



Journal of the Senate

Number 2—Special Session B

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CALL TO ORDER

The Senate was called to order by President Lee at 3:50 p.m. A quorum present—39:

Mr. President	Dawson	Miller
Alexander	Diaz de la Portilla	Peadar
Argenziano	Dockery	Posey
Aronberg	Fasano	Pruitt
Atwater	Garcia	Rich
Baker	Geller	Saunders
Bennett	Haridopolos	Sebesta
Bullard	Hill	Siplin
Campbell	Jones	Smith
Carlton	King	Villalobos
Clary	Lawson	Webster
Constantine	Lynn	Wilson
Crist	Margolis	Wise

Excused: Senator Klein

PRAYER

The following prayer was offered by Senator Rich:

It seemed appropriate to me at a time when we are meeting in Special Session to deliberate and debate the critical issue of Medicaid reform which will impact the lives of 2.2 million of our most vulnerable, disabled, and elderly Floridians, to share a favorite poem of mine by Judy Chicago, that expresses how I believe God wants us to treat each other.

The Jewish value of tikkun olam, repairing the world, is embodied in her writing and I hope will be embodied in the ultimate Medicaid reform legislation passed by the Florida Senate.

And then all that has divided us will merge

And then compassion will be wedded to power

And then softness will come to a world that is harsh and unkind

And then both men and women will be gentle

And then both women and men will be strong

And then no person will be subject to another's will

And then all will be rich and free and varied

And then the greed of some will give way to the needs of many

And then all will share equally in the Earth's abundance

And then all will care for the sick and the weak and the old

And then all will nourish the young

And then all will cherish life's creatures

And then all will live in harmony with each other and the Earth

And then everywhere will be called Eden once again.

God, we ask that you give us the vision and the compassion necessary to help those who need our help and the patience, tolerance, and understanding needed to work with each other. Then surely God will bless us in all our work and all that we put our hands to.

May we all say, Amen.

PLEDGE

Senator Miller led the Senate in the pledge of allegiance to the flag of the United States of America.

SPECIAL ORDER CALENDAR

Consideration of **SB 8-B**, **SB 6-B** and **SB 40-B** was deferred.

On motion by Senator Webster—

SB 12-B—A bill to be entitled An act providing an appropriation to compensate Wilton Dedge; providing authority to draw warrant; providing a limitation on the authority to draw the warrant; requiring a specified distribution of funds; providing a condition for payment; providing legislative intent; providing an effective date.

—was read the second time by title.

The Committee on Judiciary recommended the following amendment which was moved by Senator Webster and adopted:

Amendment 1 (112810)(with title amendment)—Delete every-thing after the enacting clause and insert:

Section 1. *The facts stated in the preamble to this act are found and declared to be true.*

Section 2. *There is appropriated from the General Revenue Fund the sum of \$2 million to the Department of Financial Services under the conditions provided in this act.*

Section 3. *The Chief Financial Officer is directed to draw a warrant in the sum of \$2 million for the purposes provided in this act. After March 6, 2006, the Chief Financial Officer is no longer authorized to draw a warrant under this section.*

Section 4. *The Department of Financial Services shall pay the funds appropriated under this act to an insurance company or other financial institution admitted and authorized to issue annuity contracts in this state and selected by Wilton Dedge, to purchase an annuity. The Department of Financial Services is directed to execute all necessary agreements to implement this act.*

Section 5. *Tuition and fees shall be waived for up to a total of 120 hours of instruction at any career center established pursuant to s. 1001.44, Florida Statutes, at any community college established under part III of chapter 1004, Florida Statutes, or any state university. For any educational benefit made, Wilton Dedge is required to meet and maintain the regular admission requirements of, and be registered at, such career center, community college, or state university and make satisfactory academic progress as defined by the educational institution in which the claimant is enrolled.*

Section 6. *The Chief Financial Officer shall purchase the annuity as required by this act upon delivery by Wilton Dedge to the Chief Financial*

Officer, the Department of Financial Services, the President of the Senate, and the Speaker of the House of Representatives of all of the following:

(1) *An executed release and waiver on behalf of Wilton Dedge and his parents, heirs, successors, and assigns forever releasing the State of Florida and any agency, instrumentality, officer, employee, or political subdivision thereof or any other entity subject to the provisions of s. 768.28, Florida Statutes, from any and all present or future claims, or declaratory relief the claimant or any of his parents, heirs, successors, or assigns may have against such enumerated entities and arising out of the factual situation in connection with the conviction for which compensation is awarded. However, declaratory action to obtain judicial expungement of Wilton Dedge's judicial and executive branch records as otherwise provided by law is not prohibited by this act.*

