

1 AN ACT concerning discount prescription drugs for senior  
2 citizens and disabled persons.

3 Be it enacted by the People of the State of Illinois,  
4 represented in the General Assembly:

5 Section 1. Short title. This Act may be cited as the  
6 Senior Citizens and Disabled Persons Prescription Drug  
7 Discount Program Act.

8 Section 5. Findings. The General Assembly finds that:

9 (a) Although senior citizens represent 12% of the  
10 population, they use on average 37% of prescription drugs  
11 that are dispensed.

12 (b) Senior citizens in the United States without  
13 prescription drug insurance coverage pay the highest prices  
14 in the world for needed medications.

15 (c) High prescription drug prices force many Illinois  
16 seniors and disabled persons to go without proper medication  
17 or other necessities, thereby affecting their health and  
18 safety.

19 (d) Prescription drug prices in the United States are  
20 the world's highest, averaging 32% higher than in Canada, 40%  
21 higher than in Mexico, and 60% higher than in Great Britain.

22 (e) Prescription drug prices listed on the Federal  
23 Supply Schedule that serve the Veterans Administration, the  
24 Department of Defense, and the Coast Guard average 52% below  
25 the non-federal average manufacturer's price.

26 (f) Regardless of household income, seniors and disabled  
27 persons without prescription drug coverage are often just one  
28 serious illness away from poverty.

29 (g) Reducing the price of prescription drugs would  
30 benefit the health and well-being of all Illinois senior  
31 citizens and disabled persons by providing more affordable

1 access to needed drugs.

2 (h) Drug prices on the Federal Supply Schedule are  
3 negotiated by the Department of Veterans Affairs and are the  
4 best publicly available indicator of the prices that drug  
5 companies charge their favored customers.

6 (i) The State of Illinois is involved in the purchase of  
7 prescription drugs in a number of areas: the Department of  
8 Central Management Services is involved in the purchase of  
9 prescription drugs for the State employees group insurance  
10 program, for State-operated mental health and developmental  
11 disabilities facilities, and for Department of Veterans'  
12 Affairs facilities; the Department of Public Health is  
13 involved in the purchase of prescription drugs for ADAP (Aids  
14 Drug Assistance Program) and for the STD (Sexually  
15 Transmitted Diseases) Program; the Department of Corrections  
16 is involved in the purchase of prescription drugs for prison  
17 inmates; the Department of Revenue is involved in the  
18 purchase of prescription drugs for the "Circuit Breaker"  
19 Pharmaceutical Assistance Program; the Department of Children  
20 and Family Services is involved in the purchase of  
21 prescription drugs for State wards; and the Department of  
22 Public Aid is involved in the purchase of prescription drugs  
23 for Medicaid recipients; collectively this affords the State  
24 of Illinois great bargaining power for the purchase of  
25 prescription drugs.

26 Section 10. Purpose. The purpose of this Program is to  
27 require the Department of Central Management Services to  
28 establish and administer a program that will enable eligible  
29 senior citizens and disabled persons to purchase prescription  
30 drugs at discounted prices.

31 Section 15. Definitions. As used in this Act:

32 "Authorized pharmacy" means any pharmacy registered in

1 this State under the Pharmacy Practice Act of 1987 and  
2 approved by the Department.

3 "AWP" or "Average wholesale price" means the amount  
4 determined from the latest publication of the Blue Book, a  
5 universally subscribed pharmacist reference guide annually  
6 published by the Hearst Corporation. "AWP" or "Average  
7 wholesale price" may also be derived electronically from the  
8 drug pricing database synonymous with the latest publication  
9 of the Blue Book and furnished in the National Drug Data File  
10 (NDDF) by First Data Bank (FDB), a service of the Hearst  
11 Corporation.

12 "Department" means the Department of Central Management  
13 Services.

14 "Director" means the Director of Central Management  
15 Services.

16 "Disabled person" means a person unable to engage in any  
17 substantial gainful activity by reason of a medically  
18 determinable physical or mental impairment which can be  
19 expected to result in death or has lasted or can be expected  
20 to last for a continuous period of not less than 12 months.

