

1 AMENDMENT TO SENATE BILL 3

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

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 to go without proper medication or other necessities,  
17 thereby affecting their health and safety.

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

21 (e) Regardless of household income, seniors without  
22 prescription drug coverage are often just one serious illness

1 away from poverty.

2 (f) Reducing the price of prescription drugs would  
3 benefit the health and well-being of all Illinois senior  
4 citizens by providing more affordable access to needed drugs.

5 Section 10. Purpose. The purpose of this program is to  
6 require the Department of Central Management Services to  
7 establish and administer a program that will enable eligible  
8 senior citizens and disabled persons to purchase prescription  
9 drugs at discounted prices.

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

11 "Authorized pharmacy" means any pharmacy registered in  
12 this State under the Pharmacy Practice Act of 1987 and  
13 approved by the Department or its program administrator.

14 "AWP" or "average wholesale price" means the amount  
15 determined from the latest publication of the Red Book, a  
16 universally subscribed pharmacist reference guide annually  
17 published by the Hearst Corporation. "AWP" or "average  
18 wholesale price" may also be derived electronically from the  
19 drug pricing database synonymous with the latest publication  
20 of the Red Book and furnished in the National Drug Data File  
21 (NDDF) by First Data Bank (FDB), a service of the Hearst  
22 Corporation.

23 "Department" means the Department of Central Management  
24 Services.

25 "Director" means the Director of Central Management  
26 Services.

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

32 "Drug manufacturer" means any entity (1) that is located

1 within or outside Illinois that is engaged in (i) the  
2 production, preparation, propagation, compounding,  
3 conversion, or processing of prescription drug products  
4 covered under the program, either directly or indirectly by  
5 extraction from substances of natural origin, independently  
6 by means of chemical synthesis, or by a combination of  
7 extraction and chemical synthesis or (ii) the packaging,  
8 repackaging, leveling, labeling, or distribution of  
9 prescription drug products covered under the program and (2)  
10 that elects to provide prescription drugs either directly or  
11 under contract with any entity providing prescription drug  
12 services on behalf of the State of Illinois. "Drug  
13 manufacturer", however, does not include a wholesale  
14 distributor of drugs or a retail pharmacy licensed under  
15 Illinois law.

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

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

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

22 "Program administrator" means the entity that is chosen  
23 by the Department to administer the program. The program  
24 administrator may, in this case, be the Director or a  
25 Pharmacy Benefits Manager (PBM) chosen to subcontract with  
26 the Director.

27 "Rules" includes rules adopted and forms prescribed by  
28 the Department.

29 Section 17. Determination of disability. Disabled  
30 persons filing applications for participation in the program  
31 shall submit proof of disability in such form and manner as  
32 the Department shall by rule prescribe. Proof that a claimant  
33 is eligible to receive disability benefits under the Federal

1 Social Security Act shall constitute proof of disability for  
2 purposes of this Act. Issuance of an Illinois Disabled Person  
3 Identification Card stating that the claimant is under a  
4 Class 2 disability, as defined in Section 4A of the Illinois  
5 Identification Card Act, shall constitute proof that the  
6 person named thereon is a disabled person for purposes of  
7 this Act. A disabled person not covered under the Federal  
8 Social Security Act and not presenting a Disabled Person  
9 Identification Card stating that the he or she is under a  
10 Class 2 disability shall be examined by a physician  
11 designated by the Department, and his or her status as a  
12 disabled person determined using the same standards as used  
13 by the Social Security Administration. The costs of any  
14 required examination shall be borne by the person claiming a  
15 disability.

16 Section 20. The Senior Citizens and Disabled Persons  
17 Prescription Drug Discount Program. The Senior Citizens and  
18 Disabled Persons Prescription Drug Discount Program is  
19 established to protect the health and safety of senior  
20 citizens and disabled persons. The program shall be  
21 administered by the Department. The Department or its program  
22 administrator shall (i) enroll eligible seniors and disabled  
23 persons into the program, as provided in Section 35 of this  
24 Act, to qualify them for a discount on the purchase of  
25 prescription drugs at an authorized pharmacy, (ii) enter into  
26 rebate agreements with drug manufacturers, as provided under  
27 Section 30 of this Act, and (iii) subject to the provisions  
28 of Section 47 of this Act, compensate pharmacies  
29 participating in the program as provided under Section 25 of  
30 this Act.