(2) *An order from the court having jurisdiction of the legal claim filed by Wilton Dedge and his parents dismissing the claim with prejudice.*

Section 7. *The Legislature shall not be deemed by this act to have waived any defense of sovereign immunity or to have increased the limits of liability on behalf of the state or any person or entity subject to the provisions of s. 768.28, Florida Statutes, or any other law.*

Section 8. *This award is intended to provide the sole compensation for any and all present and future claims arising out of the factual situation in connection with Wilton Dedge's conviction and imprisonment. No further award for attorney's fees, lobbying fees, costs, or other similar expenses shall be made by the state.*

Section 9. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act providing an appropriation to compensate Wilton Dedge; providing authority to draw warrant; providing a limitation on the authority to draw the warrant; requiring the purchase of an annuity; providing for waiver of specified tuition and fees; providing conditions for payment; providing legislative intent; providing an effective date.

WHEREAS, Wilton Dedge was convicted of rape and imprisoned for 22 years, and

WHEREAS, the initial conviction was appealed and reversed, and

WHEREAS, on retrial Wilton Dedge was again convicted, which conviction was affirmed on appeal, and

WHEREAS, the Circuit Court in the Eighteenth Judicial Circuit granted the state's motion to dismiss pending charges and discharge Wilton Dedge from custody based on DNA evidence that excluded Wilton Dedge as the perpetrator of the crime, and

WHEREAS, Wilton Dedge was in fact released on August 12, 2004, and

WHEREAS, Wilton Dedge and his parents filed suit in the Second Judicial Circuit requesting, among other things, a declaratory judgment that Mr. Dedge's liberty was taken by the government without compensation and requesting damages for the taking of Mr. Dedge's liberty, and

WHEREAS, the suit was dismissed by order of the Second Judicial Circuit court, which found that claims for damages from the state are banned by the doctrine of sovereign immunity, and that only the Legislature can address the issue of compensation under existing law, and

WHEREAS, Wilton Dedge has appealed the order to the First District Court of Appeal, Case No. 1D05-4288, and

WHEREAS, the Legislature recognizes that no system of justice is impervious to human error. "Given the myriad safeguards provided to assure a fair trial, and taking into account the reality of the human fallibility of the participants, there can be no such thing as an error-free, perfect trial, and ... the Constitution does not guarantee such a trial." *United States v. Hasting*, 461 U.S. 499 (1983), and

WHEREAS, the Legislature acknowledges that the state's system of justice yielded an imperfect result with tragic consequences in this case, and

WHEREAS, the Legislature acknowledges that Wilton Dedge incurred significant damages unique to Wilton Dedge as a result of his conviction and physical confinement and that all the damages flowed from the fact that he was physically restrained and prevented from exercising the freedom to which all innocent citizens are entitled, and

WHEREAS, the Legislature acknowledges that Wilton Dedge performed valuable services for the state while imprisoned, including serving as a licensed wastewater plant operator, and

WHEREAS, the Legislature acknowledges that Wilton Dedge's parents incurred significant expenses related to his defense and related to the prolonged efforts to establish his innocence and secure his release from prison, and

WHEREAS, the Legislature is providing compensation to Wilton Dedge to acknowledge the fact that he suffered significant damages unique to Wilton Dedge which resulted from his physical restraint and the deprivation of freedom, and

WHEREAS, the Legislature is providing compensation to Wilton Dedge based on a moral desire to acknowledge his undisputed and actual innocence and not on a recognition of a constitutional right or violation, and

WHEREAS, the Legislature intends that compensation made pursuant to this act shall be the sole compensation to be provided by the state for any and all present and future claims arising out of the factual situation in connection with Wilton Dedge's conviction and imprisonment, and

WHEREAS, the Legislature apologizes to Wilton Dedge on behalf of the state, NOW, THEREFORE,

Pursuant to Rule 4.19, **SB 12-B** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

