

**First Regular Session
Sixty-third General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 01-0690.01 Kristen Forrestal

SENATE BILL 01-143

SENATE SPONSORSHIP

Hagedorn,

HOUSE SPONSORSHIP

Hefley, and Clapp

Senate Committees

Health, Environment, Children & Families
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A PRESCRIPTION DRUG SUBSIDY**
102 **PROGRAM FOR SENIOR CITIZENS, AND MAKING AN**
103 **APPROPRIATION THEREFOR.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires the department of public health and environment ("department") to enter into contracts with private insurers in order to supply grants for prescription drugs and subsidies for pharmaceutical services to senior citizens.

Establishes a schedule of subsidy payments based on the household income of the applying senior citizen.

Allows the department to review an application and approve or

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

deny the application. Allows senior citizens whose applications have been denied to appeal the decision of the department.

Requires a senior citizen who has received a subsidy in error to repay the funds to the department.

Creates the prescription drugs for senior citizens trust fund ("trust fund"), from which the subsidy grants shall be made. Credits the trust fund with moneys from private sources, federal grants, and other financial sources designated for the purposes of providing prescription drug subsidies for senior citizens. Subjects the trust fund to appropriations by the general assembly.

Allows the interest and income earned on the moneys in the trust fund and 70% of all other moneys credited to the fund each fiscal year to be expended. Limits such expenditures to subsidy grants and the administrative and operational costs of the trust fund. Specifies that unexpended moneys in the trust fund shall not revert to the state's general fund.

Establishes the board of trustees of the trust fund and instructs the board to:

- Develop policies and procedures for the expenditure of interest and income earned on moneys in the trust fund;
- Develop application forms and forms for requests for proposals for the subsidy grant program;
- Publish an annual report on the activities of the board and the subsidy grants made by the board.

Provides for the review and repeal of the board of trustees.

Makes an appropriation.

1 *Be it enacted by the General Assembly of the State of Colorado:*
2 **SECTION 1.** Part 1 of article 1 of title 25, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW
4 SECTIONS to read:
5 **25-1-126. Prescription drugs for seniors.** (1) ON OR BEFORE
6 JULY 1, 2002, THE DEPARTMENT SHALL ENTER INTO CONTRACTS WITH
7 PRIVATE INSURERS OR PHARMACEUTICAL BENEFITS MANAGERS WHO
8 TRANSACT HEALTH INSURANCE IN THIS STATE TO ARRANGE FOR THE
9 AVAILABILITY, AT A REASONABLE COST, OF HEALTH INSURANCE POLICIES
10 THAT PROVIDE COVERAGE TO SENIOR CITIZENS FOR PRESCRIPTION DRUGS

1 AND PHARMACEUTICAL SERVICES. THE DEPARTMENT OF HEALTH CARE
2 POLICY AND FINANCING SHALL WORK AS NECESSARY, IN COOPERATION
3 WITH THE DEPARTMENT FOR THE PURPOSE OF CARRYING OUT THE
4 PROVISIONS OF THIS SECTION. THE BOARD OF TRUSTEES OF THE
5 PRESCRIPTION DRUGS FOR SENIOR CITIZENS TRUST FUND CREATED
6 PURSUANT TO SECTION 25-1-127 (1) SHALL DETERMINE WHAT IS A
7 REASONABLE COST.

8 (2) FOR PURPOSES OF THIS SECTION, "ELIGIBLE SENIOR CITIZEN"
9 MEANS A PERSON WHO:

10 (a) IS AT LEAST SIXTY YEARS OF AGE AT THE TIME OF APPLICATION
11 FOR THE SUBSIDY GRANT;

12 (b) DOES NOT RECEIVE MEDICAL ASSISTANCE UNDER THE
13 "COLORADO MEDICAL ASSISTANCE ACT" OR DOES NOT RECEIVE A SUBSIDY
14 OR ASSISTANCE FROM ANY OTHER PRESCRIPTION DRUG SUBSIDY PROGRAM;

15 (c) HAS PURCHASED A HEALTH INSURANCE POLICY MADE
16 AVAILABLE PURSUANT TO SUBSECTION (1) OF THIS SECTION THAT IS
17 EFFECTIVE AT THE TIME THE APPLICATION FOR THE SUBSIDY GRANT IS MADE
18 AND AT THE TIME THE SUBSIDY GRANT MAY BE RECEIVED; AND

19 (d) HAS BEEN DOMICILED IN THIS STATE FOR AT LEAST ONE YEAR
20 IMMEDIATELY PRECEDING THE DATE OF APPLICATION FOR THE SUBSIDY
21 GRANT.

