

FLARA Recommendations for 2015 Legislative Session

The Florida Alliance for Retired Americans (FLARA) recommendations for the 2015 Florida Legislature include a range of issues of concern to seniors. In addition, FLARA strongly supports measures to ensure that future generations do not face diminished prosperity. A strong economy, a well-trained and educated workforce, adequately funded public services, a strong participatory democracy, and robust laws to minimize public corruption benefit all Floridians.

1. The Legislature Should Enact Legislation to Promote Economic Justice – For more than three decades there has been a huge transfer of wealth from the middle class to a small percentage of people. In 2012, the top 1 percent of earners took 22.5 percent of total income, while in 1976 the top 1 percent took 9 percent of total income. Income for the top ten percent increased from 33 percent to more than 50 percent during this same period. Between 2009 and 2012, a period of economic recovery, the top 1 percent captured 95 percent of income gains.

This unprecedented transfer of wealth has undermined trust that our economy is fair and not rigged to benefit a small number of persons. A breakdown of trust that our economy functions fairly for all undermines the well-being of society and threatens seniors and everyone else with a less secure and prosperous future.

Substantial reforms are needed in the economy and in tax policy to reverse the forces that are concentrating wealth in a small percentage of people. This concentration of wealth that threatens job creation, educational attainment, health status and future opportunities for young persons. To help reverse economic disparity, to rebuild trust, and to help secure a bright and prosperous future for young persons the legislature should:

- Modernize and reform Florida's regressive tax structure - Florida has the second most regressive structure among the 50 states, which means that Floridians who can least afford to support government pays higher percentage of their income in taxes compared to the wealthy. The legislature can help to restore economic fairness by reforming our unbalanced tax structure. Now is the time to close tax loopholes to make Florida's tax system less regressive. Those tax exemptions that are the most regressive should be repealed, corporate loopholes should be closed, and the intangibles tax on stocks should be reenacted. The elimination of taxes on accumulated wealth (the intangibles tax), eliminated during the Jeb Bush years, costs Florida more than \$2 billion annually. Recommendations to modernize and reform Florida's tax structure are contained in the Florida Center for Fiscal and Economic Policy Issue Brief, "Tax Modernization Choices for Florida," published in February 2011.

- Provide substantially increased funding to programs that support the unemployed and to others in need. These programs include, but are not limited to, unemployment compensation, the Temporary Assistance to Needy Families program, affordable housing programs and programs that serve Florida's children, the disabled, and seniors.
- Increase the state's minimum wage in incremental steps over time so that it represents a living wage. Section 24 of Florida Constitution states that, "All working Floridians are entitled to be paid a minimum wage that is sufficient to provide a decent and healthy life for them and their families..." The constitution gives the legislature the authority to increase the state minimum wage. Increasing the minimum wage will boost consumer spending which will strengthen the economy which benefits seniors and younger persons.
- Provide increased funding to early childhood education and to public schools to help secure a more prosperous future for young persons.
- Enact strong measures to contain health care costs. All health care prices should be transparent to consumers, health care providers should not be allowed to charge more than what Medicare reimburses for health care services, and strong enforcement action needs to be taken to identify, prosecute and punish those who commit health care fraud. Health care costs are a burden for seniors and others.
- Create a study commission or task force to examine consumer protection in all areas of our economy including: credit, including sub-prime auto loans; title loans; housing mortgages; telemarketing; consumer products, and employment law. Florida laws pertaining to consumer protection should be robust, and there should be strong enforcement of such laws. Florida leads the nation in identity theft and fraud.
- Include in each legislative bill analysis, a determination as to if the bill would decrease, increase or not have an effect on income disparity.

2. Florida Should Adequately Fund Core Government Responsibilities - FLARA urges the Legislature to adequately fund education, public safety, health care, the courts, programs to ensure the well-being of children and the elderly, and the other basic needs of government. FLARA believes that tax reform can produce sufficient revenue to meet Florida's core governmental needs.