SENATOR WEBSTER PRESIDING

On motion by Senator Alexander—

SB 18-B—A bill to be entitled An act relating to the state minimum wage; amending s. 95.11, F.S.; providing periods of limitations on actions for violations of the Florida Minimum Wage Act; creating s. 448.110, F.S., the Florida Minimum Wage Act; providing legislative intent to implement s. 24, Art. X of the State Constitution in accordance with authority granted to the Legislature therein; requiring employers to pay certain employees a minimum wage for all hours worked in Florida; incorporating provisions of the federal Fair Labor Standards Act; requiring the minimum wage to be adjusted annually; providing a formula for calculating such adjustment; requiring the Agency for Workforce Innovation and the Department of Revenue to annually publish the amount of the adjusted minimum wage; providing criteria for posting; requiring the agency to provide written notice to certain employers; providing a deadline for the notice to be mailed; providing that employers are responsible for maintaining their current addresses with the agency; requiring the agency to provide the department with certain information; prohibiting discrimination or adverse action against persons exercising constitutional rights under s. 24, Art. X of the State Constitution; providing for civil action by aggrieved persons; requiring aggrieved persons bringing civil actions to provide written notice to their employers alleged to have violated the act; providing information that must be included in the notice; providing a deadline by which an employer alleged to have violated the act must pay the unpaid wages in question or resolve the claim to the aggrieved person's satisfaction; providing that a statute of limitations is tolled for a specified period; providing a statute of limitations period; providing that aggrieved persons who prevail in their actions may be entitled to liquidated damages and reasonable attorney's fees and costs; authorizing additional legal or equitable relief for aggrieved persons who prevail in such actions; providing that punitive damages may not be awarded; providing that actions brought under the act are subject to s. 768.79, F.S.; authorizing the Attorney General to bring a civil action and seek injunctive relief; providing a fine; providing statutes of limitations; authorizing class actions; declaring the act the exclusive remedy under state law for violations of s. 24, Art. X of the State Constitution; providing for implementation measures; designating ss. 448.01-448.110, F.S., as part I of ch. 448, F.S.; providing a part title; providing for severability; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 18-B** was placed on the calendar of Bills on Third Reading.

On motion by Senator Atwater—

SB 10-B—A bill to be entitled An act relating to the payment of ad valorem taxes; allowing the governing body of a county that has been declared a major disaster area to adopt an ordinance extending the time in which property tax payments made by individuals qualify for early-payment discounts; providing options that counties may choose; providing for expiration of the act; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendments which were moved by Senator Atwater and adopted:

Amendment 1 (624604)—On page 1, line 20, after “adopt” insert: *, including by emergency ordinance,*

Amendment 2 (441042)(with title amendment)—On page 1, line 27, before “Subsection” insert: *The tax collector shall implement any early-payment discount option adopted under subsection (1).*

And the title is amended as follows:

On page 1, line 8, after the semicolon (;) insert: *providing for implementation by the tax collector;*

Amendment 3 (305822)—On page 1, line 28, delete “financial institutions” and insert: *the holder or mortgagee of an unsatisfied mortgage, lienholder, or vendee under a contract for deed*

Amendment 4 (345380)(with title amendment)—On page 1, between lines 28 and 29, insert:

(3) If the governing body of any county adopts any early-payment discount option as authorized in subsection (1) after tax notices have already been mailed for that tax year, no additional direct mail notice shall be necessary to notify taxpayers of the change. Notice by advertisement in a newspaper of general circulation and posting at all offices of the tax collector shall be sufficient notice.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 8, after the semicolon (;) insert: *providing that additional tax notices are not required;*

Pursuant to Rule 4.19, **SB 10-B** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Saunders—

SB 14-B—A bill to be entitled An act relating to judges; amending s. 26.031, F.S.; revising the number of circuit court judges in the 20th judicial circuit; amending s. 34.022, F.S.; revising the number of county court judges in Collier County; providing for the additional judges provided under the act to be appointed by the Governor; providing an appropriation and authorizing positions; providing effective dates.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendments which were moved by Senator Saunders and adopted:

Amendment 1 (774490)—On page 1, line 14 and on page 2, line 10, delete the number “1” and insert: “2”

Amendment 2 (780480)—On page 4, lines 28 and 29, delete those lines and insert: *2005-2006 fiscal year, and 9 full-time equivalent positions and associated salary rate of 705,157 are authorized. The sum of \$41,846 in recurring funds is appropriated from the General Revenue Fund to the Office of the State Attorney 20th Circuit for the 2005-2006 fiscal year, and 2 full-time equivalent positions and associated salary rate of 58,791 are authorized.*

Pursuant to Rule 4.19, **SB 14-B** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Lynn, by two-thirds vote—

CS for SB 16-B—A bill to be entitled An act relating to specialty license plates; amending ss. 320.08056 and 320.08058, F.S.; creating the NASCAR license plate under certain circumstances; providing an annual use fee; providing for the distribution of annual use fees received from the sale of such plates; providing a conditional effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 16-B** was placed on the calendar of Bills on Third Reading.

