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**STATE OF IOWA**

**House Journal**

**WEDNESDAY, APRIL 2, 2003**

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## JOURNAL OF THE HOUSE

Eightieth Calendar Day - Fifty-seventh Session Day

Hall of the House of Representatives  
Des Moines, Iowa, Wednesday, April 2, 2003

The House met pursuant to adjournment at 8:57 a.m., Speaker Rants in the chair.

Prayer was offered by Reverend Duane Marburger, chaplain of Ottumwa Good Samaritan Rehabilitation and Health Center, Bloomfield. He was the guest of Representative Kurt Swaim of Davis County.

The Journal of Monday, April 1, 2003 was approved.

### PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Speaker Rants.

### SENATE MESSAGE CONSIDERED

[Senate File 383](#), by committee on education, a bill for an act authorizing the establishment of an Iowa virtual academy, authorizing the board of educational examiners to license instructors of internet courses, and providing an effective date.

Read first time and referred to committee on **education**.

### SPECIAL PRESENTATION

#### Pella Tulip Festival

Van Engelenhoven of Marion presented to the House, Ashley Braun, Queen of the 2003 Pella Tulip Festival and escorted her and her court to the Speaker's station.

Queen Braun presented her attendants, Elizabeth Terborg, Tiffany Pol, Amy Laug and Katie Kniff.

Also present from Pella were the parents of the Queen and her court, who wore native Dutch costumes and distributed the famous Pella Dutch cookies.

Queen Braun addressed the House briefly and invited everyone to attend the Pella Tulip Festival on May 1, 2 and 3, 2003.

The House rose and expressed its welcome and appreciation.

On motion by Gipp of Winneshiek, the House was recessed at 9:04 a.m., until 1:00 p.m.

#### AFTERNOON SESSION

The House reconvened at 12:58 p.m., Speaker Rants in the chair.

#### QUORUM CALL

A non-record roll call was requested to determine that a quorum was present. The vote revealed seventy-one members present, twenty-nine absent.

The House stood at ease at 1:06 p.m., until the fall of the gavel.

The House resumed session at 3:13 p.m., Speaker Rants in the chair.

#### CONSIDERATION OF BILLS

##### Regular Calendar

[Senate Joint Resolution 1](#), a joint resolution authorizing the temporary use and consumption of wine in the State Capitol in conjunction with the awards ceremony of the World Food Prize Foundation with report of committee recommending passage, was taken up for consideration.

Jacobs of Polk moved that the joint resolution be read a last time now and placed upon its adoption and the joint resolution was read a last time.

On the question "Shall the joint resolution be adopted and agreed to?" ([S.J.R. 1](#))

The yeas were, 86:

Baudler	Bell	Berry	Boddicker
Bogges	Bukta	Carroll	Cohoon
Connors	Dandekar	Davitt	Dennis
Dix	Dolecheck	Drake	Elgin
Fallon	Foege	Ford	Freeman

Frevert	Gaskill	Gipp	Granzow
Greimann	Greiner	Hahn	Hansen
Hanson	Heaton	Heddens	Hogg
Horbach	Hunter	Huseman	Huser
Hutter	Jacobs	Jochum	Jones
Kramer	Kuhn	Kurtenbach	Lensing
Lukan	Lykam	Maddox	Manternach
Mascher	McCarthy	Mertz	Miller
Murphy	Myers	Oldson	Olson, D.
Olson, S.	Osterhaus	Paulsen	Petersen
Quirk	Raecker	Rayhons	Reasoner
Sands	Schickel	Shoultz	Smith
Stevens	Struyk	Swaim	Taylor, T.
Thomas	Tjepkes	Tymeson	Upmeyer
Van Fossen, J.K.	Van Fossen, J.R.	Watts	Wendt
Whitaker	Whitead	Wilderdyke	Winckler
Wise	Mr. Speaker		
	Rants		

The nays were, 12:

Alons	Arnold	Boal	Chambers
De Boef	Eichhorn	Klemme	Lalk
Rasmussen	Roberts	Taylor, D.	Van Engelenhoven

Absent or not voting, 2:

Hoffman	Jenkins
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The joint resolution having received a constitutional majority was declared to have been adopted and agreed to by the House.

#### MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker: I am directed to inform your honorable body that the Senate has on April 2, 2003, passed the following bill in which the concurrence of the Senate was asked:

[House File 289](#), a bill for an act relating to electronic financial transactions with county treasurers.

Also: That the Senate has on April 2, 2003, passed the following bill in which the concurrence of the Senate was asked:

[House File 341](#), a bill for an act relating to personnel and instructors employed by community colleges.

Also: That the Senate has on April 2, 2003, passed the following bill in which the concurrence of the Senate was asked:

[House File 342](#), a bill for an act relating to the use of sick leave by certain members of the Iowa department of public safety peace officers' retirement, accident, and disability system who are temporarily incapacitated for duty.

