By Senator Campbell

32-479-05

A bill to be entitled

An act relating to state pharmaceutical programs; providing definitions; creating a prescription drug assistance clearinghouse program; requiring costs of the program to be paid by drug manufacturers; providing for the transfer of ownership of the program to the state; establishing a pharmaceutical discount card program; providing for eligibility for participation in the pharmaceutical discount card program; creating a program to obtain favorable pharmaceutical prices for state agencies and other entities; requiring a proposed pricing schedule; creating the Pharmaceutical Cost Management Commission within the Executive Office of the Governor; establishing membership; establishing powers and responsibilities of the commission; providing reporting requirements; authorizing an investigation into the feasibility of purchasing Canadian drugs; authorizing the establishment of a pricing schedule; authorizing exploration of numerous strategies, policies, and programs, including, but not limited to, referenced prices for prescription drug purchases and pricing in the state; authorizing implementation of certain designated programs; prohibiting restraint of trade; providing civil and criminal penalties; providing for advertising costs to be reported to the Governor and the Legislature; providing

rulemaking authority; providing an effective date.

WHEREAS, the rising cost of prescription drugs has caused a significant hardship on individuals who have limited budgets, are uninsured, or have prescription coverage that is insufficient to cover costs successfully due to cost shifting and disparate pricing policies, and

WHEREAS, the average cost per prescription for seniors rose significantly between 1992 and 2000, and is expected to continue increasing significantly through 2010, and

WHEREAS, there is an increasing need for the residents of this state to have affordable access to prescription drugs, and

WHEREAS, the Legislature does not intend the imposition of the programs under this act to penalize or otherwise jeopardize the benefits of veterans and other beneficiaries of federal drug prices, and

WHEREAS, in an effort to promote healthy communities and to protect the health and welfare of residents of this state, the Legislature finds that it is its responsibility to make every effort to provide affordable prescription drugs for all residents of this state, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. <u>(1) SHORT TITLE.--This section may be cited as the "Pharmaceutical Availability and Affordability Act."</u>

<u>(2) DEFINITIONS.--As used in this section, the term:</u>

(a) "Advertising or marketing" means any manner of communication of information, directly or indirectly, which is paid for and usually persuasive in nature concerning products, services, or ideas related to pharmaceuticals by identified sponsors through various media, persons, or other forms as further defined by rule.

(b) "Average wholesale price" or "AWP" means the amount determined from the latest publication of the Bluebook, a universally subscribed pharmacists' reference guide annually published by the Hearst Corporation. Average wholesale price or AWP may also be derived electronically from the drug pricing database synonymous with the latest publication of the Bluebook and furnished in the National Drug Data File (NDDF) by First DataBank, Inc., a provider of comprehensive drug information to health care professionals and a subsidiary of the Hearst Corporation.

(c) "Dispensing fee" means the fee charged by a pharmacy to dispense pharmaceuticals.

(d) "Drug manufacturer" or "pharmaceutical manufacturer" means any entity that is engaged in:

1. The production, preparation, propagation, compounding, conversion, or processing of prescription drug products, directly or indirectly, by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction or chemical synthesis; or

2. The packaging, repackaging, labeling, relabeling, or distribution of prescription drug products. Drug manufacturer or pharmaceutical manufacturer does not include a wholesale distributor of drugs or a retail pharmacy licensed under state law.

(e) "Federal supply schedule" or "FSS" means the price available to all federal agencies for the purchase of pharmaceuticals authorized in the Veterans Health Care Act of 1992, Public Law 102-585. FSS prices are intended to equal or better the prices manufacturers charge their most-favored nonfederal customers under comparable terms and conditions.

(f) "Multiple-source drug" means a drug for which there are two or more drug products that are rated as therapeutically equivalent according to the federal Food and Drug Administration's most recent publication of "Approved Drug Products with Therapeutic Equivalence Evaluations," except as otherwise provided in this subsection, and that are pharmaceutically equivalent and bioequivalent, as determined by the federal Food and Drug Administration.