On motion by Senator Peaden, by two-thirds vote—

CS for SB 2-B—A bill to be entitled An act relating to Medicaid; amending s. 409.911, F.S.; adding a duty to the Medicaid Disproportionate Share Council; providing a future repeal of the Disproportionate Share Council; creating the Medicaid Low-Income Pool Council; providing for membership and duties; amending s. 409.912, F.S.; authorizing the Agency for Health Care Administration to contract with comprehensive behavioral health plans in separate counties within or adjacent to an AHCA area; conforming provisions to the solvency requirements in s. 641.2261, F.S.; deleting the competitive-procurement requirement for provider service networks; updating a reference to the provider service network; amending s. 409.91211, F.S.; specifying the process for state-wide expansion of the Medicaid managed care demonstration program; requiring that matching funds for the Medicaid managed care pilot program be provided by local governmental entities; providing for distribution of funds by the agency; providing legislative intent with respect to the low-income pool plan required under the Medicaid reform waiver; specifying the agency’s powers, duties, and responsibilities with respect to implementing the Medicaid managed care pilot program; revising the guidelines for allowing a provider service network to receive fee-for-service payments in the demonstration areas; authorizing the agency to make direct payments to hospitals and physicians for the costs associated with graduate medical education under Medicaid reform; including the Children’s Medical Services Network in the Department of Health within those programs intended by the Legislature to participate in the pilot program to the extent possible; requiring that the agency implement standards of quality assurance and performance improvement in the demonstration areas of the pilot program; requiring the agency to establish an encounter database to compile data from managed care plans; requiring the agency to implement procedures to minimize the risk of Medicaid fraud and abuse in all managed care plans in the demonstration areas; clarifying that the assignment process for the pilot program is exempt from certain mandatory procedures for Medicaid managed care enrollment specified in s. 409.9122, F.S.; revising the automatic assignment process in the demonstration areas; requiring that the agency report any modifications to the approved waiver and special terms and conditions to the Legislature within specified time periods; authorizing the agency to implement the provisions of the waiver approved by federal Centers for Medicare and Medicaid Services; requiring an annual review by the Office of Insurance Regulation of the pilot program’s rate-setting methodology; providing that, if any conflict exists between the provisions contained in s. 409.91211, F.S., and ch. 409, F.S., concerning the implementation of the pilot program, the provisions contained in s. 409.91211, F.S., control; creating s. 409.91213, F.S.; requiring the agency to submit quarterly and annual progress reports to the Legislature; providing requirements for the reports; amending s. 641.2261, F.S.; revising the application of solvency requirements to include Medicaid provider service networks; updating a reference; requiring that the agency report to the Legislature the pre-implementation milestones concerning the low-income pool which have been approved by the Federal Government and the status of those remaining to be approved; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendments which were moved by Senator Peaden and adopted:

Amendment 1 (463656)(with title amendment)—On page 13, between lines 28 and 29, insert:

(c) A federally qualified health center or an entity owned by one or more federally qualified health centers or an entity owned by other migrant and community health centers receiving non-Medicaid financial support from the Federal Government to provide health care services on a prepaid or fixed-sum basis to recipients. A federally qualified health center or an entity that is owned by one or more federally qualified health centers and is reimbursed by the agency on a prepaid basis is exempt from parts I and III of chapter 641, but must comply with the solvency requirements in s. 641.2261(2) and meet the appropriate requirements governing financial reserve, quality assurance, and patients' rights established by the agency. Such prepaid health care services entity must be licensed under parts I and III of chapter 641, but shall be prohibited from serving Medicaid recipients on a prepaid basis, until such licensure has been obtained. However, such an entity is exempt from s. 641.225 if the entity meets the requirements specified in subsections (17) and (18).