3. Health Care Continues to Require Reform – We urge the Legislature to take full advantage of the Patient Protection and Affordable Care Act by expanding the Medicaid Program to the full extent allowed by this law using traditional fee-for service provider reimbursement. Although the Patient Protection and Affordable Care Act is an important

step towards health care reform at the national level, expanding the Medicare program to make it available to persons of all ages would offer increased savings, better quality and better access.

Expanding Medicare to Create a Single Payer System

Primarily because of the lobbying efforts of private health insurance companies, Congress has not yet been able to enact single payer legislation to expand the Medicare program to make it available to everyone. FLARA supports expanding Medicare to cover everyone because this would be a more cost effective system than the private insurance system that is maintained by the Patient Protection and Affordable Care Act, and the expanded Medicare program would provide better quality care, at less cost and with better access.

4. The Legislature Should Take Measures to Reduce Public Corruption - Public corruption is pervasive at all levels of government in Florida. This is according to a December 2010 report, "A Study of Public Corruption in Florida" by the 19th Statewide Grand Jury. According to the grand jury report, between 2000 and 2010 there were a total of 8,241 arrest charges and 1,126 convictions for public corruption. Florida led all states in public corruption convictions. Cadets at West Point and other military academies swear an oath not to lie, cheat or steal or tolerate others that do. Public officials should be held to this same standard. Our democracy cannot function properly unless there is public trust in elected officials. Thomas Jefferson said that, "When a man assumes a public trust, he should consider himself a public property." The legislature should undertake a review of current law and penalties for public corruption to determine if strengthening law and penalties is needed so that public corruption is deterred to the extent possible and punished appropriately.

5. Retirement Benefits for Future Public Employees Should Not be Reduced - Florida's defined benefit program should be maintained for all current and future public employees. When public employees are hired they should default to a defined benefit plan. Defined benefit plans provide predictable financial benefits, and Florida's defined benefits plan is managed, administered, and funded in a sound manner. Public employees should not default to an investment plan because they fail to make an election to the defined benefits plan. FLARA is concerned that persons who default would likely be in the lower pay grades and thus would be less likely to be able to make good judgments about choosing a retirement plan or in making investment decisions.

FLARA further believes that when investment accounts take the place of defined benefit accounts this would worsen our significant problem with income disparity. Simply put, money would be transferred to Wall Street that would otherwise have gone to middle class people. Brokerage firms would profit while the well-being of ordinary persons would be diminished. We believe the legislature should do nothing to aggravate our problem with income disparity and should rather look to ways to decrease the widening income gap between the very wealthy and ordinary people.

Finally, we believe that the ordinary person has little chance of succeeding in making successful investment decisions. Wall Street trading is dominated by large financially sophisticated institutions that have worrisome ethics. Over the past few years the news media has reported extraordinarily multi-billion dollar fines and settlements against such firms as Goldman Sachs, J.P. Morgan, Bank of America and Citibank. According to Mr. William C. Dudley, president of the Federal Reserve Bank of New York, "There is evidence of deep-seated cultural and ethical failures at many large financial institutions,"

Reducing retirement benefits for future employees would increase income disparity in the future, and place some retirees at risk of not having sufficient income to meet basic needs. A lower retirement benefit is particularly harmful to women, who typically have weaker earnings histories, and thus have weaker retirement program credits than do men.

6. Election Laws Need Further Reform – To strengthen our democracy by increasing voter participation, the legislature should enact law creating a system for online voter registration, permit local Supervisors of Elections to designate remote absentee ballot drop-off locations and to select early voting locations according to the same standards that are used for polling places on election day, provide funding to expand electronic poll books, permit persons with disabilities to move to the front of voting lines, and increase efforts to inform persons with disabilities about services to help them vote.

7. Ethics Laws Need Further Reform - Although the legislature has made progress in strengthening laws relating to ethics, the following further actions should be taken: (1) strengthen the garnishment provisions for public officials who don't pay their fines; (2) require that local officials undergo ethics training just like the legislature has to annually and apply many of the same ethics requirements presently in place for lawmakers to local officials; (3) hold statutorily created corporations, like Citizens Property Insurance Corporation and Enterprise Florida, and direct support organizations, like Visit Florida, to the same ethical standards that government organizations are held to; (4) remove officials from office for failing to file financial disclosure reports; (5) increase lobbying disclosure and registration throughout Florida's special districts; (6) strengthen open

records and open government laws; and (7) define clear and enforceable rules for residency requirements of public officials.