31 Section 25. Program administration.

32 (a) The Department is authorized under this Act to be

1 the program administrator. If the Department is not the  
2 program administrator, 90 days after the effective date of  
3 this Act, the Department must issue a request for proposals  
4 for bidders interested in administering the program. Bidders  
5 must compete on the basis of the following minimum criteria:

6 (1) The Director shall solicit and accept proposals  
7 from entities to provide for administration of a program  
8 or programs in accordance with rules adopted under  
9 Section 45. Proposals must be submitted not later than a  
10 date established by the Director. The Director shall  
11 accept only those proposals that specify the following:

12 (A) The estimated amount of the discount based  
13 on the entity's previous experience and how the  
14 discount is to be achieved.

15 (B) The extent that discounts on prescription  
16 drugs are to be achieved through rebates,  
17 administrative fees, or other fees or discounts in  
18 prices that the entity negotiates with drug  
19 manufacturers. The proposals shall assure that  
20 rebates or discounts will be used to do the  
21 following:

22 (i) reduce costs to cardholders;

23 (ii) achieve discounts for cardholders;

24 and

25 (iii) cover costs for administering the  
26 program.

27 (C) Any other benefits offered to cardholders.

28 (D) The estimated number and geographic  
29 distribution of participating pharmacies in the  
30 administrator's pharmacy network.

31 (E) The plan for pharmacy compensation,  
32 pursuant to subsection (e) of this Section.

33 (F) The method used for determining the  
34 prescription drugs to be covered by the program,

1 including the criteria and process for establishing  
2 a preferred drug list, if applicable.

3 (G) How the entity proposes to improve  
4 medication management for cardholders, including any  
5 program of disease management.

6 (H) How cardholders and participating  
7 pharmacies will be informed of the discounted price  
8 negotiated by the entity.

9 (I) How the entity will handle complaints  
10 about the program's operation.

11 (J) The entity's previous experience in  
12 managing similar programs.

13 (K) Any additional information requested by  
14 the Director.

15 (2) The Director shall contract with one or more  
16 entities to administer a program or programs on the basis  
17 of the proposals submitted, but may require an  
18 administrator to modify its conduct of a program in  
19 accordance with rules adopted under Section 45.

20 The Director shall adopt rules specifying the period  
21 for which a contract will be in effect and may terminate  
22 a contract if an administrator fails to conduct a program  
23 in accordance with its proposal or with any modifications  
24 required by rule. When a contract period ends or a  
25 contract is terminated, the Director shall enter into a  
26 new contract in the manner specified in this Section for  
27 an original contract. Prior to making a new contract, the  
28 Director may modify the rules for administration of the  
29 program or programs.

30 (b) As used in this Section, "administrator" includes  
31 the administrator's parent company and any subsidiary of the  
32 parent company.

33 (1) No administrator shall sell any information  
34 concerning a person who holds a prescription drug

1 discount card, other than aggregate information that does  
2 not identify the cardholder, without the cardholder's  
3 written consent.

4 (2) Unless an administrator has the cardholder's  
5 written consent, no administrator shall use any  
6 personally identifiable information that it obtains  
7 concerning a cardholder through the program to promote or  
8 sell a program or product offered by the administrator  
9 that is not related to the administration of the program.  
10 This subsection (b) does not prohibit an administrator  
11 from contacting cardholders concerning participation in  
12 or administration of the program, including, but not  
13 limited to, mailing a list of pharmacies participating in  
14 the program's network or participating in disease  
15 management programs.

16 (3) To the extent that a discount is achieved  
17 through rebates, administrative fees, or any other fees  
18 or discounts in prices that an administrator negotiates  
19 with drug manufacturers, an administrator shall use the  
20 rebates or discounts to do the following:

- 21 (A) reduce costs to cardholders;
- 22 (B) achieve discounts for cardholders; and
- 23 (C) cover any administrative costs of the  
24 program.