22 (3) THE AMOUNT OF THE SUBSIDY GRANT TO WHICH AN ELIGIBLE
23 SENIOR CITIZEN MAY BE ELIGIBLE PURSUANT TO THIS SECTION SHALL BE
24 DETERMINED BY THE BOARD OF TRUSTEES OF THE PRESCRIPTION DRUGS FOR
25 SENIOR CITIZENS TRUST FUND CREATED BY SECTION 25-1-128 (1).

26
27 (4) (a) AN ELIGIBLE SENIOR CITIZEN WHO WISHES TO RECEIVE A

1 SUBSIDY GRANT PURSUANT TO THIS SECTION SHALL SUBMIT AN
2 APPLICATION TO THE DEPARTMENT. THE APPLICATION SHALL BE FILED IN
3 SUCH FORM AND CONTENT, AND SHALL BE ACCOMPANIED BY SUCH PROOF,
4 AS THE DEPARTMENT MAY PRESCRIBE.

5 (b) WITHIN FORTY-FIVE DAYS AFTER RECEIVING AN APPLICATION
6 FOR A SUBSIDY GRANT, THE DEPARTMENT SHALL EXAMINE THE
7 APPLICATION AND SHALL EITHER GRANT OR DENY IT. IF THE APPLICATION
8 IS GRANTED, THE DEPARTMENT SHALL DETERMINE THE AMOUNT OF THE
9 SUBSIDY GRANT THAT THE ELIGIBLE SENIOR CITIZEN MAY RECEIVE
10 PURSUANT TO THE PROVISIONS OF SUBSECTION (3) OF THIS SECTION.

11 (c) THE DEPARTMENT SHALL DETERMINE WHICH SENIOR CITIZENS
12 ARE ELIGIBLE TO RECEIVE A SUBSIDY GRANT PURSUANT TO THIS SECTION
13 AND SHALL PAY THE SUBSIDY GRANT OUT OF MONEYS IN THE PRESCRIPTION
14 DRUGS FOR SENIOR CITIZENS TRUST FUND CREATED PURSUANT TO SECTION
15 25-1-128 (1). THE PAYMENT SHALL BE MADE DIRECTLY TO THE PRIVATE
16 INSURER WITH WHOM THE DEPARTMENT HAS ENTERED INTO A CONTRACT
17 PURSUANT TO SUBSECTION (1) OF THIS SECTION. SUCH INSURER SHALL BE
18 THE PROVIDER OF HEALTH INSURANCE COVERAGE TO THE ELIGIBLE SENIOR
19 CITIZEN WHOSE APPLICATION FOR A SUBSIDY GRANT HAS BEEN APPROVED.

20 (5) ANY SUBSIDY GRANT ISSUED PURSUANT TO THIS SECTION TO A
21 SENIOR CITIZEN WHO IS NOT QUALIFIED FOR SUCH A SUBSIDY GRANT MAY
22 BE REVOKED BY THE DEPARTMENT. IF A SUBSIDY GRANT IS SO REVOKED,
23 THE SENIOR CITIZEN SHALL MAKE RESTITUTION TO THE DEPARTMENT FOR
24 ANY SUBSIDY GRANT THAT HAS BEEN IMPROPERLY PAID TO THE INSURER
25 FROM WHICH THE SENIOR CITIZEN HAS RECEIVED A BENEFIT, AND THE
26 DEPARTMENT SHALL TAKE ALL PROPER ACTIONS TO COLLECT THE AMOUNT
27 OF THE SUBSIDY AS A DEBT. ANY AMOUNTS COLLECTED BY THE

1 DEPARTMENT PURSUANT TO THIS SUBSECTION (5) SHALL BE DEPOSITED
2 WITH THE STATE TREASURER FOR CREDIT TO THE PRESCRIPTION DRUGS FOR
3 SENIOR CITIZENS TRUST FUND CREATED IN SECTION 25-1-128 (1).