And the directory clause is amended as follows:

On page 5, delete line 29, and insert:

Section 2. Paragraphs (b), (c), and (d) of subsection (4) of

And the title is amended as follows:

On page 1, line 12, after the semicolon (;) insert: providing that specified federally qualified health centers or entities that are owned by one or more federally qualified health centers are exempt from the requirements imposed by law on health maintenance organizations and health care services; providing exceptions;

Amendment 2 (482414)—On page 14, line 19, after providers, insert: including minority physician networks and emergency room diversion programs that meet the requirements of s. 409.91211,

Amendment 3 (874602)—On page 15, line 18, before the comma (,) insert: , as approved by the federal Centers for Medicare and Medicaid Services on October 19, 2005

Amendment 4 (542240)—On page 16, lines 6-11, delete those lines and insert: entities through intergovernmental transfers in accordance with published federal statutes and regulations. The Agency for Health Care Administration shall distribute upper-payment-limit, disproportionate share hospital, and low-income pool funds according to published federal statutes, regulations, and waivers and the low-income pool methodology approved by the federal Centers for Medicare and Medicaid Services.

Amendment 5 (771236)—On page 17, lines 16-22, delete those lines and insert: ss. 409.905 and 409.906.

Amendment 6 (290676)—On page 24, between lines 10 and 11, insert:

f. Utilization and quality data for the purpose of ensuring access to medically necessary services, including underutilization or inappropriate denial of services.

Amendment 7 (304782)—On page 29, line 28, and on page 30, line 4, after “departments” insert: and federally qualified health centers

The Committee on Ways and Means recommended the following amendment which was moved by Senator Peadar:

Amendment 8 (923506)(with title amendment)—On page 37, line 4, through page 38, line 24, delete those lines and insert:

(7)(a) The Secretary of Health Care Administration shall convene a technical advisory panel to advise the agency in the areas of risk-adjusted-rate setting, benefit design, and choice counseling. The panel shall include representatives from the Florida Association of Health Plans, representatives from provider-sponsored networks, and a representative from the Office of Insurance Regulation.

(b) The technical advisory panel shall advise the agency concerning:

1. The risk-adjusted rate methodology to be used by the agency, including recommendations on mechanisms to recognize the risk of all

Medicaid enrollees and for the transition to a risk-adjustment system, including recommendations for phasing in risk adjustment and the use of risk corridors.

2. Implementation of an encounter data system to be used for risk-adjusted rates.

3. Administrative and implementation issues regarding the use of risk-adjusted rates, including, but not limited to, cost, simplicity, client privacy, data accuracy, and data exchange.

4. Issues of benefit design, including the actuarial equivalence and sufficiency standards to be used.

5. The implementation plan for the proposed choice-counseling system, including the information and materials to be provided to recipients, the methodologies by which recipients will be counseled regarding choice, criteria to be used to assess plan quality, the methodology to be used to assign recipients into plans if they fail to choose a managed care plan, and the standards to be used for responsiveness to recipient inquiries.

(c) The technical advisory panel shall continue in existence and advise the agency on matters outlined in this subsection.

(8) The agency must ensure, in the first two state fiscal years in which a risk-adjusted methodology is a component of rate setting, that no managed care plan providing comprehensive benefits to TANF and SSI recipients has an aggregate risk score that varies by more than 10 percent from the aggregate weighted mean of all managed care plans providing comprehensive benefits to TANF and SSI recipients in a reform area. The agency's payment to a managed care plan shall be based on such revised aggregate risk score.

(9) After any calculations of aggregate risk scores or revised aggregate risk scores in subsection (8), the capitation rates for plans participating under s. 409.91211 shall be phased in as follows:

(a) In the first year, the capitation rates shall be weighted so that 75 percent of each capitation rate is based on the current methodology and 25 percent is based on a new risk-adjusted capitation rate methodology.

(b) In the second year, the capitation rates shall be weighted so that 50 percent of each capitation rate is based on the current methodology and 50 percent is based on a new risk-adjusted rate methodology.

(c) In the following fiscal year, the risk-adjusted capitation methodology may be fully implemented.

(10) Subsections (8) and (9) do not apply to managed care plans offering benefits exclusively to high-risk, specialty populations. The agency may set risk-adjusted rates immediately for such plans.

(11) Before the implementation of risk-adjusted rates, the rates shall be certified by an actuary and approved by the federal Centers for Medicare and Medicaid Services.

(12) For purposes of this section, the term “capitated managed care plan” includes health insurers authorized under chapter 624, exclusive provider organizations authorized under chapter 627, health maintenance organizations authorized under chapter 641, the Children's Medical Services Network under chapter 391, and provider service networks that elect to be paid fee-for-service for up to 3 years as authorized under this section.