25 (4) The administrator shall not use any funds  
26 generated from rebates, discounts, administrative fees,  
27 or other fees to promote its mail order pharmacy  
28 operation or the mail order pharmacy operation of an  
29 affiliate.

30 (c) Beginning on January 1, 2004, the amount paid by  
31 eligible seniors and disabled persons enrolled in the program  
32 to authorized pharmacies for prescription drugs may not  
33 exceed prices established as a result of the rebate  
34 agreements under Section 30. The eligible seniors and

1 disabled persons shall pay the price determined under Section  
2 30 plus a dispensing fee of \$3.50 per prescription for brand  
3 name drug products, single-source drug products, and, for a  
4 period of 6 months, newly-released generic drug products and  
5 \$4.25 per prescription for all other generic drug products,  
6 except that the total amount paid by the eligible senior or  
7 disabled person for each prescription drug under this program  
8 shall not exceed the usual and customary charge for such  
9 prescription.

10 (d) The contract between the Department and a pharmacy  
11 benefits manager must, at a minimum, meet the criteria of  
12 subsection (a). The contract must also require notification  
13 by the pharmacy benefits manager of any proposed or ongoing  
14 activity that involves, directly or indirectly, any conflict  
15 of interest on the part of the pharmacy benefits manager. The  
16 Department shall ensure that the pharmacy benefits manager  
17 complies with the contract and shall adopt all procedures  
18 necessary to enforce the contract.

19 (e) The Department or program administrator shall,  
20 subject to the funds available under Section 30 of this Act,  
21 compensate authorized pharmacies for prescription drugs  
22 dispensed under the program for the difference between the  
23 amount paid by the eligible senior or disabled person for  
24 prescription drugs dispensed under the program and (i) the  
25 AWP minus 12% for brand name drug products, single-source  
26 generic drug products, and, for a period of 6 months,  
27 newly-released generic drug products and (ii) the AWP minus  
28 35% for all other generic drug products. The Department shall  
29 compensate a pharmacy under this subsection (e) only if the  
30 amount paid by the eligible senior or disabled person has  
31 been discounted to a price, including the dispensing fees  
32 stated in subsection (c) of this Section, that is less than  
33 (i) the AWP minus 12% for brand name drug products,  
34 single-source generic drug products, and, for a period of 6



1 months, newly-released generic drug products and (ii) the AWP  
2 minus 35% for all other generic drug products.

3 (f) Beginning on January 1, 2004, the Department or  
4 program administrator shall reimburse pharmacies under this  
5 Section within 30 days after adjudication of the claim.

6 Section 30. Manufacturer rebate agreements.

7 (a) Taking into consideration the extent to which the  
8 State pays for prescription drugs under various State  
9 programs and the provision of assistance to disabled persons  
10 or eligible seniors under patient assistance programs,  
11 prescription drug discount programs, or other offers for free  
12 or reduced price medicine, clinical research projects,  
13 limited supply distribution programs, compassionate use  
14 programs, or programs of research conducted by or for a drug  
15 manufacturer, the Department, its agent, or the program  
16 administrator shall negotiate and enter into rebate  
17 agreements with drug manufacturers, as defined in this Act,  
18 to effect prescription drug price discounts. The Department  
19 or program administrator may establish a preferred drug list  
20 as a basis for determining the discounts, administrative  
21 fees, or other fees or rebates under this Section.

22 (b) Rebate payment procedures. All rebates negotiated  
23 under agreements described in this Section shall be paid in  
24 accordance with procedures prescribed by the Department or  
25 the program administrator.

26 (c) Receipts from rebates shall be used to provide  
27 discounts for prescription drugs purchased by eligible  
28 seniors and disabled persons and to cover the cost of  
29 administering the program, including compensation to be paid  
30 to participating pharmacies by the Department or program  
31 administrator under subsection (e) of Section 25. Any  
32 receipts to be allocated to the Department shall be deposited  
33 into the Senior Citizens and Disabled Persons Prescription

1 Drug Discount Program Fund, a special fund hereby created in  
2 the State treasury.

3 Section 35. Program eligibility.

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

25 (b) Proceeds from annual enrollment fees shall be used  
26 by the Department to offset the administrative cost of this  
27 Act. The Department may reduce the annual enrollment fee by  
28 rule if the revenue from the enrollment fees is in excess of  
29 the costs to carry out the program.