8. Health Care Prices Should be Transparent - As mentioned in the recommendation concerning income disparity, FLARA supports legislation that would require all physicians, including physician specialists, dentists and health care providers, including hospitals, outpatient centers, clinical laboratories, and diagnostic imaging centers, to make available to the public the prices they charge upon request to persons with and without health insurance. Price transparency provides necessary information to patients and helps control health care costs.

9. Private For-Profit Medicaid Managed Care Should be Limited in Scope - Florida cannot afford to give tax dollars to for-profit entities to use to financially reward private investors in the Medicaid program. Using non-profit health providers to deliver Medicaid services will make the use of public health care funds more efficient. Funding that would have gone to reward private investors, and to pay excessive compensation to health care executives, should instead be used to provide health care services on a non-profit basis. FLARA is concerned that services will be reduced to persons in need of medical care to generate the profit that is required by investors. Only those private sector Medicaid managed care program that have proven cost effectiveness without compromising access or quality should be funded. An independent third-party evaluation should be required to document cost effectiveness, access and quality.

10. State Elected Officials Should be Subject to Recall by the Voters - Unfortunately, the Florida Constitution does not have a provision giving voters the right to recall state officials, although there is a provision for the recall of local officials. This means that neither the Governor, members of the cabinet, legislators, or other state elected officials can be removed from office by the voters. Eighteen states have provisions for the recall of elected officials at the state level. FLARA supports HJR 7 and HR 9 (Kriseman), introduced in the 2012 session, which would give voters a constitutional mechanism to recall elected officials through petition and recall election.

11. Elected Officials Should Face Penalties for Violating the Oath of Office - Legislation is needed to penalize elected officials at the state level who violate the oath of office in Florida's Constitution. Article II, Section 5, Paragraph (b) requires elected officials to swear or affirm the following oath prior to assuming office:

"I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida..."

Although the Governor and legislators must take this oath, there are no penalties in either Florida's Constitution or in the Florida Statutes if they intentionally violate the oath. Enacting legislation to add penalties for violating the constitutional oath would help ensure that elected officials do not take action in violation of this oath such as to thwart the implementation of the voter-approved Fair Districts amendments to Florida's Constitution or undermine the implementation of Federal law, such as the Patient Protection and Affordable Care Act. Our democracy can only remain strong if our leaders respect and abide by the law. A constitutional amendment is needed to create penalties for elected officials who intentionally violate their oath of office. The following or similar language should be enacted into law or placed in the Constitution:

"Any public officer or employee of the state who in the performance of their duties intentionally fails to support, protect or defend the Constitution and Government of the United States and of the State of Florida shall be guilty of a (misdemeanor or felony) punishable by a term of not more than one year in prison, a fine of up to \$5,000, and shall forfeit their elected office or employment."

Federal law provides for similar penalties if a member of Congress violates the oath of office members of Congress must take.

12. Seniors Need Protection from Identity Theft and Fraud – FLARA supports state legislation to strengthen law enforcement and consumer protection responsibilities to protect seniors from identity theft and fraud. Florida is in the shameful situation of being first in the country for two years in a row in both fraud and identify theft according to consumer complaints made to the Federal Trade Commission. In 2013, Florida had the highest per capita rate of reported fraud. Florida's fraud reporting rate of 805 per 100,000 was almost twice the national median rate of 419 per 100,000 (1). Also in 2013, Florida led the nation in reported identity theft with a per capita reported rate of identity theft of 193 per 100,000 which was three times the national median rate of 67 per 100,000. Fraud and identity theft significantly threaten the well-being of everyone, but particularly seniors. Florida has a special responsibility to seniors because many are vulnerable to fraudulent scams, such as those seniors who are in poor health, those who are isolated and lonely, those who are financially insecure, and those who have impaired cognition.

