

1 AN ACT in relation to health.

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

4 Section 1. Short title. This Act may be cited as the  
5 Affordable Prescription Drugs for Illinois Act.

6 Section 5. Purpose. The purpose of this Act is to  
7 authorize the State Treasurer to establish and administer a  
8 Program that will enable participants to purchase affordable  
9 prescription drugs.

10 Section 10. Definitions. In this Act:

11 "Average wholesale price" means the amount determined  
12 from the latest publication of the Blue Book, a universally  
13 subscribed pharmacist reference guide annually published by  
14 the Hearst Corporation, or derived electronically from the  
15 drug pricing database synonymous with the latest publication  
16 of the Blue Book and furnished in the National Drug Data File  
17 (NDDF) by First Data Bank (FDB), a service of the Hearst  
18 Corporation.

19 "Drug manufacturer" means any entity located within or  
20 outside Illinois that is engaged in (i) the production,  
21 preparation, propagation, compounding, conversion, or  
22 processing of prescription drug products covered under the  
23 Program, either directly or indirectly by extraction from  
24 substances of natural origin, independently by means of  
25 chemical synthesis, or by a combination of extraction and  
26 chemical synthesis or (ii) the packaging, repackaging,  
27 leveling, labeling, or distribution of prescription drug  
28 products covered under the Program. "Drug manufacturer",  
29 however, does not include a wholesale distributor of drugs or  
30 a retail pharmacy licensed under the Pharmacy Practice Act of

1 1987.

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

8 "Fund" means the Affordable Prescription Drugs for  
9 Illinois Program Fund.

10 "Participant" means any Illinois resident who (i) is less  
11 than 18 years of age, is 65 years of age or older, or has  
12 catastrophic health problems and (ii) has been approved by the  
13 State Treasurer for participation in the Program.

14 "Participating pharmacy" means any pharmacy licensed in  
15 this State under the Pharmacy Practice Act of 1987 that has  
16 been approved by the State Treasurer for participation in the  
17 Program.

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

20 "Program" means the Affordable Prescription Drugs for  
21 Illinois Program created under this Act.

22 "Rules" includes rules adopted and forms prescribed by  
23 the State Treasurer.

24 Section 15. Program. The State Treasurer is authorized to  
25 establish and administer the Affordable Prescription Drugs  
26 for Illinois Program to make more affordable prescription  
27 drugs available to participants. The State Treasurer shall  
28 (i) enroll participants into the Program to qualify them for  
29 a discount on the purchase of prescription drugs at an  
30 authorized pharmacy, (ii) enter into rebate agreements with  
31 drug manufacturers, and (iii) reimburse participating  
32 pharmacies for the cost of providing discounts using the  
33 proceeds from the manufacturer rebate agreements.

1 Section 20. Prescription drug prices.

2 (a) On and after January 1, 2002, the amount paid by  
3 participants enrolled in the Program to participating  
4 pharmacies for prescription drugs may not exceed prices  
5 listed on the Federal Supply Schedule plus a dispensing fee  
6 calculated as provided in Section 3.16 of the Senior Citizens  
7 and Disabled Persons Property Tax Relief and Pharmaceutical  
8 Assistance Act. Nothing in this Act precludes a participating  
9 pharmacy from charging less than the listed price on the  
10 Federal Supply Schedule. The State Treasurer must provide the  
11 applicable Federal Supply Schedule to participating  
12 pharmacies. For prescription drugs that are not listed on the  
13 Federal Supply Schedule, the amount paid by eligible seniors  
14 enrolled in the Program to participating pharmacies may not  
15 exceed the average wholesale price minus 35% plus a  
16 dispensing fee calculated as provided in Section 3.16 of the  
17 Senior Citizens and Disabled Persons Property Tax Relief and  
18 Pharmaceutical Assistance Act.

19 (b) The State Treasurer shall compensate participating  
20 pharmacies from the Affordable Prescription Drugs for  
21 Illinois Program Fund for the difference between the amount  
22 paid by participants for prescription drugs dispensed under  
23 the Program and the average wholesale price minus 10%.

24 Section 25. Manufacturer rebate agreements.

25 (a) Each drug manufacturer that distributes a  
26 prescription drug for sale in Illinois and has an agreement  
27 with any payor of prescription drug benefits that results in  
28 a reduction in price for prescription drugs sold by a  
29 participating pharmacy shall also enter into a rebate  
30 agreement with the State Treasurer to enable persons eligible  
31 for benefits under the Program to purchase prescription drugs  
32 at a discounted price. The rebate must be equal to the cost  
33 to the State Treasurer for reimbursing participating

1 pharmacies under this Act pursuant to subsection (b) of  
2 Section 20. The rebate agreement shall become effective the  
3 first day of the calendar quarter that begins 60 days after  
4 the date the agreement is entered into.

5 (b) The State Treasurer shall develop a model rebate  
6 agreement for prescription drugs dispensed on and after the  
7 effective date of this Act.

8 (c) All rebates negotiated under agreements described in  
9 this Section must be paid to the State Treasurer in  
10 accordance with procedures prescribed by the State Treasurer.  
11 All rebates must be remitted to the State Treasurer not later  
12 than 30 days after receipt of a request for payment by the  
13 State Treasurer.

14 (d) The receipts from the rebates and moneys transferred  
15 under Section 30 shall be deposited into the Affordable  
16 Prescription Drugs for Illinois Program Fund, a special fund  
17 created in the State treasury, and shall be used, subject to  
18 appropriation, to cover the cost of reimbursing participating  
19 pharmacies under this Act pursuant to subsection (b) of  
20 Section 20.