(g) "Innovator drug" means a drug that is produced or distributed under an original new drug application approved by the federal Food and Drug Administration, including a drug product marketed by any cross-licensed producer or distributor operating under the new drug application and any multiple-source drug that was originally marketed under an original new drug application approved by the federal Food and Drug Administration. An innovator drug may be referred to as a "brand" drug.

(h) "Noninnovator drug" means a multiple-source drug that is not an innovator drug. A noninnovator drug may be referred to as a "generic" drug.

Paragraphs (f), (g), and (h) do not apply if the federal Food and Drug Administration changes by regulation the requirement that, for purposes of the publication described in paragraph (f), in order for drug products to be rated as therapeutically

equivalent, they must be pharmaceutically equivalent and bioequivalent.

(i) "Labeler" means an entity or person that receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale and that has a labeler code from the federal Food and Drug Administration pursuant to 21 C.F.R. s. 207.20 (1999).

(j) "Person" means any natural person or corporation, partnership, company, trust, or association of persons.

(k) "Pharmaceutical drug detailing" or "detailing" means the function performed by a sales representative who is employed by a pharmaceutical manufacturer for the purpose of promoting pharmaceutical drugs or related products, providing education about pharmaceutical drugs or related products, or providing samples of pharmaceutical drugs, related products, or related materials, gifts, food, or meals.

(l) "Savings" means the difference between the previous price of a prescription drug, including any discounts, rebates, or price containments, and the current price after July 1, 2005, for the Department of Management Services, the state children's health insurance program, the Medicaid and workers' compensation programs, or other programs that are payors for prescription drugs.

(m) "Sole source" means a pharmaceutical that provides a unique and powerful advantage available in the market to a broad group of patients established under federal law.

(n) "Pharmaceutical Cost Management Commission" or "commission" means the commission created pursuant to subsection (7).

(3) CREATION OF CLEARINGHOUSE PROGRAM.--

(a) There is created the state prescription drug assistance clearinghouse program. Each brand pharmaceutical manufacturer shall create and implement a program to assist state residents who have low incomes or are uninsured to gain access to prescription medications through existing private and public programs and prescription drug assistance programs offered by manufacturers, including discount and coverage programs. Each brand pharmaceutical manufacturer shall use available computer software programs that provide an eligible individual with access to the appropriate private or public programs relating to the individual's medically necessary drugs. Each brand pharmaceutical manufacturer shall provide education to individuals and providers to promote the program and to expand enrollment and access to necessary medications for low-income or uninsured individuals qualifying for the programs. A participating brand pharmaceutical manufacturer is responsible for the cost of establishing the program and running the program until June 20, 2006, when the ownership of the technology, the website, and other program features shall be transferred to the state. The Secretary of Health and the Director of the Office of Insurance Regulation shall provide joint oversight over the establishment and construction of the program and program features prior to the transfer of ownership to the state. The commission shall recommend the state agency that will own, control, and operate the program, technology, and program features, and shall include such recommendation in its report on or before September 1, 2005, to the Governor, the President of the Senate, and the Speaker of the House of Representatives. In addition, each pharmaceutical manufacturer shall report to the Office of Program Policy Analysis and Government Accountability on a

monthly basis all activities related to the implementation of this program, including the number of residents served and the services provided.

(b) Each participating brand pharmaceutical manufacturer shall contribute funding for promoting the public-relations program attendant to the establishment of the program. Each participating brand pharmaceutical manufacturer is responsible for the cost of establishing the program and the cost of the ongoing program, regardless of the date of transfer of ownership of the program to the state, until December 31, 2005.