Also: That the Senate has on April 2, 2003, passed the following bill in which the concurrence of the Senate was asked:

[House File 479](#), a bill for an act designating advanced registered nurse practitioners as providers of health care services pursuant to managed care or prepaid services contracts under the medical assistance program.

Also: That the Senate has on April 2, 2003, passed the following bill in which the concurrence of the House is asked:

[Senate File 344](#), a bill for an act concerning regulatory and statutory requirements impacting business relating to liability reform, unemployment compensation benefits eligibility and employer contributions, workers' compensation, occupational safety and health administration training and compliance requirements, financial services and restrictions on property rights, environmental regulatory requirements, and public project contractor requirements.

MICHAEL E. MARSHALL, Secretary

[HOUSE FILE 664](#) WITHDRAWN

De Boef of Keokuk asked and received unanimous consent to withdraw [House File 664](#) from further consideration by the House.

IMMEDIATE MESSAGE

Gipp of Winneshiek asked and received unanimous consent that [Senate Joint Resolution 1](#) be immediately messaged to the Senate.

Gipp of Winneshiek asked and received unanimous consent for the immediate consideration of [House File 659](#).

[House File 659](#), a bill for an act relating to ownership of alternate energy production facilities by public utilities, making related changes, and providing an effective date, with report of committee recommending amendment and passage, was taken up for consideration.

Jenkins of Black Hawk offered the following amendment [H-1218](#) filed by the committee on commerce, regulation and labor and moved its adoption:

H-1218

1 Amend [House File 659](#) as follows:

2 1. By striking page 3, line 32, through page 4,  
3 line 8, and inserting the following:

4 "b. In determining the applicable ratemaking  
5 principles, the board shall not be limited to  
6 traditional ratemaking principles or traditional cost  
7 recovery mechanisms. Among the principles and  
8 mechanisms the board may consider, the board has the  
9 authority to approve ratemaking principles proposed by  
10 a rate-regulated public utility that provide for  
11 reasonable restrictions upon the ability of the public  
12 utility to seek a general increase in electric rates  
13 under section 476.6 for at least three years after the  
14 generation facility begins providing service to Iowa  
15 customers."

16 2. By renumbering, redesignating, and correcting  
17 internal references as necessary.

The committee amendment [H-1218](#) was adopted.

Jenkins of Black Hawk moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 659](#))

The ayes were, 98:

Alons	Baudler	Bell	Berry
Boal	Boddicker	Boggess	Bukta
Carroll	Chambers	Cohoon	Connors
Dandekar	Davitt	De Boef	Dennis
Dix	Dolecheck	Drake	Eichhorn
Elgin	Fallon	Foege	Ford
Freeman	Frevert	Gaskill	Gipp
Granzow	Greimann	Greiner	Hahn
Hansen	Hanson	Heaton	Heddens
Hoffman	Hogg	Horbach	Hunter
Huseman	Huser	Hutter	Jacobs
Jenkins	Jochum	Jones	Klemme
Kramer	Kuhn	Kurtenbach	Lalk
Lensing	Lukan	Lykam	Maddox
Manternach	Mascher	McCarthy	Mertz

Miller	Murphy	Myers	Oldson
Olson, D.	Olson, S.	Osterhaus	Paulsen
Petersen	Quirk	Raecker	Rasmussen
Reasoner	Roberts	Sands	Schickel
Shoultz	Smith	Stevens	Struyk
Swaim	Taylor, D.	Taylor, T.	Thomas
Tjepkes	Tymeson	Upmeyer	Van Engelenhoven
Van Fossen, J.K.	Van Fossen, J.R.	Watts	Wendt
Whitaker	Whitead	Wilderdyke	Winckler
Wise	Mr. Speaker		
	Rants		

The nays were, 1:

Arnold

Absent or not voting, 1:

Rayhons

The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

#### IMMEDIATE MESSAGE

Gipp of Winneshiek asked and received unanimous consent that [House File 659](#) be immediately messaged to the Senate.

#### Appropriations Calendar

[House File 662](#), a bill for an act relating to the funding of, the operation of, and appropriation of moneys to the college student aid commission, the department for the blind, the department of cultural affairs, the department of education, and the state board of regents and including an effective date and retroactive applicability date provision, was taken up for consideration.

Winckler of Scott asked and received unanimous consent that amendment [H-1210](#) be deferred.

Dolecheck of Ringgold offered amendment [H-1195](#) filed by him and Upmeyer of Hancock as follows:

H-1195

- 1 Amend [House File 662](#) as follows:
- 2 1. Page 11, by striking lines 4 through 21 and

3 inserting the following:  
 4 " ..... \$139,260,763  
 5 The funds appropriated in this subsection shall be  
 6 allocated as follows:  
 7 a. Merged Area I ..... \$ 6,683,208  
 8 b. Merged Area II..... \$ 7,850,326  
 9 c. Merged Area III..... \$ 7,292,776  
 10 d. Merged Area IV..... \$ 3,564,554  
 11 e. Merged Area V ..... \$ 7,457,487  
 12 f. Merged Area VI ..... \$ 6,909,220  
 13 g. Merged Area VII ..... \$ 9,969,086  
 14 h. Merged Area IX ..... \$ 12,261,253  
 15 i. Merged Area X..... \$ 19,242,498  
 16 j. Merged Area XI..... \$ 20,423,208  
 17 k. Merged Area XII..... \$ 8,046,150  
 18 l. Merged Area XIII..... \$ 8,273,870  
 19 m. Merged Area XIV..... \$ 3,607,057  
 20 n. Merged Area XV ..... \$ 11,350,140  
 21 o. Merged Area XVI ..... \$ 6,329,930"