A Select Task Force on Protecting Seniors should be created and charged with making recommendations to strengthen efforts to prevent, identify and punish those who commit fraud and identity theft. Members should include members of the legislature, and representatives from law enforcement, the Attorney General, legal services agencies, credit agencies, banks, mortgage companies, telephone companies, and consumer advocate organizations. The Task Force should be directed to adopt

recommendations that: (1) create a model consumer assistance program to help those who become victims of fraud and identity theft; (2) protect seniors from unlawful telephone solicitations, including recorded calls; (3) review the adequacy of existing criminal penalties for committing fraud and identity theft; (4) review the adequacy of law enforcement to identify and prosecute fraud and identity theft; (5) propose options and strategies to adequately fund those recommendations that require new spending; and (6) adopt any other recommendations which the Task Force believes would protect consumers from fraud and identity theft.

13. Quality of Care Information on Assisted Living Facilities Should be Made Available – FLARA supports state legislation such as appropriations proviso language that would direct the Agency for Health Care Administration (AHCA) to create an Assisted Living Facility (ALF) consumer guide that includes comprehensive information on each ALF and make the guide easily accessible on its web site. AHCA publishes a nursing home guide on its web site, and this web site should also include an ALF guide.

Seniors and their family members need helpful information they can count on when choosing an ALF. These facilities care for vulnerable adults who are not able to live independently in their own home or apartment. ALFs provide care to persons who need help with eating, walking, grooming or in the bathroom; taking medications; and who need simple nursing services or mental health services but not on a continuous 24 hour basis.

The ALF guide would include all regulatory information that pertains to each ALF. Each ALF would have a facility profile that includes what services the ALF provides, costs, and other facility information. To provide consumers with quality information, the guide would include inspection ratings, regulatory violations, administrative fines, sanctions such as the suspension of a license or a moratorium on new admissions, inspection reports including statements of deficiencies, and any other information that would be useful to consumers that the Agency has in its possession.

14. Increased Efforts Need to be Made to Deter the Abuse, Neglect and Financial Exploitation of the Elderly - FLARA recommends that several actions be taken to help protect seniors from abuse.

First, increased funding should be made available to promote the Abuse Registry so that the public is aware of the Registry and how to report abuse. Too many vulnerable elder Floridians are abused in their own homes, in the homes of relatives, or in facilities that care for them. Anyone who knows, or has reasonable cause to suspect, that an vulnerable elderly person is being abused, neglected or exploited shall know that there is a Abuse Hotline that they can contact to make a confidential report so that an investigation can be made.

Second, a quality review of the Abuse Registry program should be made to identify any components of the program, such as training and reporting and investigative staffing, that if strengthened, would reduce elder abuse and exploitation. Third, a review of the Agency for Health Care regulatory inspection program should be made to determine if inspections of nursing homes, ALFs and other state licensed facilities are sufficiently prioritized according to the likelihood of abuse occurring in a facility. Finally, a quality review of the Elder Abuse Prevention Program should be made to identify any program components that should be strengthened.

15. Increased Funding for "Age in Place" Programs for the Elderly is Needed to Eliminate Long Waiting Lists – FLARA recommends that the legislature significantly increased funding for programs that help seniors stay in their homes and avoid going to expensive nursing homes or to other facilities. According to a recent AARP study, Florida ranks 43 among states in helping the elderly and disabled stay in their homes and live independently. Florida has two programs, the Community Care for the Elderly Program, and the Home Care for the Elderly Program, which offer a range of services to help frail elders age 60 and older stay in their homes. Unfortunately, both programs have had long waiting lists. At the end of July 2014, The Community Care for the Elderly Program had 33,000 persons on its waiting list, and the Home Care for the Elderly had 5,800 persons waiting for services. Both programs improve the quality of life for seniors and enjoy the strong support of seniors.

16. Affordable Housing Programs Should be Adequately Funded – FLARA supports a memorial bill to urge Congress to provide adequate funding for affordable housing for seniors and others with low incomes.