(4) PHARMACEUTICAL DISCOUNT CARD PROGRAM; ESTABLISHMENT; ELIGIBLE INDIVIDUALS; DISCOUNT PASS THROUGH; TERMS.--

(a) There is established a discount card program to provide low-income, uninsured individuals with access to prescription drugs from participating brand pharmaceutical companies and pharmacists through a state-sponsored discount card program or a program that extends current prescription drug assistance programs by brand pharmaceutical manufacturers.

1. Eligible individuals include uninsured residents having incomes of up to 200 percent of the federal poverty level who have not been covered by a prescription drug program, whether public or private, for at least 6 months before applying for the discount card program.

2. The state may negotiate voluntary discounts with brand pharmaceutical manufacturers and pharmacists if the total discount received from the manufacturer passes through to the eligible resident.

3. Failure of a brand pharmaceutical manufacturer to participate in the voluntary discount card program shall not result in prior authorization on drugs in the Medicaid program which would not otherwise be subject to prior authorization but for the failure of the manufacturer to participate in this program.

4. The state may not establish a formulary or preferred drug list as part of the discount card program.

(b) Each brand pharmaceutical manufacturer may extend existing prescription drug assistance programs to eligible residents of this state. Eligible individuals include uninsured residents of this state having incomes of up to 200 percent of the federal poverty level who have not been covered by a prescription drug program, whether public or private, for at least 6 months before applying for the program.

(c) The program established under this section shall be structured so that a member presenting a discount card at a participating pharmacy will receive the full benefit of the pharmacy discount, as well as the manufacturer's discount, at the point of sale. The program or the pharmacy benefit manager contracted by the program shall coordinate the drug discount information provided by participating pharmacies and manufacturers so that the available drug discounts are provided to the member at the point of sale.

(d) A manufacturer participating in the voluntary program established under this section shall cooperate with the program or the pharmacy benefit manager contracted by the program to provide the current list of drugs and the percentage of discount from the AWP for such drugs, or the rebates that the manufacturer provides under the program. It is the intent of the Legislature that adequate drug price and

discount or rebate information be provided by the manufacturer such that the program and participating pharmacies will have available drug prices and discounts or rebates at the point of sale. A retail pharmacy is responsible for no more than 50 percent of the discount offered by the manufacturer to the participant.

1. A pharmacy participating in a voluntary program established under this section is responsible for no more than 50 percent of the discount offered by the manufacturer to the participant, and shall be paid a dispensing fee of no more that $3.50 per prescription with regard to prescriptions filled under the program.

2. Upon the presentation of a valid discount card, payment for the prescription, and satisfaction of other appropriate criteria for having his or her prescription filled, the cardholder's prescription shall be filled by a participating pharmacy. To accomplish the transaction, the participating pharmacy shall electronically transmit the transaction to the program or pharmacy benefit manager contracted by the program for processing. The program, or the program's pharmacy benefit manager, shall determine the discounted cost of the drug, including the discount provided, the discount provided by the pharmacy, the discount or rebate provided by the manufacturer, the pharmacy dispensing fee, and any pharmacy benefit manager transaction fee. The program or the pharmacy benefit manager shall then transmit to the manufacturer an electronic statement of the amount the manufacturer owes on the transaction to cover the manufacturer's discount or rebate and the program's or pharmacy benefit manager's processing fee. The manufacturer shall, at least every 14 days, transmit such monetary amounts

for the transaction to the program or the program's pharmacy benefit manager, and the program or the program's pharmacy benefit manager shall immediately pass the discount or rebate amounts back to the participating pharmacy that originated the transaction.

(e) Each pharmaceutical manufacturer shall report monthly to the Office of Program Policy Analysis and Government Accountability all activities related to the implementation of this program, including the number of residents served and the services provided, as well as the benefits, costs, and discounts obtained.

(5) CREATION OF PROGRAM; ADMINISTRATIVE SUPPORT; MEDICAID AND CHIP PROGRAMS.--

(a) There is created a program to obtain favorable pharmaceutical prices for state agencies and other qualified entities.