(13)(7) Upon review and approval of the applications for waivers of applicable federal laws and regulations to implement the managed care pilot program by the Legislature, the agency may initiate adoption of rules pursuant to ss. 120.536(1) and 120.54 to implement and administer the managed care pilot program as provided in this section.

(14) It is the intent of the Legislature that if any conflict exists between the provisions contained in this section and other provisions of this chapter which relate to the implementation of the Medicaid managed care pilot program, the provisions contained in this section shall control. The agency shall provide a written report to the Legislature by April 1, 2006, identifying any provisions of this chapter which conflict with the implementation of the Medicaid managed care pilot program created in this section. After April 1, 2006, the agency shall provide a written report to the Legislature immediately upon identifying any provisions of this

chapter which conflict with the implementation of the Medicaid managed care pilot program created in this section.

And the title is amended as follows:

On page 2, line 30, through page 3, line 6, delete those lines and insert: requiring the Secretary of Health Care Administration to convene a technical advisory panel to advise the agency in matters relating to rate setting, benefit design, and choice counseling; providing for panel members; providing certain requirements for managed care plans providing benefits to TANF and SSI recipients; providing for capitation rates to be phased in; providing an exception for high-risk, specialty populations; requiring the certification of rates by an actuary and federal approval; providing that, if any conflict exists between the provisions contained in s. 409.91211, F.S., and ch. 409, F.S., concerning the implementation of the pilot program, the provisions contained in s. 409.91211, F.S., control; creating s.

MOTION

On motion by Senator Campbell, the rules were waived to allow the following amendment to be considered:

Senator Campbell moved the following amendment to **Amendment 8** which was adopted:

Amendment 8A (251508)—On page 1, line 24, after the comma (,) insert: *a Medicaid consumer representative,*

Amendment 8 as amended was adopted.

MOTION

On motion by Senator Miller, the rules were waived to allow the following amendment to be considered:

Senator Miller moved the following amendment which failed:

Amendment 9 (523350)—On page 17, line 11, through page 18, line 14, delete those lines and insert:

(2) The Legislature intends for the capitated managed care pilot program to:

(a) Provide recipients in Medicaid fee-for-service or the MediPass program a comprehensive and coordinated capitated managed care system for all health care services specified in ss. 409.905 and 409.906 *which may not vary in amount, duration, or scope. For purposes of this section, the term "capitated managed care plan" includes health maintenance organizations authorized under chapter 641, exclusive provider organizations authorized under chapter 627, health insurers authorized under chapter 624, and provider service networks that elect to be paid fee-for-service for up to 3 years as authorized under this section.*

(b) Stabilize Medicaid expenditures under the pilot program compared to Medicaid expenditures in the pilot area for the 3 years before implementation of the pilot program, while ensuring:

1. Consumer education and choice.
2. Access to medically necessary services.
3. Coordination of preventative, acute, and long-term care.
4. Reductions in unnecessary service utilization.

(c) Provide an opportunity to evaluate the feasibility of statewide implementation of capitated managed care networks as a replacement for the current Medicaid fee-for-service and MediPass systems.

(3) The agency shall have the following powers, duties, and responsibilities with respect to the ~~development of a~~ pilot program:

(a) ~~To implement develop and recommend~~ a system to deliver all mandatory services specified in s. 409.905 and *all* optional services specified in s. 409.906, as approved by the Centers for Medicare and Medicaid Services and the Legislature in the waiver pursuant to this section. Services to recipients under plan benefits shall include emergency services provided under s. 409.9128.

MOTION

On motion by Senator Hill, the rules were waived to allow the following amendment to be considered:

Senator Hill moved the following amendment which failed:

Amendment 10 (925622)—On page 31, between lines 26 and 27, insert:

(ee) To implement a plan to establish up to four small or specialty provider service networks in the pilot area. The agency shall establish criteria and set standards for the provider service networks and under certain conditions may provide start-up funding, technical assistance for the development and start up of grassroots organizations that seek to become provider service networks, a guarantee of state solvency, and access to risk-adjusted rates which will create a reasonable expectation that these entities will be able to become risk-bearing plans in a timely manner. The small or specialty provider service networks shall be approved for the purpose of creating choice and network options for adversely affected subgroups, improving minority access networks, and facilitating reform plans in small rural counties. The agency may allow these plans to seek waivers of requirements that form an impediment to their successful start up and operation.