4 (6) (a) THE DEPARTMENT SHALL DENY ANY APPLICATION FOR A
5 SUBSIDY GRANT RECEIVED PURSUANT TO SUBSECTION (4) OF THIS SECTION
6 IF THE APPLICANT IS NOT ELIGIBLE TO RECEIVE SUCH SUBSIDY GRANT AND
7 SHALL DENY ANY SUBSIDY GRANT PAYMENT IN EXCESS OF THE AMOUNT THE
8 APPLICANT IS ELIGIBLE TO RECEIVE.

9 (b) THE DEPARTMENT MAY DENY IN TOTAL ANY APPLICATION THAT
10 IT FINDS TO HAVE BEEN FILED WITH FRAUDULENT INTENT. IF ANY SUCH
11 REQUEST HAS BEEN PAID AND IS AFTERWARD DENIED, THE AMOUNT OF THE
12 SUBSIDY GRANT SHALL BE REPAID BY THE SENIOR CITIZEN TO THE
13 DEPARTMENT, AND THE DEPARTMENT SHALL TAKE ALL PROPER ACTIONS TO
14 COLLECT THE AMOUNT OF THE SUBSIDY GRANT AS A DEBT. ANY AMOUNTS
15 COLLECTED BY THE DEPARTMENT PURSUANT TO THIS PARAGRAPH (b)
16 SHALL BE DEPOSITED WITH THE STATE TREASURER FOR CREDIT TO THE
17 PRESCRIPTION DRUGS FOR SENIOR CITIZENS TRUST FUND CREATED IN
18 SECTION 25-1-128 (1).

19 (7) ANY ELIGIBLE SENIOR CITIZEN WHOSE APPLICATION FOR A
20 SUBSIDY GRANT SUBMITTED PURSUANT TO SUBSECTION (4) OF THIS SECTION
21 IS DENIED BY THE DEPARTMENT IS ENTITLED TO JUDICIAL REVIEW THEREOF.

22 (8) THE DEPARTMENT IS RESPONSIBLE FOR THE ADMINISTRATION OF
23 THE PROVISIONS OF THIS SECTION AND SHALL:

24 (a) PRESCRIBE THE CONTENT AND FORM OF THE APPLICATION FOR
25 A SUBSIDY GRANT;

26 (b) ADOPT RULES TO PROTECT THE CONFIDENTIALITY OF
27 INFORMATION SUPPLIED BY A SENIOR CITIZEN APPLYING FOR A SUBSIDY

1 GRANT PURSUANT TO SUBSECTION (4) OF THIS SECTION; AND

2 (c) ADOPT SUCH OTHER RULES AS MAY BE REQUIRED TO CARRY OUT
3 THE PROVISIONS OF THIS SECTION.

4 (d) ON OR BEFORE JANUARY 1, 2002, PREPARE A BUDGET WHICH
5 ESTIMATES THE COSTS AND EXPENSES ASSOCIATED WITH THE
6 IMPLEMENTATION OF THE PRESCRIPTION DRUGS FOR SENIOR CITIZENS TRUST
7 FUND, AND THE FORMATION AND ACTIVITIES OF ITS BOARD OF TRUSTEES.

8 (9) NO PERSON MAY PUBLISH, DISCLOSE, OR USE ANY PERSONAL OR
9 CONFIDENTIAL INFORMATION CONTAINED IN AN APPLICATION FOR A
10 SUBSIDY GRANT SUBMITTED PURSUANT TO SUBSECTION (4) OF THIS
11 SECTION, EXCEPT FOR PURPOSES RELATING TO THE ADMINISTRATION OF
12 THIS SECTION.