(b) The Medicaid program and this state's children's health insurance program are exempt from participating in this program until approval by the Centers for Medicare and Medicaid Services has been granted if it is determined to be required by the commission.

(c) Administrative staff support for the program shall be provided by the departments represented on the commission.

(d) The commission shall establish a pricing schedule using or referencing the FSS prices, or using or referencing the price, as adjusted for currency valuations, set by the Patented Medicine Prices Review Board in Canada or any other appropriate referenced price that will maximize savings to the broadest percentage of the population of this state.

(e) By September 15, 2005, the commission shall report to the Legislature the pricing schedule developed and a

strategic plan for implementation. The commission shall implement the proposed pricing schedule and strategic plan upon approval by the Legislature that the proposed pricing schedule and strategy are the most effective method of reducing pharmaceutical prices for the residents of this state.

(f) A qualified entity, including, but not limited to, licensed private insurers, self-insured employers, free clinics, and other entities that provide pharmaceuticals directly or through some form of coverage to the residents of this state shall have an option to apply for participation in the program in the form and manner established by the commission. The commission may approve or deny participation through review of documentation determined to be necessary for full consideration and as established by rule. The commission shall consider, but not be limited to, the fiscal stability and size of each applicant.

(g) A pharmaceutical manufacturer may request that a waiver from the pricing schedule be granted by the commission for a particular drug in which the development, production, distribution costs, and other reasonable costs and reasonable profits, exclusive of all marketing and advertising costs as determined by the commission, are more than the pricing schedule rate of the pharmaceutical or in those cases in which the pharmaceutical in question has a sole source. The determination of reasonable costs and reasonable profits may fluctuate between different pharmaceuticals under consideration by the commission. The commission shall determine by rule the fees to be paid by the applicant at the time a waiver request is made and the required documentation is submitted.

(6) MULTISTATE DISCUSSION GROUP.--For the purposes of reviewing or amending the program establishing the process for making pharmaceuticals more available and affordable to the residents of this state, the state may continue to enter into multistate discussions and agreements. For purposes of participating in these discussions, the state shall be represented by members of the commission.

(7) PHARMACEUTICAL COST MANAGEMENT COMMISSION.--

(a) There is created the Pharmaceutical Cost Management Commission within the Executive Office of the Governor consisting of 10 members.

1. The following five state officials shall be members of the commission:

a. The Secretary of Management Services, or his or her designee;

b. The Secretary of Elderly Affairs, or his or her designee;

c. The Secretary of Health Care Administration, or his or her designee;

d. The executive director of the Office of Insurance Regulation, or his or her designee; and

e. The deputy secretary of the Division of Health Quality Assurance within the Agency for Health Care Administration, or his or her designee.

2. The Governor shall appoint the following public members to the commission:

a. A licensed pharmacist employed by a community retail pharmacy;

b. A representative of a pharmaceutical manufacturer having substantial operations located in this state and which has at least 750 employees;

c. A primary care physician;

d. A citizen of this state who will directly benefit from the establishment of discount drug programs; and

e. A citizen of this state who has experience in the finance, development, or management of a health insurance company that provides pharmaceutical coverage.

3. Commission members shall be appointed to terms of 4 years each. Any vacancy on the commission shall be filled in the same manner as the original appointment. A member may be removed by the Governor for cause. Any member appointed to fill a vacancy occurring because of death, resignation, or ineligibility for membership shall serve only for the unexpired term of the member's predecessor. A member is eligible for reappointment.

4. Members of the commission shall serve without compensation, but are entitled to reimbursement for per diem and travel expenses as provided in section 112.061, Florida Statutes.

5. The Secretary of Management Services shall serve as chairperson of the commission, which shall meet at times and places specified by the chairperson or upon request of two members of the commission.

