

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representatives Green, Gelber, and Goodlette offered the following:

**Amendment (with title amendment)**

On page 29, lines 14-18,  
remove: all of said lines

and insert:

Administration to implement section 13 of this act during the 2002-2003 fiscal year. This section takes effect May 1, 2003.

Section 15. Section 430.83, Florida Statutes, is created to read:

430.83 Sunshine for Seniors Program.--

(1) POPULAR NAME.--This section shall be known by the popular name "The Sunshine for Seniors Act."

(2) DEFINITIONS.--As used in this section, the term:

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27        (a) "Application assistance organization" means any  
28 private organization that assists individuals with obtaining  
29 prescription drugs through manufacturers' pharmaceutical  
30 assistance programs.

31        (b) "Eligible individual" means any individual who is 60  
32 years of age or older who lacks adequate pharmaceutical  
33 insurance coverage.

34        (c) "Manufacturers' pharmaceutical assistance program"  
35 means any program offered by a pharmaceutical manufacturer that  
36 provides low-income individuals with prescription drugs free or  
37 at reduced prices, including, but not limited to, senior  
38 discount card programs and patient assistance programs.

39        (3) LEGISLATIVE FINDINGS AND INTENT.--The Legislature  
40 finds that the pharmaceutical manufacturers, seeing a need, have  
41 created charitable programs to aid low-income seniors with the  
42 cost of prescription drugs. The Legislature also finds that many  
43 low-income seniors are unaware of such programs or either do not  
44 know how to apply for or need assistance in completing the  
45 applications for such programs. Therefore, it is the intent of  
46 the Legislature that the Department of Elderly Affairs, in  
47 consultation with the Agency for Health Care Administration,  
48 implement and oversee the Sunshine for Seniors Program to help  
49 seniors in accessing manufacturers' pharmaceutical assistance  
50 programs.

51        (4) SUNSHINE FOR SENIORS PROGRAM.--There is established a  
52 program to assist low-income seniors with obtaining prescription  
53 drugs from manufacturers' pharmaceutical assistance programs,  
54 which shall be known as the "Sunshine for Seniors Program."  
55 Implementation of the program is subject to the availability of

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56 funding and any limitations or directions provided for by the  
57 General Appropriations Act or chapter 216.

58 (5) IMPLEMENTATION AND OVERSIGHT DUTIES.--In implementing  
59 and overseeing the Sunshine for Seniors Program, the Department  
60 of Elderly Affairs:

61 (a) Shall promote the availability of manufacturers'  
62 pharmaceutical assistance programs to eligible individuals with  
63 various outreach initiatives.

64 (b) Shall, working cooperatively with pharmaceutical  
65 manufacturers and consumer advocates, develop a uniform  
66 application form, which shall be available in English, Spanish,  
67 and Creole, to be completed by seniors who wish to participate  
68 in the Sunshine for Seniors Program.

69 (c) May request proposals from application assistance  
70 organizations to assist eligible individuals with obtaining  
71 prescription drugs through manufacturers' pharmaceutical  
72 assistance programs.

73 (d) Shall train volunteers to help eligible individuals  
74 fill out applications for the manufacturers' pharmaceutical  
75 assistance programs.

76 (e) Shall train volunteers to determine if applicants are  
77 available for other state programs.

78 (f) Shall seek federal funds to help fund the Sunshine for  
79 Seniors Program.

80 (g) May seek federal waivers to help fund the Sunshine for  
81 Seniors Program.

82 (6) COMMUNITY PARTNERSHIPS.--The Department of Elderly  
83 Affairs may build private-sector and public-sector partnerships  
84 with corporations, hospitals, physicians, pharmacists,

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85 foundations, volunteers, state agencies, community groups, area  
86 agencies on aging, and any other entities that will further the  
87 intent of this section. These community partnerships may also be  
88 used to facilitate other pro bono benefits for eligible  
89 individuals, including, but not limited to, medical, dental, and  
90 prescription services.

91 (7) CONTRACTS.--The Department of Elderly Affairs may  
92 select and contract with application assistance organizations to  
93 assist eligible individuals in obtaining their prescription  
94 drugs through the manufacturers' pharmaceutical assistance  
95 programs. If the department contracts with an application  
96 assistance organization, the department shall evaluate quarterly  
97 the performance of the application assistance organization to  
98 ensure compliance with the contract and the quality of service  
99 provided to eligible individuals.

100 (8) REPORTS AND EVALUATIONS.--By January 1 of each year,  
101 while the Sunshine for Seniors Program is operating, the  
102 Department of Elderly Affairs shall report to the Legislature  
103 regarding the implementation and operation of the Sunshine for  
104 Seniors Program.