13 **25-1-127. Board of trustees of the prescription drugs for senior**
14 **citizens trust fund - creation - duties - repeal.** (1) FOR PURPOSES OF
15 THIS SECTION, "TRUST FUND" REFERS TO THE PRESCRIPTION DRUGS FOR
16 SENIOR CITIZENS TRUST FUND CREATED IN SECTION 25-1-128 (1).

17 (2) (a) THERE IS HEREBY CREATED IN THE DEPARTMENT THE BOARD
18 OF TRUSTEES OF THE PRESCRIPTION DRUGS FOR SENIOR CITIZENS TRUST
19 FUND, REFERRED TO IN THIS SECTION AS THE "BOARD OF TRUSTEES".

20 (b) (I) THE BOARD OF TRUSTEES SHALL CONSIST OF SEVEN
21 MEMBERS WHO SHALL BE APPOINTED BY THE GOVERNOR. EACH MEMBER
22 SHALL SERVE A TERM OF FOUR YEARS; EXCEPT THAT, INITIALLY, THREE
23 MEMBERS SHALL SERVE TERMS OF TWO YEARS AND TWO MEMBERS SHALL
24 SERVE TERMS OF THREE YEARS. NO MORE THAN THREE MEMBERS MAY BE
25 EMPLOYED BY THE PRIVATE INSURANCE INDUSTRY. ONE MEMBER SHALL
26 BE AN "ELIGIBLE SENIOR CITIZEN" AS DEFINED IN SECTION 25-1-126 (2).
27 THE REMAINING MEMBERS SHALL BE FAMILIAR WITH OR HAVE EXPERIENCE

1 IN THE INSURANCE INDUSTRY.

2 (II) MEMBERS OF THE BOARD OF TRUSTEES SHALL SERVE WITHOUT
3 COMPENSATION BUT SHALL BE ENTITLED TO REIMBURSEMENT OF ACTUAL
4 AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR
5 OFFICIAL DUTIES.

6 (c) THE BOARD OF TRUSTEES SHALL HAVE THE FOLLOWING POWERS
7 AND DUTIES:

8 (I) TO DEVELOP POLICIES AND PROCEDURES FOR THE EXPENDITURE
9 OF THE INTEREST AND INCOME EARNED ON THE MONEYS IN THE TRUST
10 FUND;

11 (II) TO DEVELOP POLICIES AND PROCEDURES AND OVERSEE THE
12 DEPARTMENT'S SUBSIDY GRANTS MADE TO SENIOR CITIZENS PURSUANT TO
13 SECTION 25-1-126 (4); EXCEPT THAT IN NO EVENT SHALL THE CUMULATIVE
14 TOTAL OF ALL SUBSIDY GRANTS MADE IN ONE YEAR EXCEED THE AMOUNT
15 OF THE INTEREST AND INCOME EARNED ON THE MONEYS IN THE TRUST
16 FUND;

17 (III) TO DEVELOP FORMS FOR PROPOSALS OF PRIVATE INSURERS TO
18 CONTRACT WITH THE DEPARTMENT, WHICH PROPOSALS SHALL CONTAIN, AS
19 CONDITION OF EACH SUCH CONTRACT, A PROVISION THAT NOT MORE THAN
20 EIGHT PERCENT OF EACH SUBSIDY GRANT MAY BE USED FOR
21 ADMINISTRATIVE EXPENSES AND OTHER INDIRECT COSTS;

22 (IV) TO DEVELOP APPLICATION FORMS FOR SENIOR CITIZENS FOR
23 USE IN APPLYING FOR SUBSIDY GRANTS;

24 (V) TO PROPAGATE INFORMATION ABOUT THE SUBSIDY GRANT
25 PROGRAM; AND

26 (VI) TO PUBLISH, ON OR BEFORE JULY 1, 2003, AND ON OR BEFORE
27 JULY 1 OF EACH YEAR THEREAFTER, AN ANNUAL REPORT OF THE ACTIVITIES

1 OF THE BOARD OF TRUSTEES AND THE GRANTS MADE BY THE DEPARTMENT.
2 A COPY OF EACH ANNUAL REPORT SHALL BE TRANSMITTED TO THE
3 GOVERNOR AND TO THE COMMITTEES OF EACH HOUSE OF THE GENERAL
4 ASSEMBLY RELATING TO HEALTH AND ENVIRONMENT.