MOTION

On motion by Senator Carlton, the rules were waived to allow the following amendment to be considered:

Senators Carlton and Peaden offered the following amendment which was moved by Senator Carlton and adopted:

Amendment 11 (661296)(with title amendment)—On page 42, between lines 14 and 15, insert:

Section 7. Section 216.346, Florida Statutes, is amended to read:

216.346 Contracts between state agencies; restriction on overhead or other indirect costs.—In any contract between state agencies, including any contract involving the State University System or the Florida Community College System, the agency receiving the contract or grant moneys shall charge no more than a *reasonable percentage* ~~5 percent~~ of the total cost of the contract or grant for overhead or indirect costs or any other costs not required for the payment of direct costs. *This provision is not intended to limit an agency's ability to certify matching funds or designate in-kind contributions that will allow the drawdown of federal Medicaid dollars that do not affect state budgeting.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 18, after the semicolon (;) insert: amending s. 216.346, F.S.; revising provisions relating to contracts between state agencies;

MOTION

On motion by Senator Dawson, the rules were waived to allow the following amendment to be considered:

Senators Dawson, Wilson, Hill, Bullard, Lawson, Miller and Siplin offered the following amendment which was moved by Senator Dawson and failed:

Amendment 12 (955472)—On page 6, line 26, after the period (.) insert: *Consideration must be given to cultural health care trends relating to low-income populations and minority populations and national health indicators for patient populations in the evaluation of practice patterns of providers.*

MOTION

On motion by Senator Campbell, the rules were waived to allow the following amendments to be considered:

Senator Campbell moved the following amendments which failed:

Amendment 13 (024086)—On page 33, line 25, after the period (.) insert: *However, a recipient who is assigned to a capitated managed*

care plan that does not include the recipient's current primary or specialty care provider in its network may disenroll from such assigned plan and enroll in another capitated managed care plan that includes such provider.

Amendment 14 (063412)(with title amendment)—On page 42, between lines 14 and 15, insert:

Section 7. *Any reform plan that operates pursuant to this act must cover prescription drugs listed on the preferred drug list and the exceptions to step-therapy specified in s. 409.912(39), Florida Statutes.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 18, after the semicolon (;) insert: requiring reform plans to cover certain prescription drugs and exceptions to step-therapy;

Amendment 15 (423432)—On page 33, line 25, after the period (.) insert: *After a recipient enrolls in a capitated managed care plan, the plan may not reduce the amount, duration, or scope of the benefit package that existed at the time the recipient enrolled until the initial date of the recipient's next open enrollment period.*

Amendment 16 (483054)(with title amendment)—On page 31, lines 27-31, delete those lines and insert:

(4)(a) ~~A Medicaid recipient in the pilot area who is not currently enrolled in a capitated managed care plan upon implementation is not eligible for services as specified in ss. 409.905 and 409.906, for the amount of time that the recipient does not enroll in a capitated managed care network.~~

And the title is amended as follows:

On page 2, line 21, after the semicolon (;) insert: deleting a provision that prohibits certain Medicaid recipients from receiving specified benefits if they are not enrolled in a capitated managed care plan;

Pursuant to Rule 4.19, **CS for SB 2-B** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **SB 4-B** was deferred.

MOTIONS

On motions by Senator Pruitt, the rules were waived and by two-thirds vote **SB 4-B**, **SB 6-B**, **SB 8-B** and **SB 40-B** were established as the Special Order Calendar for Thursday, December 8 and the amendment deadline was set for 7:00 p.m. this day.

On motion by Senator Pruitt, a deadline of one hour after the availability of engrossed bills was set for filing amendments for Bills on Third Reading to be considered Thursday, December 8.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Wednesday, December 7, 2005: **SB 8-B**, **SB 6-B**, **SB 40-B**, **SB 12-B**, **SB 18-B**, **SB 10-B**, **SB 14-B**, **CS for SB 16-B**, **CS for SB 2-B**, **SB 4-B**

Respectfully submitted,
Ken Pruitt, Chair

The Committee on Judiciary recommends the following pass: **SB 12-B** with 1 amendment, **SB 14-B**

The Committee on Regulated Industries recommends the following pass: **SB 4-B** with 10 amendments

The bills contained in the foregoing reports were referred to the Committee on Ways and Means under the original reference.

