options, step therapies, and prior authorization of drugs not on the preferred drug list.

- **Expand Nursing Home Diversion Program - (\$23.1 million reduction)** - This issue will expand the current nursing home diversion program by 3,000 slots. This program currently serves approximately 6,000 individuals through a fully capitated program.
- **MEDS AD - (\$84.7 million reduction)** - Eliminates full Medicaid coverage for an estimated 77,000 non-institutionalized Medicare eligible recipients in the Medicaid Aged and Disabled (MEDS AD) eligibility category, effective January 1, 2006.

DEPARTMENT OF CHILDREN AND FAMILIES

- **Adoption Subsidies - \$2 million** - Increases funding for maintenance adoption subsidies for an additional 1,700 hard-to-place children who would linger in costly foster care arrangements for long periods of time if not adopted.
- **Equity Funding for Community-Based Care Providers - \$10.5 million** - Provides additional funding to achieve a more equitable distribution of child protection resources among community based care lead agencies.
- **Expand Crisis Stabilization Units - \$6.4 million** - Funds additional mental health crisis beds in districts with the greatest need.
- **Substance Abuse Services - \$5 million** - Provides \$5 million to achieve a more equitable distribution of substance abuse funds among districts. The General Appropriations Act provides \$3.6 million for adults and \$1.4 million for children.
- **Economic Self-Sufficiency - (\$12.5 million reduction)** - Reduces staff in Economic Self-Sufficiency by 245 full-time equivalent positions to implement efficiencies in the eligibility determination activities related to cash assistance, Medicaid and food stamps.

DEPARTMENT OF ELDER AFFAIRS

- **CARES Workload - \$1.7 million** - Provides funds for 31 positions to support increased workload for the Comprehensive Assessment and Review of Long Term Care Services (CARES) nursing home preadmission screening program.
- **Home and Community-Based Services - \$11.4 million** - Provides \$10.1 million to serve 1,380 clients in the Aged and Disabled Adult (ADA) waiver and \$1.3 million to serve 164 clients in the Assisted Living for the Elderly (ALE) waiver.

AGENCY FOR PERSONS WITH DISABILITIES

- **Home and Community Based Services Waiver - \$6.25 million** - Provides funds to serve 250 new clients from the waitlist through the Home and Community Based Waiver.
- **Family and Supported Living Waiver - \$21.4 million** - Provides funds to serve 1,500 new clients from the waitlist through the Family and Supported Living Waiver.
- **Home and Community Based Services Waiver Utilization Increase - \$22.9 million** - Provides funds for a 3.5 percent utilization increase for clients currently on the waiver.
- **Transition Clients in Institutions Back to the Community - \$7.4 million** - Provides funds to transition clients from the Landmark and Gulf Coast institutions back into the community.

DEPARTMENT OF HEALTH

- **Children's Medical Services - \$7.7 million** - Provides funding to restore \$4.7 million of non-recurring general revenue funds and provides \$3 million to provide services to an additional 2,000 children.

JUSTICE APPROPRIATIONS

- Provides \$23.2 million for the **increase in the prison population** as forecast by the Criminal Justice Estimating Conference.
- Provides \$17.4 million in general revenue and \$2.6 million in trust fund for the **construction of approximately 3,940 new prison beds.**
- Provides \$5.5 million for grant funding to small counties for **detention services** in the Department of Juvenile Justice.
- Provides \$1 million to increase **mental health overlay** services in the Department of Juvenile Justice.
- Provides \$2.3 million to fund additional **day treatment slots** in the Department of Juvenile Justice.
- Provides \$5.5 million to fund a **price level increase for private providers** in the Department of Juvenile Justice.
- Provides a \$3.3 million increase for the **Guardian Ad-Litem program.**

Footnotes

1. DeNavas-Walt, Carmen, Bernadette D. Proctor, and Robert J. Mills. "Income, Poverty, and Health Insurance Coverage in the United States: 2003." Current Population Reports P60-226 (Washington, DC: U.S. Department of Commerce, Economics and Statistics Administration, August 2004)
2. Employee Benefit Research Institute Estimates from the March Current Population Survey, 2004 Supplement.
3. Florida Health Insurance Study, University of Florida, 2004
4. Centers for Medicare and Medicaid Services; Medicaid: A Brief Summary, 2005;
<http://www.cms.hhs.gov/publications/overview-medicare-medicaid/default4.asp>
5. Kaiser Commission on Medicaid and the Uninsured, 2004; based on 2002 CMS data
6. Kaiser Commission on Medicaid and the Uninsured, 2004; based on 2003 CMS and CBO data
7. Cited by Cindy Mann and Fouad Pervez, "Medicaid Cost Pressures for States: Looking at the Facts." (PDF) Policy Brief. Health Policy Institute, January 2005.
8. Georgetown University Healthcare Policy Institute, 2004
9. "Florida's Medicaid Budget: Why Are Costs Going up?"; Winter Park Health Foundation Policy Brief, 2005
10. "Florida's Medicaid Budget: Why Are Costs Going up?"; Winter Park Health Foundation Policy Brief, 2005
11. Issues to Consider in Governor Bush's "Florida Medicaid Modernization Proposal"; Winter Park Health Foundation Policy Brief, 2005
12. Transforming Florida's Health Systems: Creating a Focus on Wellness; The Policy Group for Florida's Families and Children, 2005
13. Lambrew, Podesta, & Shaw, 2005
14. "What Could a Waiver to Restructure Medicaid Mean to Florida?"; Winter Park Health Foundation Policy Brief, 2005
15. Transforming Florida's Health Care Systems: Creating a Focus on Wellness; The Policy Group for Florida's Families and Children, 2005; Lambrew, Podesta, & Shaw, 2005

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