5 (3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2005. PRIOR TO
6 SUCH REPEAL, THE BOARD OF TRUSTEES SHALL BE REVIEWED AS PROVIDED
7 FOR IN SECTION 24-34-104, C.R.S.

8 **25-1-128. Prescription drugs for senior citizens trust fund -**
9 **creation - definition.** (1) THERE IS HEREBY ESTABLISHED IN THE STATE
10 TREASURY THE PRESCRIPTION DRUGS FOR SENIOR CITIZENS TRUST FUND,
11 REFERRED TO IN THIS SECTION AS THE "TRUST FUND". NOTHING IN THIS
12 SECTION SHALL BE CONSTRUED TO IMPLY THAT ANY PERSON IS ENTITLED TO
13 ANY BENEFIT THAT MAY BE PROVIDED BY THE ESTABLISHMENT OF THE
14 TRUST FUND.

15 (2) (a) UNLESS OTHERWISE PROHIBITED BY LAW, COSTS
16 ASSOCIATED WITH THE TRUST FUND AND THE ACTIVITIES OF ITS BOARD OF
17 TRUSTEES SHALL BE FULLY DEFRAYED BY MONETARY OR IN-KIND
18 CONTRIBUTIONS FROM STATE, FEDERAL, AND PRIVATE ENTITIES, AND OTHER
19 SOURCES. THE DEPARTMENT IS AUTHORIZED TO, AND SHALL ACCEPT, SUCH
20 CONTRIBUTIONS. ALL SUCH CONTRIBUTIONS SHALL BE CREDITED TO THE
21 TRUST FUND. NO COSTS ASSOCIATED WITH THE TRUST FUND AND THE
22 ACTIVITIES OF ITS BOARD OF TRUSTEES SHALL BE PAID FROM THE GENERAL
23 FUND OF THE STATE. THE TRUST FUND SHALL NOT BE IMPLEMENTED AND
24 THE BOARD OF TRUSTEES OF THE PRESCRIPTION DRUGS FOR SENIOR
25 CITIZENS TRUST FUND SHALL NOT MEET, AND ITS ACTIVITIES NOT BE PAID
26 UNTIL THE DEPARTMENT CERTIFIES THAT SUFFICIENT CONTRIBUTIONS HAVE
27 BEEN RECEIVED TO PAY THE FULL AMOUNT OF THE ESTIMATED COSTS AND

1 EXPENSES SET FORTH IN THE BUDGET PREPARED BY THE DEPARTMENT
2 PURSUANT TO SECTION 25-1-126 (8) (d).

3 (b) ALL MONEYS DEPOSITED IN THE TRUST FUND AND ALL INTEREST
4 EARNED ON MONEYS IN THE TRUST FUND SHALL REMAIN IN THE TRUST FUND
5 FOR THE PURPOSES OF SECTION 25-2-126. ALL UNEXPENDED AND
6 UNENCUMBERED MONEYS IN THE TRUST FUND SHALL REMAIN THEREIN AND
7 SHALL NOT BE CREDITED TO OR TRANSFERRED TO THE GENERAL FUND OR
8 ANY OTHER FUND.

9 (3) THE INTEREST AND INCOME EARNED ON THE MONEYS IN THE
10 TRUST FUND AND SEVENTY PERCENT OF ALL MONEYS CREDITED TO THE
11 TRUST FUND IN EACH FISCAL YEAR FROM PRIVATE SOURCES, FEDERAL
12 GRANTS, OTHER FEDERAL FINANCIAL PARTICIPATION, AND MONEYS FROM
13 STATE SOURCES SHALL BE ANNUALLY APPROPRIATED BY THE GENERAL
14 ASSEMBLY TO THE BOARD OF TRUSTEES CREATED IN SECTION 25-1-127 (2)
15 (a) AND SHALL, AFTER DEDUCTING ANY APPLICABLE CHARGES AS
16 DETERMINED BY THE BOARD, BE CREDITED TO THE TRUST FUND AND
17 ACCOUNTED FOR SEPARATELY. ALL CLAIMS AGAINST THE TRUST FUND
18 SHALL BE PAID IN THE SAME MANNER AS ARE OTHER CLAIMS AGAINST THE
19 STATE.