(b) The commission has the power and authority to:

1. Contract for the purpose of implementing the cost-containment provisions of this section;

2. File suit;

3. Execute, as permitted by applicable federal law, prescription drug purchasing agreements with:

a. Any department, agency, authority, institution, program, any agency or program of the federal government, a quasi-public corporation and political subdivision of this

state, including, but not limited to, the children's health insurance program, the Department of Corrections, the Department of Juvenile Justice, the Workers' Compensation Administration Trust Fund, a state college or university, a public hospital, a state or local institution such as a nursing home, a veterans' home, the Agency for Persons with Disabilities, a public health department, a state program, including, but not limited to, a program established by this section or the Division of Health Quality Assurance, if the contract or agreement executed with or on behalf of the Division of Health Quality Assurance contains all necessary provisions to comply with Title XIX of the Social Security Act, 42 U.S.C. s. 1396 et seq., dealing with pharmacy services offered to recipients under the federal medical assistance program;

b. A government of another state or jurisdiction and its individual departments, agencies, authorities, institutions, programs, quasi-public corporations and political subdivisions; and

c. A regional or multistate purchasing alliance or consortium that is formed for the purpose of pooling the combined purchasing power of the individual members in order to increase bargaining power.

4. Consider strategies by which this state may manage the increasing costs of prescription drugs and increase access to prescription drugs for all of the state's residents, including the authority to explore:

a. The enactment of fair prescription-drug-pricing policies;

b. Discount prices or rebate programs for seniors and persons without prescription drug coverage;

c. Programs offered by pharmaceutical manufacturers which provide prescription drugs free of charge or at reduced prices;

d. Requirements and criteria, including the level of detail, for prescription drug manufacturers to disclose to the commission expenditures for advertising, marketing, and promotion, based on aggregate national data;

e. The establishment of counter-detailing programs aimed at educating health care practitioners authorized to prescribe prescription drugs about the relative costs and benefits of various prescription drugs, with an emphasis on generic substitution for brand name drugs when available and appropriate; prescribing older, less costly drugs instead of newer, more expensive drugs when appropriate; and prescribing lower dosages of prescription drugs when available and appropriate;

f. State management programs for diseases aimed at enhancing the effectiveness of treating certain diseases identified as prevalent among this state's population;

g. Prescription drug purchasing agreements with large private-sector purchasers of prescription drugs and including those private entities in pharmacy benefit management contracts if a private entity is not compelled to participate in a purchasing agreement;

h. The feasibility of using or referencing the federal supply schedule or referencing the price, as adjusted for currency valuations, set by the Patented Medicine Prices Review Board in Canada or any other appropriate referenced price in order to establish prescription drug pricing for brand name drugs in the state, and to review and determine the dispensing fees for pharmacies;

i. Joint negotiations for drug purchasing and a shared prescription drug pricing schedule and shared preferred drug list for use by the state insurance program, the Medicaid program, other state payors, and private insurers, if possible;

j. Coordination between the Medicaid program, the state insurance program and, to the extent possible, hospitals and private insurers, for the purpose of developing a uniform preferred prescription drug list that is clinically appropriate and that leverages retail prices;

k. Policies that promote the use of generic drugs where appropriate;

l. A policy that precludes a drug manufacturer from reducing the amounts of drug rebates or otherwise penalizing an insurer, health plan, or other entity that pays for prescription drugs based upon the fact that the entity uses step therapy or other clinical programs before a drug is covered or otherwise authorized for payment;

m. Arrangements with entities in the private sector, including self-funded benefit plans and nonprofit corporations, toward combined purchasing of health care services, health care management services, pharmacy benefits management services, or pharmaceutical products on the condition that no private entity be compelled to participate in the prescription drug purchasing pool;

n. Other strategies, as permitted under state and federal law, aimed at managing escalating prescription drug prices and increasing affordable access to prescription drugs for all residents of this state; and

o. The licensing and regulation of pharmaceutical detailers, including the requirement of continuing

professional education, the imposition of fees for licensing and continuing education, the establishment of a special revenue account for deposit of the fees, and the imposition of penalties for noncompliance with licensing and continuing education requirements.