105 (9) NONENTITLEMENT.--The Sunshine for Seniors Program  
106 established by this section is not an entitlement. If funds are  
107 insufficient to assist all eligible individuals, the Department  
108 of Elderly Affairs may develop a waiting list prioritized by  
109 application date.

110 Section 16. Section 409.9065, Florida Statutes, is amended  
111 to read:

112 409.9065 Pharmaceutical expense assistance.--

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113 (1) PROGRAM ESTABLISHED.--There is established a program  
114 to provide pharmaceutical expense assistance to eligible ~~certain~~  
115 low-income elderly individuals, which shall be known as the "Ron  
116 Silver Senior Drug Program" and may be referred to as the  
117 "Silver Lifesaver Program."

118 (2) ELIGIBILITY.--Eligibility for the program is limited  
119 to ~~those~~ individuals who ~~qualify for limited assistance under~~  
120 ~~the Florida Medicaid program as a result of being dually~~  
121 ~~eligible for both Medicare and Medicaid, but whose limited~~  
122 ~~assistance or Medicare coverage does not include any pharmacy~~  
123 ~~benefit. To the extent funds are appropriated, specifically~~  
124 ~~eligible individuals are individuals who:~~

125 (a) Are Florida residents age 65 and over;

126 (b) Have an income equal to or less than 200 percent of  
127 the federal poverty level;÷

128 ~~1. Between 88 and 120 percent of the federal poverty~~  
129 ~~level;~~

130 ~~2. Between 88 and 150 percent of the federal poverty level~~  
131 ~~if the Federal Government increases the federal Medicaid match~~  
132 ~~for persons between 100 and 150 percent of the federal poverty~~  
133 ~~level; or~~

134 ~~3. Between 88 percent of the federal poverty level and a~~  
135 ~~level that can be supported with funds provided in the General~~  
136 ~~Appropriations Act for the program offered under this section~~  
137 ~~along with federal matching funds approved by the Federal~~  
138 ~~Government under a s. 1115 waiver. The agency is authorized to~~  
139 ~~submit and implement a federal waiver pursuant to this~~  
140 ~~subparagraph. The agency shall design a pharmacy benefit that~~  
141 ~~includes annual per member benefit limits and cost sharing~~

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142 ~~provisions and limits enrollment to available appropriations and~~  
143 ~~matching federal funds. Prior to implementing this program, the~~  
144 ~~agency must submit a budget amendment pursuant to chapter 216:~~

145 (c) Are eligible for ~~both Medicare and Medicaid;~~

146 (d) Have exhausted pharmacy benefits under Medicare,  
147 Medicaid, or any other insurance plan ~~Are not enrolled in a~~  
148 ~~Medicare health maintenance organization that provides a~~  
149 ~~pharmacy benefit; and~~

150 (e) Request to be enrolled in the program.

151 (3) BENEFITS.--Eligible individuals shall receive a  
152 discount for prescription drugs ~~Medications covered under the~~  
153 ~~pharmaceutical expense assistance program are those covered~~  
154 ~~under the Medicaid program in s. 409.906(20)(19). Monthly~~  
155 ~~benefit payments shall be limited to \$80 per program~~  
156 ~~participant. Participants are required to make a 10-percent~~  
157 ~~coinsurance payment for each prescription purchased through this~~  
158 ~~program.~~

159 (a) Eligible individuals with incomes equal to or less  
160 than 120 percent of the federal poverty level shall receive a  
161 discount of 100 percent for the first \$160 worth of prescription  
162 drugs they receive each month, subject to copayments that the  
163 agency requires on these benefits. For all other prescription  
164 drugs received each month, eligible individuals shall receive a  
165 discount of 50 percent.

166 (b) Eligible individuals with incomes of more than 120  
167 percent but not more than 150 percent of the federal poverty  
168 level shall receive a discount of 50 percent.

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169 (c) Eligible individuals with incomes of more than 150  
170 percent but not more than 175 percent of the federal poverty  
171 level shall receive a discount of 41 percent.

172 (d) Eligible individuals with incomes of more than 175  
173 percent but not more than 200 percent of the federal poverty  
174 level shall receive a discount of 37 percent.

175 (4) ADMINISTRATION.--The pharmaceutical expense assistance  
176 program shall be administered by the agency ~~for Health Care~~  
177 ~~Administration~~, in collaboration ~~consultation~~ with the  
178 Department of Elderly Affairs and the Department of Children and  
179 Family Services.