20 (4) ONLY THE MONEYS IN THE TRUST FUND APPROPRIATED BY THE
21 GENERAL ASSEMBLY PURSUANT TO SUBSECTION (3) OF THIS SECTION MAY
22 BE EXPENDED. SUCH EXPENDITURES MAY ONLY BE MADE FOR:

23 (a) SUBSIDY GRANTS MADE PURSUANT TO SECTION 25-1-126 (4);

24 (b) EXPENSES RELATED TO THE OPERATION OF THE BOARD OF
25 TRUSTEES, CREATED IN SECTION 25-1-127 (2) (a); AND

26 (c) ACTUAL COSTS INCURRED BY THE DEPARTMENT FOR PROVIDING
27 ADMINISTRATIVE ASSISTANCE TO THE BOARD OF TRUSTEES, CREATED IN

1 SECTION 25-1-127 (2) (a), BUT IN NO EVENT SHALL MORE THAN TWO
2 PERCENT OF THE MONEYS IN THE TRUST FUND BE USED FOR
3 ADMINISTRATIVE EXPENSES OR OTHER INDIRECT COSTS.

4 (5) ON OR BEFORE JANUARY 1 OF EACH YEAR THE BOARD SHALL
5 CERTIFY TO THE GENERAL ASSEMBLY THE AMOUNT OF INTEREST AND
6 INCOME EARNED ON THE MONEYS IN THE TRUST FUND AND THE AMOUNT OF
7 MONEY THAT HAS BEEN CREDITED TO THE TRUST FUND FOR THE PRECEDING
8 FISCAL YEAR.

9 **SECTION 2.** 24-1-119, Colorado Revised Statutes, is amended
10 BY THE ADDITION OF A NEW SUBSECTION to read:

11 **24-1-119. Department of public health and environment -**
12 **creation.** (10) THE BOARD OF TRUSTEES OF THE PRESCRIPTION DRUGS FOR
13 SENIOR CITIZENS TRUST FUND, CREATED IN SECTION 25-1-127 (2), C.R.S.,
14 SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AS IF THE SAME
15 WERE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF
16 PUBLIC HEALTH AND ENVIRONMENT.

17 **SECTION 3.** 24-34-104 (36), Colorado Revised Statutes, is
18 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

19 **24-34-104. General assembly review of regulatory agencies and**
20 **functions for termination, continuation, or reestablishment.** (36) The
21 following agencies, functions, or both, shall terminate on July 1, 2005:

22 (d) THE BOARD OF TRUSTEES OF THE PRESCRIPTION DRUGS FOR
23 SENIOR CITIZENS TRUST FUND IN THE DEPARTMENT OF PUBLIC HEALTH AND
24 ENVIRONMENT, CREATED IN SECTION 25-1-127 (2) (a), C.R.S.

25 **SECTION 4. Appropriation.** In addition to any other
26 appropriation, there is hereby appropriated out of any moneys in the
27 general fund not otherwise appropriated, to the prescription drugs for

1 senior citizens trust fund, created in section 25-1-128 (1), Colorado
2 Revised Statutes, for the fiscal year beginning July 1, 2001, the sum of
3 _____ dollars (\$), or so much thereof as may be necessary, for the
4 purpose of implementing this act.

5 **SECTION 5. Effective date.** This act shall take effect at 12:01
6 a.m. on the day following the expiration of the ninety-day period after
7 final adjournment of the general assembly that is allowed for submitting
8 a referendum petition pursuant to article V, section 1 (3) of the state
9 constitution; except that, if a referendum petition is filed against this act
10 or an item, section, or part of this act within such period, then the act,
11 item, section, or part, if approved by the people, shall take effect on the
12 date of the official declaration of the vote thereon by proclamation of the
13 governor.