21 "Drug manufacturer" means any entity (1) that is located  
22 within or outside Illinois that is engaged in (i) the  
23 production, preparation, propagation, compounding,  
24 conversion, or processing of prescription drug products  
25 covered under the Program, either directly or indirectly by  
26 extraction from substances of natural origin, independently  
27 by means of chemical synthesis, or by a combination of  
28 extraction and chemical synthesis or (ii) the packaging,  
29 repackaging, leveling, labeling, or distribution of  
30 prescription drug products covered under the Program and (2)  
31 that elects to provide prescription drugs either directly or  
32 under contract with any entity providing prescription drug  
33 services on behalf of the State of Illinois. "Drug  
34 manufacturer", however, does not include a wholesale

1 distributor of drugs or a retail pharmacy licensed under  
2 Illinois law.

3 "Eligible senior" means a person who is (i) a resident of  
4 Illinois and (ii) 65 years of age or older.

5 "Federal Supply Schedule" or "FSS" means a price  
6 catalogue containing goods available for purchase by federal  
7 agencies. Drug prices on the FSS are negotiated by the  
8 (U.S.) Department of Veterans' Affairs and are the best  
9 publicly available indicator of prices drug companies charge  
10 favored customers.

11 "Prescription drug" means any prescribed drug that may be  
12 legally dispensed by an authorized pharmacy.

13 "Program" means the Senior Citizens and Disabled Persons  
14 Prescription Drug Discount Program created under this Act.

15 "Rules" includes rules adopted and forms prescribed by  
16 the Department.

17 Section 17. Determination of disability. Disabled  
18 persons filing applications for participation in the Program  
19 shall submit proof of disability in such form and manner as  
20 the Department shall by rule prescribe. Proof that a claimant  
21 is eligible to receive disability benefits under the Federal  
22 Social Security Act shall constitute proof of disability for  
23 purposes of this Act. Issuance of an Illinois Disabled Person  
24 Identification Card stating that the claimant is under a  
25 Class 2 disability, as defined in Section 4A of the Illinois  
26 Identification Card Act, shall constitute proof that the  
27 person named thereon is a disabled person for purposes of  
28 this Act. A disabled person not covered under the Federal  
29 Social Security Act and not presenting a Disabled Person  
30 Identification Card stating that the he or she is under a  
31 Class 2 disability shall be examined by a physician  
32 designated by the Department, and his or her status as a  
33 disabled person determined using the same standards as used

1 by the Social Security Administration. The costs of any  
2 required examination shall be borne by the person claiming a  
3 disability.

4 Section 20. The Senior Citizens and Disabled Persons  
5 Prescription Drug Discount Program. The Senior Citizens and  
6 Disabled Persons Prescription Drug Discount Program is  
7 established to protect the health and safety of senior  
8 citizens and disabled persons. The Program shall be  
9 administered by the Department. The Department shall (i)  
10 enroll eligible seniors and disabled persons into the Program  
11 to qualify them for a discount on the purchase of  
12 prescription drugs at an authorized pharmacy, (ii) enter into  
13 rebate agreements with drug manufacturers, and (iii)  
14 reimburse pharmacies for the cost of providing discounts  
15 using the proceeds from the manufacturer rebate agreements.

16 Section 25. Prescription drug prices.

17 (a) Beginning on January 1, 2004, the amount paid by  
18 eligible seniors and disabled persons enrolled in the Program  
19 to authorized pharmacies for prescription drugs may not  
20 exceed prices listed on the Federal Supply Schedule plus a  
21 dispensing fee calculated as provided in Section 3.16 of the  
22 Senior Citizens and Disabled Persons Property Tax Relief and  
23 Pharmaceutical Assistance Act. Nothing in this Act precludes  
24 any authorized pharmacy from charging less than the listed  
25 price on the Federal Supply Schedule. The Department must  
26 provide the applicable Federal Supply Schedule to authorized  
27 pharmacies. For prescription drugs that are not listed on  
28 the Federal Supply Schedule, the amount paid by eligible  
29 seniors and disabled persons enrolled in the Program to  
30 authorized pharmacies may not exceed the AWP minus 35% plus a  
31 dispensing fee calculated as provided in Section 3.16 of the  
32 Senior Citizens and Disabled Persons Property Tax Relief and

1 Pharmaceutical Assistance Act.

2 (b) Subject to the requirements of the State Prompt  
3 Payment Act, the Department shall compensate authorized  
4 pharmacies from the Senior Citizens and Disabled Persons  
5 Prescription Drug Discount Program Fund for the difference  
6 between the amount paid by eligible seniors for prescription  
7 drugs dispensed under the Program and the AWP minus 10%.