30 (c) Any person who is eligible for pharmaceutical  
31 assistance under the Senior Citizens and Disabled Persons  
32 Property Tax Relief and Pharmaceutical Assistance Act is  
33 presumed to be eligible for this program. The enrollment fee

1 under this Act is not required for such persons. That person  
2 may purchase prescription drugs under this program that are  
3 not covered by the pharmaceutical assistance program under  
4 the Senior Citizens and Disabled Persons Property Tax Relief  
5 and Pharmaceutical Assistance Act by using the identification  
6 card issued under the pharmaceutical assistance program.

7 Section 40. Eligible pharmacies.

8 (a) The Department or its program administrator shall  
9 adopt rules to establish standards and procedures for  
10 participation in the program and approve those pharmacies  
11 that apply to participate and meet the requirements for  
12 participation. Pharmacies in the program administrator's  
13 network must also comply with the Department's standards and  
14 procedures for participation.

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

28 Section 45. Rules. The Department shall adopt rules to  
29 implement and administer the program, which shall include the  
30 following:

31 (1) Execution of contracts with pharmacies to  
32 participate in the program. The contracts shall stipulate

1 terms and conditions for the participation of authorized  
2 pharmacies and the rights of the State to terminate  
3 participation for breach of the contract or for violation  
4 of this Act or rules adopted by the Department under this  
5 Act.

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

10 (3) Inspection of appropriate records and audits of  
11 participating authorized pharmacies to ensure contract  
12 compliance and to determine any fraudulent transactions  
13 or practices under this Act.

14 (4) Specify how a resident may apply to participate  
15 in the program.

16 (5) Specify the circumstances under which the  
17 Director may require an administrator to modify its  
18 conduct of the program.

19 (6) Specify the duration of a contract.

20 (7) Require that an administrator permit any  
21 Illinois-licensed pharmacy willing to comply with the  
22 requirements of this Act and terms and conditions for  
23 participation in the program's network to participate in  
24 any network used by the administrator for its program.

25 (8) Permit an administrator to negotiate with one  
26 or more drug manufacturers for discounts in drug prices  
27 or rebates.

28 (9) Permit an administrator to receive any rebate  
29 payments from drug manufacturers.

30 (10) Permit an administrator to develop,  
31 administer, and promote a program of disease management  
32 pursuant to written agreements between the administrator  
33 and pharmacies participating under the program  
34 established by this Act.

1 Section 47. Limit on State's obligation for cost of  
2 administration. The State of Illinois is obligated for the  
3 cost of administering this program only to the extent of the  
4 amount of money collected as enrollment fees under Section 35  
5 of this Act, rebates collected under Section 30 of this Act,  
6 and funds appropriated by the General Assembly for the  
7 purpose of this Act.

8 Section 50. Report on administration of program. The  
9 Department shall report to the Governor and the General  
10 Assembly by March 1st of each year on the administration of  
11 the program under this Act. The report shall include but not  
12 be limited to the following:

13 (1) the number of disabled persons and seniors eligible  
14 and enrolled in the program, by county;

15 (2) the activities undertaken by the State to inform  
16 disabled persons and seniors about the program;

17 (3) the number of prescriptions filled under the program  
18 for enrollees, and the estimated savings for enrollees;

19 (4) a listing of the manufacturers and pharmacies  
20 participating in the program;

21 (5) the amount of enrollment fees and rebates collected  
22 under the program, and any additional funds or resources made  
23 available to cover the cost of the program;

24 (6) the itemized annual cost of administering the  
25 program; and

26 (7) findings and recommendations regarding problems and  
27 solutions related to the program, together with proposals for  
28 changes in the rules, regulations, or laws necessary to  
29 improve the administration of the program.

30 Section 990. The State Finance Act is amended by adding  
31 Section 5.595 as follows:

1 (30 ILCS 105/5.595 new)

2 Sec. 5.595. The Senior Citizens and Disabled Persons  
3 Prescription Drug Discount Program Fund.

4 Section 99. Effective date. This Act takes effect on  
5 July 1, 2003."