The Committee on Commerce and Consumer Services recommends the following pass: **SB 18-B**

The Committee on Ethics and Elections recommends the following pass: **SB 6-B** with 1 amendment, **SB 8-B**, **SB 40-B**

The Committee on Ways and Means recommends the following pass: **CS for SB 2-B** with 8 amendments, **SB 4-B** with 8 amendments, **SB 10-B** with 4 amendments, **SB 12-B**, **SB 14-B** with 2 amendments, **CS for SB 16-B**

The bills contained in the foregoing reports were placed on the calendar.

The Committee on Health Care recommends a committee substitute for the following: **SB 2-B**

The Committee on Transportation recommends a committee substitute for the following: **SB 16-B**

The bills with committee substitutes attached contained in the foregoing reports were referred to the Committee on Ways and Means under the original reference.

COMMITTEE SUBSTITUTES

FIRST READING

By the Committee on Health Care; and Senators Peaden, Carlton and Atwater—

CS for SB 2-B—A bill to be entitled An act relating to Medicaid; amending s. 409.911, F.S.; adding a duty to the Medicaid Disproportionate Share Council; providing a future repeal of the Disproportionate Share Council; creating the Medicaid Low-Income Pool Council; providing for membership and duties; amending s. 409.912, F.S.; authorizing the Agency for Health Care Administration to contract with comprehensive behavioral health plans in separate counties within or adjacent to an AHCA area; conforming provisions to the solvency requirements in s. 641.2261, F.S.; deleting the competitive-procurement requirement for provider service networks; updating a reference to the provider service network; amending s. 409.91211, F.S.; specifying the process for state-wide expansion of the Medicaid managed care demonstration program; requiring that matching funds for the Medicaid managed care pilot program be provided by local governmental entities; providing for distribution of funds by the agency; providing legislative intent with respect to the low-income pool plan required under the Medicaid reform waiver; specifying the agency's powers, duties, and responsibilities with respect to implementing the Medicaid managed care pilot program; revising the guidelines for allowing a provider service network to receive fee-for-service payments in the demonstration areas; authorizing the agency to make direct payments to hospitals and physicians for the costs associated with graduate medical education under Medicaid reform; including the Children's Medical Services Network in the Department of Health within those programs intended by the Legislature to participate in the pilot program to the extent possible; requiring that the agency implement standards of quality assurance and performance improvement in the demonstration areas of the pilot program; requiring the agency to establish an encounter database to compile data from managed care plans; requiring the agency to implement procedures to minimize the risk of Medicaid fraud and abuse in all managed care plans in the demonstration areas; clarifying that the assignment process for the pilot program is exempt from certain mandatory procedures for Medicaid managed care enrollment specified in s. 409.9122, F.S.; revising the automatic assignment process in the demonstration areas; requiring that the agency report any modifications to the approved waiver and special terms and conditions to the Legislature within specified time periods; authorizing the agency to implement the provisions of the waiver approved by federal Centers for Medicare and Medicaid Services; requiring an annual review by the Office of Insurance Regulation of the pilot program's rate-setting methodology; providing that, if any conflict exists between the provisions contained in s. 409.91211, F.S., and ch. 409, F.S., concerning the implementation of the pilot program, the provisions contained in s. 409.91211, F.S., control; creating s. 409.91213, F.S.; requiring the agency to submit quarterly and annual progress reports to the Legislature; providing requirements for the reports; amending s. 641.2261, F.S.; revising the application of solvency requirements to include Medicaid provider service networks; updating a reference; requiring that the agency report to the Legislature the pre-implementation

milestones concerning the low-income pool which have been approved by the Federal Government and the status of those remaining to be approved; providing an effective date.

By the Committee on Transportation; and Senators Lynn, Clary, Wilson, Dawson, Siplin, Haridopolos, Aronberg, Bullard, Diaz de la Portilla, Peaden, Fasano, Smith, Hill, King, Posey, Baker, Campbell, Argenziano, Margolis, Miller, Wise, Saunders, Lawson, Villalobos, Carlton, Atwater, Dockery, Jones and Sebesta—

CS for SB 16-B—A bill to be entitled An act relating to specialty license plates; amending ss. 320.08056 and 320.08058, F.S.; creating the

NASCAR license plate under certain circumstances; providing an annual use fee; providing for the distribution of annual use fees received from the sale of such plates; providing a conditional effective date.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of December 5 was corrected and approved.

RECESS

On motion by Senator Pruitt, the Senate recessed at 5:35 p.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene at 10:00 a.m., Thursday, December 8 or upon call of the President.