8 Section 30. Manufacturer rebate agreements.

9 (a) Taking into consideration the extent to which the  
10 State pays for prescription drugs under various State  
11 programs, the Department or its agent shall negotiate and  
12 enter into rebate agreements with drug manufacturers, as  
13 defined in this Act, to effect prescription drug price  
14 discounts. Persons eligible for benefits under this Program  
15 shall be entitled to purchase prescription drugs at the  
16 negotiated discount price. The rebate agreement shall be  
17 equal to the cost to the Department for reimbursing  
18 authorized pharmacies under this Act pursuant to subsection  
19 (b) of Section 25. The rebate agreement shall become  
20 effective the first day of the calendar quarter that begins  
21 60 days after the date the agreement is entered into.

22 (b) The Department shall develop a model rebate  
23 agreement for prescription drugs dispensed on and after the  
24 effective date of this Act.

25 (c) Rebate payment procedures. All rebates negotiated  
26 under agreements described in this Section shall be paid to  
27 the Department in accordance with procedures prescribed by  
28 the Department. All rebates must be remitted to the  
29 Department not later than 30 days after receipt of a request  
30 for payment by the Department.

31 (d) The receipts from the rebates and moneys transferred  
32 under Section 33 shall be deposited into the Senior Citizens  
33 and Disabled Persons Prescription Drug Discount Program Fund,

1 a special fund hereby created in the State treasury, and  
2 shall be used, subject to appropriation, to cover the cost of  
3 reimbursing authorized pharmacies under this Act pursuant to  
4 subsection (b) of Section 25.

5 Section 33. Transfer to Senior Citizens and Disabled  
6 Persons Prescription Drug Discount Program Fund.

7 (a) Within 30 days after the effective date of this Act,  
8 the State Comptroller shall direct and the State Treasurer  
9 shall transfer \$27,000,000 from the General Revenue Fund to  
10 the Senior Citizens and Disabled Persons Prescription Drug  
11 Discount Program Fund to facilitate the payment of  
12 reimbursements to authorized pharmacies. Repayment of  
13 principal and interest to the General Revenue Fund shall be  
14 made so that the balance in the General Revenue Fund will be  
15 restored as if the transfer to the Senior Citizens and  
16 Disabled Persons Prescription Drug Discount Program Fund had  
17 not been made. Upon a certification by the Department of  
18 Revenue that the obligations under subsection (b) of Section  
19 25 are being met, beginning on July 1, 2004, and on the 1st  
20 of each month thereafter until the principal amount  
21 transferred from the General Revenue Fund plus interest has  
22 been repaid, the State Comptroller shall direct and the State  
23 Treasurer shall transfer 1/12th of \$27,000,000, or so much of  
24 that amount as is necessary, from the Senior Citizens and  
25 Disabled Persons Prescription Drug Discount Program Fund to  
26 the General Revenue Fund plus accrued interest. The balance  
27 of the amount transferred from the General Revenue Fund shall  
28 bear interest at the rate of 7.5% per annum until the  
29 required transfers back into the General Revenue Fund have  
30 been completed.

31 Section 35. Program eligibility.

32 (a) Any person may apply to the Department for

1 participation in the Program in the form and manner required  
2 by the Department. The Department shall determine the  
3 eligibility of each applicant for the Program within 30 days  
4 after the date of application. To participate in the Program  
5 an eligible senior whose application has been approved by the  
6 Department must pay \$25 upon enrollment and annually  
7 thereafter and shall receive a Program identification card.  
8 The card may be presented to an authorized pharmacy to assist  
9 the pharmacy in verifying eligibility under the Program. The  
10 Department shall deposit the enrollment fees collected into  
11 the Senior Citizens and Disabled Persons Prescription Drug  
12 Discount Program Fund. The monies collected by the  
13 Department for enrollment fees and deposited into the Senior  
14 Citizens and Disabled Persons Prescription Drug Discount  
15 Program Fund must be separately accounted for by the  
16 Department. If 2 or more persons are eligible for any benefit  
17 under this Act and are members of the same household, each  
18 participating household member shall apply to the Department  
19 and pay the fee required for the purpose of obtaining an  
20 identification card.

21 (b) Proceeds from annual enrollment fees, subject to  
22 appropriation, shall be used by the Department to offset the  
23 administrative cost of this Act. The Department may reduce  
24 the annual enrollment fee by rule if the revenue from the  
25 enrollment fees is in excess of the costs to carry out the  
26 Program.