21 Section 30. Transfer to Fund. Within 30 days after the  
22 effective date of this Act, the State Treasurer shall  
23 transfer \$30,000,000 from the General Revenue Fund to the  
24 Affordable Prescription Drugs for Illinois Program Fund to  
25 facilitate the payment of reimbursements to participating  
26 pharmacies. Repayment of principal and interest to the  
27 General Revenue Fund shall be made so that the balance in the  
28 General Revenue Fund will be restored as if the transfer to  
29 the Affordable Prescription Drugs for Illinois Program Fund  
30 had not been made. Upon a certification by the State  
31 Treasurer that the obligations under subsection (b) of  
32 Section 20 are being met, beginning on July 1, 2002, and on  
33 the 1st day of each month thereafter until the principal

1 amount transferred from the General Revenue Fund plus  
2 interest has been repaid, the State Treasurer shall transfer  
3 1/12th of \$30,000,000, or so much of that amount as is  
4 necessary, from the Affordable Prescription Drugs for  
5 Illinois Program Fund to the General Revenue Fund plus  
6 accrued interest. The balance of the amount transferred from  
7 the General Revenue Fund shall bear interest at the rate of  
8 7.5% per annum until the required transfers back into the  
9 General Revenue Fund have been completed.

10 Section 35. Eligibility.

11 (a) Any person may apply to the State Treasurer for  
12 participation in the Program in the form and manner required  
13 by the State Treasurer. The State Treasurer shall determine  
14 the eligibility of each applicant for the Program within 30  
15 days after the date of application. To participate in the  
16 Program, participants whose applications have been approved  
17 by the State Treasurer must pay \$25 upon enrollment and  
18 annually thereafter and shall receive a Program  
19 identification card. The card may be presented to a  
20 participating pharmacy to assist the pharmacy in verifying  
21 eligibility under the Program. If 2 or more persons are  
22 eligible for any benefit under this Act and are members of  
23 the same household, each participating household member must  
24 apply to the State Treasurer and pay the fee required for the  
25 purpose of obtaining an identification card.

26 (b) The State Treasurer shall deposit the enrollment  
27 fees collected into the Fund. The moneys collected by the  
28 State Treasurer for enrollment fees and deposited into the  
29 Fund must be separately accounted for by the State Treasurer.

30 (c) Proceeds from annual enrollment fees, subject to  
31 appropriation, shall be used by the State Treasurer to offset  
32 the costs of administering this Act. The State Treasurer may  
33 reduce the annual enrollment fee by rule if the revenue from

1 the enrollment fees exceeds the costs of administering this  
2 Act.

3 (d) A person who has been determined eligible for  
4 pharmaceutical assistance under the Senior Citizens and  
5 Disabled Persons Property Tax Relief and Pharmaceutical  
6 Assistance Act is presumed to be eligible for the Program  
7 under this Act. Under the Program under this Act, that  
8 person may purchase prescription drugs that are not covered  
9 by the pharmaceutical assistance program by using the  
10 identification card issued under the pharmaceutical  
11 assistance program.

12 Section 40. Pharmacies.

13 (a) The State Treasurer shall adopt rules to establish  
14 standards and procedures for a pharmacy's participation in  
15 the Program and shall approve those pharmacies that apply to  
16 participate and meet the requirements for participation. The  
17 State Treasurer may remove the authorization of a pharmacy to  
18 participate in the Program for failure to meet the standards  
19 and procedures for participation established by the State  
20 Treasurer. A pharmacy that has been removed as a  
21 participating pharmacy by the State Treasurer may apply for  
22 reinstatement as a participating pharmacy in accordance with  
23 standards and procedures established by the State Treasurer  
24 by rule.

25 (b) The State Treasurer shall annually review the  
26 eligibility of pharmacies to participate in the Program.

27 (c) The State Treasurer shall establish procedures for  
28 properly contracting for pharmacy services, validating  
29 reimbursement claims, validating compliance of participating  
30 pharmacies with the conditions for participation required  
31 under this Act, and otherwise providing for the effective  
32 administration of this Act. The State Treasurer, in  
33 consultation with pharmacists licensed under the Pharmacy

1 Practice Act of 1987, may enter into a written contract with  
2 any other State agency, instrumentality, or political  
3 subdivision or with a fiscal intermediary for the purpose of  
4 making payments to participating pharmacies pursuant to  
5 subsection (b) of Section 20 and coordinating the Program  
6 with other programs that provide payments for prescription  
7 drugs covered under the Program.

8 Section 45. Rules. The State Treasurer shall adopt rules  
9 to implement and administer the Program, which shall include  
10 the following:

11 (1) Execution of contracts with pharmacies to  
12 participate in the Program. The contracts must stipulate  
13 terms and conditions for the participation of pharmacies  
14 and the rights of the State to terminate participation  
15 for breach of the contract or for violation of this Act  
16 or rules adopted by the State Treasurer under this Act.

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

21 (3) Establishment of liens upon all causes of  
22 action that accrue to a beneficiary as a result of  
23 injuries for which prescription drugs covered under the  
24 Program are directly or indirectly required and for which  
25 the State Treasurer made payment or became liable under  
26 this Act.

27 (4) Inspection of appropriate records and audits of  
28 participating authorized pharmacies to ensure contract  
29 compliance and to determine any fraudulent transactions  
30 or practices under this Act.

31 Section 50. Report on administration of Program. The  
32 State Treasurer shall report to the Governor and the General

1 Assembly by March 1 of each year on the administration of the  
2 Program under this Act.

3 Section 90. The State Finance Act is amended by adding  
4 Section 5.545 as follows:

5 (30 ILCS 105/5.545 new)

6 Sec. 5.545. The Affordable Prescription Drugs for  
7 Illinois Program Fund.

8 Section 99. Effective date. This Act takes effect on July  
9 1, 2001.