5. Contract with appropriate legal, actuarial, and other service providers required to accomplish any function within the powers of the commission and to develop other strategies, as permitted under state and federal law, aimed at managing escalating prescription drug prices and increasing affordable access to prescription drugs for all residents of this state.

(c) The commission shall report to the Office of Program Policy Analysis and Government Accountability on or before September 1, 2005, and annually thereafter to the Legislature on December 31, and shall provide recommendations on needed legislative action and other functions established by this section or requested by the Office of Program Policy Analysis and Government Accountability.

(d) The commission shall immediately commence a study of the fiscal impact to this state of the federal Medicare Prescription Drug Improvement and Modernization Act of 2003 and shall report to the Office of Program Policy Analysis and Government Accountability on or before October 15, 2005, as to the findings of the commission.

(e) The commission shall develop an evaluation methodology to certify and audit savings in the discount card program by determining its impact on the growth and profit of the pharmaceutical manufacturers in order to ensure that prices have not been inflated to offset the value or the discount card.

(f) The commission shall evaluate the clearinghouse program and the discount card program and report to the Office of Program Policy Analysis and Government Accountability its findings and recommendations for further action by the Legislature.

(g) In addition, the commission shall:

1. Determine whether the implementation of the programs under this section will jeopardize, reduce, or penalize the benefits of veterans or other recipients of FSS drug prices, considering their respective copay structures and the pricing mechanisms of their respective programs;

2. Commence negotiations to obtain independent agreements or multistate agreements in as many as 10 states to use or reference a pricing schedule; and

3. Determine the ability to establish a savings of 42 percent of the retail cost to be reported to the Office of Program Policy Analysis and Government Accountability.

(8) INVESTIGATION OF CANADIAN DRUGS; WHOLESALING; FEDERAL WAIVERS.--

(a) The commission and the director of the Office of Insurance Regulation may investigate the feasibility of purchasing prescription drugs from sources in Canada, which may include the feasibility of the state or an instrumentality thereof serving as a wholesale distributor of prescription drugs in the state.

(b) Upon a determination by the commission or the Director of the Office of Insurance Regulation that such purchases are feasible and in the best interests of the residents of the state, the commission or the director may pursue waivers from the Federal Government, including without limitation the United States Food and Drug Administration, as

necessary for the state to accomplish prescription drug purchasing from sources in Canada. However, if such waiver is not granted, the commission may take necessary legal action.

(c) Upon a favorable finding by the appropriate federal agency or court, notwithstanding any provision of law to the contrary, the commission or the Director of the Office of Insurance Regulation may establish and implement a methodology to provide wholesale drugs to licensed pharmacies located within this state.

(9) DIRECTOR'S POWERS; ABILITY TO ENTER DRUG PURCHASING CONTRACTS.--Notwithstanding any provision of law to the contrary, this section does not limit the powers and authority granted to the Director of the Office of Insurance Regulation. Notwithstanding any provision of law to the contrary, the Director of the Office of Insurance Regulation may execute prescription drug purchasing agreements.

(10) AGENCY'S MANAGEMENT ABILITY CONTINUED.--This section does not limit the ability of a state agency to enter into contracts or arrangements or to otherwise manage its pharmacy programs until such time as the programs created or authorized pursuant to this section are implemented.

(11) RESTRAINT OF TRADE; CIVIL AND CRIMINAL VIOLATIONS DEFINED.--

(a) Two or more persons may not contract or conspire:

1. For the purpose or with the intent, to fix, control, or maintain the market price, rate, or fee of pharmaceuticals; or

2. To allocate or divide customers or markets, whether functional or geographic, for any pharmaceutical.

(b) A person may not establish, maintain, or use a monopoly or attempt to establish a monopoly of trade or

commerce, any part of which is within this state, for the purpose of or with the intent to exclude competition or to control, fix, or maintain pharmaceutical prices.