180 ~~(a) The Agency for Health Care Administration and the~~  
181 ~~Department of Elderly Affairs shall develop a single page~~  
182 ~~application for the pharmaceutical expense assistance program.~~

183 (a)(b) The agency for Health Care Administration shall, by  
184 rule, establish for the pharmaceutical expense assistance  
185 program eligibility requirements; 7 limits on participation; 7  
186 benefit limitations, including copayments; a requirement for  
187 generic drug substitution; 7 and other program parameters  
188 comparable to those of the Medicaid program. However, there  
189 shall be no monetary limit on prescription drugs purchased with  
190 discounts of less than 51 percent unless the agency determines  
191 there is a risk of a funding shortfall in the program. If the  
192 agency determines there is a risk of a funding shortfall, the  
193 agency may establish monetary limits on prescription drugs which  
194 shall not be less than \$160 worth of prescription drugs per  
195 month.

196 (b)(e) By January 1 of each year, the agency for Health  
197 Care Administration shall report to the Legislature on the

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198 operation of the program. The report shall include information  
199 on the number of individuals served, use rates, and expenditures  
200 under the program. The report shall also address the impact of  
201 the program on reducing unmet pharmaceutical drug needs among  
202 the elderly and recommend programmatic changes.

203 (5) NONENTITLEMENT.--The pharmaceutical expense assistance  
204 program established by this section is not an entitlement.  
205 Enrollment levels are limited to those authorized by the  
206 Legislature in the annual General Appropriations Act. If, after  
207 establishing monetary limits as required by paragraph (4)(a),  
208 funds are insufficient to serve all eligible individuals  
209 ~~eligible under subsection (2) and seeking coverage,~~ the agency  
210 may develop a waiting list based on application dates to use in  
211 enrolling individuals in unfilled enrollment slots.

212 (6) PHARMACEUTICAL MANUFACTURER PARTICIPATION.--In order  
213 for a drug product to be covered under Medicaid or this program,  
214 the product's manufacturer shall:

215 (a) Provide a rebate to the state equal to the rebate  
216 required by the Medicaid program; and

217 (b) Make the drug product available to the program for the  
218 best price that the manufacturer makes the drug product  
219 available in the Medicaid program.

220 (7) REIMBURSEMENT.--Total reimbursements to pharmacies  
221 participating in the pharmaceutical expense assistance program  
222 established under this section shall be equivalent to  
223 reimbursements under the Medicaid program.

224 (8) FEDERAL APPROVAL.--The benefits provided in this  
225 section are limited to those approved by the Federal Government



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226 pursuant to a Medicaid waiver or an amendment to the state  
227 Medicaid plan.

228 Section 17. Subsections (7), (8), and (9) are added to  
229 section 430.502, Florida Statutes, to read:

230 430.502 Alzheimer's disease; memory disorder clinics and  
231 day care and respite care programs.--

232 (7) The Agency for Health Care Administration and the  
233 department shall seek a federal waiver to implement a Medicaid  
234 home and community-based waiver targeted to persons with  
235 Alzheimer's disease to test the effectiveness of Alzheimer's  
236 specific interventions to delay or to avoid institutional  
237 placement.

238 (8) The department will implement the waiver program  
239 specified in subsection (7). The agency and the department shall  
240 ensure that providers are selected that have a history of  
241 successfully serving persons with Alzheimer's disease. The  
242 department and the agency shall develop specialized standards  
243 for providers and services tailored to persons in the early,  
244 middle, and late stages of Alzheimer's disease and designate a  
245 level of care determination process and standard that is most  
246 appropriate to this population. The department and the agency  
247 shall include in the waiver services designed to assist the  
248 caregiver in continuing to provide in-home care. The department  
249 shall implement this waiver program subject to a specific  
250 appropriation or as provided in the General Appropriations Act.  
251 The department and the agency shall submit their program design  
252 to the President of the Senate and the Speaker of the House of  
253 Representatives for consultation during the development process.

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254 (9) Authority to continue the waiver program specified in  
255 subsection (7) shall be automatically eliminated at the close of  
256 the 2008 Regular Session of the Legislature unless further  
257 legislative action is taken to continue it prior to such time.

258 Section 18. Paragraph (t) is added to subsection (3) of  
259 section 408.036, Florida Statutes, to read:

260 408.036 Projects subject to review.--

261 (3) EXEMPTIONS.--Upon request, the following projects are  
262 subject to exemption from the provisions of subsection (1):

263 (t)1. For the provision of adult open-heart services in a  
264 hospital located within the boundaries of Palm Beach, Polk,  
265 Martin, St. Lucie, and Indian River Counties if the following  
266 conditions are met: The exemption must be based upon objective  
267 criteria and address and solve the twin problems of geographic  
268 and temporal access. A hospital shall be exempt from the  
269 certificate-of-need review for the establishment of an open-  
270 heart-surgery program when the application for exemption  
271 submitted under this paragraph complies with the following  
272 criteria:

273 a. The applicant must certify that it will meet and  
274 continuously maintain the minimum licensure requirements adopted  
275 by the agency governing adult open-heart programs, including the  
276 most current guidelines of the American College of Cardiology  
277 and American Heart Association Guidelines for Adult Open Heart  
278 Programs.