27 (c) Any person who is eligible for pharmaceutical  
28 assistance under the Senior Citizens and Disabled Persons  
29 Property Tax Relief and Pharmaceutical Assistance Act is  
30 presumed to be eligible for this Program. That person may  
31 purchase prescription drugs under this Program that are not  
32 covered by the pharmaceutical assistance program under the  
33 Senior Citizens and Disabled Persons Property Tax Relief and  
34 Pharmaceutical Assistance Act by using the identification

1 card issued under the pharmaceutical assistance program.

2 Section 40. Eligible pharmacies.

3 (a) The Department shall adopt rules to establish  
4 standards and procedures for participation in the Program and  
5 approve those pharmacies that apply to participate and meet  
6 the requirements for participation. The Department may  
7 remove the authorization of a pharmacy to participate in this  
8 Program for failure to meet the standards and procedures for  
9 participation established by the Department by rule. Any  
10 pharmacy that has been removed as an authorized pharmacy by  
11 the Department may apply for reinstatement as an authorized  
12 pharmacy in accordance with standards and procedures  
13 established by the Department by rule.

14 (b) The Department shall annually review the eligibility  
15 of pharmacies to participate in the Program.

16 (c) The Department shall establish procedures for  
17 properly contracting for pharmacy services, validating  
18 reimbursement claims, validating compliance of authorized  
19 pharmacies with the conditions for participation required  
20 under this Act, and otherwise providing for the effective  
21 administration of this Act. The Director, in consultation  
22 with pharmacists licensed under the Pharmacy Practice Act of  
23 1987, may enter into a written contract with any other State  
24 agency, instrumentality, or political subdivision or with a  
25 fiscal intermediary for the purpose of making payments to  
26 authorized pharmacies pursuant to subsection (b) of Section  
27 25 and coordinating the Program with other programs that  
28 provide payments for prescription drugs covered under the  
29 Program.

30 Section 45. Rules. The Department shall adopt rules to  
31 implement and administer the Program, which shall include the  
32 following:

1           (1) Execution of contracts with pharmacies to  
 2 participate in the Program. The contracts shall  
 3 stipulate terms and conditions for the participation of  
 4 authorized pharmacies and the rights of the State to  
 5 terminate participation for breach of the contract or for  
 6 violation of this Act or rules adopted by the Department  
 7 under this Act.

8           (2) Establishment of maximum limits on the size of  
 9 prescriptions that are eligible for a discount under the  
 10 Program, up to a 90-day supply, except as may be  
 11 necessary for utilization control reasons.

12           (3) Establishment of liens upon any and all causes  
 13 of action that accrue to a beneficiary as a result of  
 14 injuries for which prescription drugs covered under the  
 15 Program are directly or indirectly required and for which  
 16 the Director made payment or became liable for under this  
 17 Act.

18           (4) Inspection of appropriate records and audits of  
 19 participating authorized pharmacies to ensure contract  
 20 compliance and to determine any fraudulent transactions  
 21 or practices under this Act.

22           Section 50. Report on administration of Program. The  
 23 Department shall report to the Governor and the General  
 24 Assembly by March 1st of each year on the administration of  
 25 the Program under this Act.

26           Section 905. The Department of Central Management  
 27 Services Law of the Civil Administrative Code of Illinois is  
 28 amended by adding Section 405-195 as follows:

29           (20 ILCS 405/405-195 new)

30           Sec. 405-195. Prescription Drug Purchasing Policy  
 31 Office. The Department shall establish a Prescription Drug

1 Purchasing Policy Office. The Office shall determine and  
2 implement strategies for best price purchasing practices for  
3 State agencies that pay for prescription drugs by direct  
4 purchase or by other arrangements. This may include  
5 establishing a central State purchasing policy, entering into  
6 cooperative agreements with other states or other public or  
7 private entities that may enable the State to reduce its  
8 prescription drug costs, and establishing any other State  
9 agency policies and practices that may enable the State to  
10 reduce its costs.

11 Section 990. The State Finance Act is amended by adding  
12 Section 5.595 as follows:

13 (30 ILCS 105/5.595 new)

14 Sec. 5.595. The Senior Citizens and Disabled Persons  
15 Prescription Drug Discount Program Fund.

16 Section 999. Effective date. This Act takes effect July  
17 1, 2003.