(c) Any person who violates this subsection commits a felony of the third degree, punishable as provided in section 775.082, section 775.083, or section 775.084, Florida Statutes, and may be fined in an amount consistent with the Clayton Act, 15 U.S.C. s. 15 et seq., which may include treble damages.

(d) Any person who violates this subsection is liable for a civil penalty and fine in an amount consistent with the Clayton Act, 15 U.S.C. s. 15 et seq., which may include treble damages for each violation.

(e) Any state attorney may investigate suspected violations of, and institute criminal proceedings pursuant to, the provisions of this subsection.

(f) The Attorney General shall represent the state in all civil proceedings brought on behalf of the state to enforce the provisions of this section. After payment of all attorney's fees and costs, no less than 50 percent of each judgment or settlement shall be placed in the General Revenue Fund.

(12) ADVERTISING COSTS.--

(a) A manufacturer and labeler of prescription drugs dispensed in this state which employs, directs, or uses marketing representatives shall report advertising costs for prescription drugs, based on aggregate national data, to the commission. This reporting assists the state in its role as a purchaser of prescription drugs and as an administrator of prescription drug programs, enabling the state to determine the scope of prescription drug advertising costs and their

effect on the cost, utilization, and delivery of health care services, and furthering the role of the state as guardian of the public interest.

(b) The commission shall establish the reporting requirements concerning information by labelers and manufacturers, which shall include all national aggregate expenses associated with advertising and direct promotion of prescription drugs through radio, television, magazines, newspapers, direct mail, and telephone communications as they pertain to residents of this state.

(c) The following are exempt from disclosure requirements:

1. Free samples of prescription drugs intended to be distributed to patients;

2. Payments of reasonable compensation and reimbursement of expenses in connection with a bona fide clinical trial. As used in this subsection, "clinical trial" means an approved clinical trial conducted in connection with a research study designed to answer specific questions about vaccines, new therapies, or new ways of using known treatments; and

3. Medical scholarships or other support for medical students, residents, and fellows to attend significant educational, scientific, or policy-making conferences of national, regional, or specialty medical or other professional associations if the recipient of the scholarship or other support is selected by the association.

(d) The commission may establish deadlines for reporting and the form, manner, and documentation of reporting required as the commission determines are necessary to effectuate the purpose of this subsection. The commission

shall report to the Office of Program Policy Analysis and Government Accountability, in an aggregate form, the information provided in the required reporting.

(13) STATE ROLE.--For purposes of implementing this section, the commission may negotiate pharmaceutical prices to be paid by program participants. These negotiated prices shall be available to all programs.

(14) RULEMAKING.--The commission may adopt rules to administer this section.

(15) POTENTIAL USE OF SAVINGS.--Savings identified by all program participants shall be quantified and certified to the commission and included in the annual report of the commission to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Savings, or any part thereof, created by the implementation of this section may, in the sole discretion of the Legislature, be directed towards the maintenance of existing state health programs and the expansion of insurance programs for the uninsured and underinsured.

Section 2. This act shall take effect July 1, 2005.

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SENATE SUMMARY

Creates a prescription drug assistance clearinghouse program. Requires that costs of program be paid by drug manufacturers. Provides for the transfer of ownership of the program to the state. Establishes a pharmaceutical discount card program. Provides for eligibility for participation in the pharmaceutical discount card program. Creates the Pharmaceutical Cost Management Commission. Establishes membership. Establishes powers and responsibilities. Provides reporting requirements. Authorizes an investigation into the feasibility of purchasing Canadian drugs. Authorizes the establishment of a pricing schedule. Authorizes exploration of numerous strategies, policies, and programs. Authorizes implementation of certain designated programs. Prohibits restraint of trade. Provides civil and criminal penalties. Provides for reporting advertising costs and other reporting to the Governor and Legislature. Provides rulemaking authority. (See bill for details.)