279 b. The applicant must certify that it will maintain  
280 sufficient appropriate equipment and health personnel to ensure  
281 quality and safety.

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282 c. The applicant must certify that it will maintain  
283 appropriate times of operation and protocols to ensure  
284 availability and appropriate referrals in the event of  
285 emergencies.

286 d. The applicant can demonstrate that it is referring 300  
287 or more patients per year from the hospital, including the  
288 emergency room, for cardiac services at a hospital with cardiac  
289 services, or that the average wait for transfer for 50 percent  
290 or more of the cardiac patients exceeds 4 hours.

291 e. The applicant is a general acute care hospital that is  
292 in operation for 3 years or more.

293 f. The applicant is performing more than 300 diagnostic  
294 cardiac catheterization procedures per year, combined inpatient  
295 and outpatient.

296 g. The applicant's payor mix at a minimum reflects the  
297 community average for Medicaid, charity care, and self-pay  
298 patients or the applicant must certify that it will provide a  
299 minimum of 5 percent of Medicaid, charity care, and self-pay to  
300 open-heart-surgery patients.

301 h. If the applicant fails to meet the established criteria  
302 for open-heart programs or fails to reach 300 surgeries per year  
303 by the end of its third year of operation, it must show cause  
304 why its exemption should not be revoked.

305 2. By December 31, 2004, and annually thereafter, the  
306 Agency for Health Care Administration shall submit a report to  
307 the Legislature providing information concerning the number of  
308 requests for exemption received under this paragraph and the  
309 number of exemptions granted or denied.

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310 Section 19. There is annually appropriated the recurring  
311 sum of \$10,000,000 from the General Revenue Fund to the Florida  
312 Alzheimer's Center and Research Institute as established in  
313 section 1004.445, Florida Statutes to be used for research  
314 relating to the prevention, treatment, and cure of Alzheimer's  
315 disease.

316 Section 20. The sum of \$20,000,000 is appropriated from  
317 the Public Education Capital Outlay and Debt Service Trust Fund  
318 for the construction of the Florida Alzheimer's Center and  
319 Research Institute at the University of South Florida. The  
320 Florida Alzheimer's Center and Research Institute shall direct  
321 the Board of Trustees of the University of South Florida on the  
322 expenditure of these funds.

323 Section 21. Except as otherwise expressly provided, this  
324 act shall take effect July 1, 2003, but if it becomes a law  
325 after May 1, 2003, sections 13 and 14 of this act shall

327 ===== T I T L E A M E N D M E N T =====

328 On page 1, line 2,  
329 remove: all of said line

330  
331 and insert:  
332 An act relating to health care; creating s. 430.83, F.S.;  
333 providing a popular name; providing definitions; providing  
334 legislative findings and intent; creating the Sunshine for  
335 Seniors Program to assist low-income seniors with obtaining  
336 prescription drugs from manufacturers' pharmaceutical assistance  
337 programs; providing implementation and oversight duties of the  
338 Department of Elderly Affairs; providing for community

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339 partnerships; providing for contracts; requiring annual  
340 evaluation reports on the program; specifying that the program  
341 is not an entitlement; amending s. 409.9065, F.S.; revising the  
342 pharmaceutical expense assistance program for low-income elderly  
343 individuals; adding eligibility groups; providing benefits;  
344 requiring the Agency for Health Care Administration, in  
345 administering the program, to collaborate with both the  
346 Department of Elderly Affairs and the Department of Children and  
347 Family Services; requiring federal approval of benefits;  
348 amending s. 430.502, F.S.; requiring the Agency for Health Care  
349 Administration and the Department of Health to seek and  
350 implement a Medicaid home and community-based waiver for persons  
351 with Alzheimer's disease; requiring the development of waiver  
352 program standards; providing for consultation with the presiding  
353 officers of the Legislature; providing for a contingent future  
354 repeal of such waiver program; amending s. 408.036, F.S.;  
355 providing an exemption from certificate-of-need requirements for  
356 certain open-heart-surgery programs; providing criteria for  
357 qualifying for the exemption; requiring the Agency for Health  
358 Care Administration to report to the Legislature; providing a  
359 continuing appropriation for the Florida Alzheimer's Center and  
360 Research Institute; providing an appropriation for construction  
361 of the Florida Alzheimer's Center and Research Institute;