22 2. Page 11, by inserting before line 22 the  
 23 following:  
 24 "Sec. 101. SUPPLEMENTAL AID FOR COMMUNITY  
 25 COLLEGES. Notwithstanding the provisions of section  
 26 8.33 or any other provision of law to the contrary,  
 27 moneys from the appropriation made in 2001 Iowa Acts,  
 28 chapter 177, section 1, reserved for purposes of  
 29 section 284.13, subsection 1, paragraph "a", which  
 30 remain unexpended or unencumbered on June 30, 2003,  
 31 shall be spent by the department of education in the  
 32 following amount to supplement the general state  
 33 financial aid provided to community colleges pursuant  
 34 to section 5, subsection 14 of this Act:

35 ..... \$ 762,675  
 36 The funds allocated in this subsection shall be  
 37 distributed as follows:  
 38 a. Merged Area I ..... \$ 36,600  
 39 b. Merged Area II..... \$ 42,993  
 40 c. Merged Area III..... \$ 39,940  
 41 d. Merged Area IV..... \$ 19,522  
 42 e. Merged Area V ..... \$ 40,842  
 43 f. Merged Area VI ..... \$ 37,839  
 44 g. Merged Area VII ..... \$ 54,597  
 45 h. Merged Area IX ..... \$ 67,150  
 46 i. Merged Area X..... \$ 105,383  
 47 j. Merged Area XI..... \$ 111,850  
 48 k. Merged Area XII..... \$ 44,066  
 49 l. Merged Area XIII..... \$ 45,313  
 50 m. Merged Area XIV..... \$ 19,754

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1 n. Merged Area XV ..... \$ 62,160



- 2 o. Merged Area XVI ..... \$ 34,666"  
3 3. Page 22, by inserting after line 23 the  
4 following:  
5 "Sec. \_\_\_. Section 261.25, subsection 1, Code  
6 2003, is amended to read as follows:  
7 1. There is appropriated from the general fund of  
8 the state to the commission for each fiscal year the  
9 sum of forty-six million ~~one~~ four hundred seventeen  
10 thousand nine hundred sixty-four dollars for tuition  
11 grants."  
12 4. Page 25, by inserting after line 23 the  
13 following:  
14 " \_\_\_. Section 101 of this Act, relating to the  
15 supplemental aid for community colleges, being deemed  
16 of immediate importance, takes effect upon enactment."  
17 5. Page 25, lines 31 and 32, by striking the  
18 words and figures "and applies retroactively to June  
19 30, 2002".  
20 6. By renumbering as necessary.

Frevert of Palo Alto asked and received unanimous consent to withdraw amendment [H-1230](#), to amendment [H-1195](#), filed by her from the floor.

On motion by Dolecheck of Ringgold amendment [H-1195](#) was adopted, placing out of order amendment [H-1207](#) filed by Frevert of Palo Alto, et al., on April 1, 2003 and amendment [H-1209](#) filed by Davitt of Warren, et al., on April 1, 2003.

Greimann of Story asked and received unanimous consent that amendment [H-1208](#) be deferred.

Jenkins of Black Hawk asked and received unanimous consent to withdraw amendment [H-1204](#) filed by him on March 31, 2003.

Jenkins of Black Hawk asked and received unanimous consent that amendment [H-1221](#) be deferred.

The House stood at ease at 4:35 p.m., until the fall of the gavel.

The House resumed session at 5:08 p.m., Speaker Rants in the chair.

Gipp of Winneshiek asked and received unanimous consent that [House File 662](#) be deferred and that the bill be placed on the

unfinished business calendar.

### MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker: I am directed to inform your honorable body that the Senate has on April 2, 2003, passed the following bill in which the concurrence of the Senate was asked:

[House File 339](#), a bill for an act relating to snowmobile franchises by requiring the repurchase of certain inventory upon termination of a franchise and providing effective and retroactive applicability dates.

Also: That the Senate has on April 2, 2003, passed the following bill in which the concurrence of the House is asked:

[Senate File 372](#), a bill for an act relating to the licensing of persons providing money transmission and currency exchange services, providing penalties, and providing an effective date.

Also: That the Senate has on April 2, 2003, passed the following bill in which the concurrence of the House is asked:

[Senate File 392](#), a bill for an act relating to the animal agriculture compliance Act, and providing for penalties.

Also: That the Senate has on April 2, 2003, passed the following bill in which the concurrence of the House is asked:

[Senate File 412](#), a bill for an act relating to the management of elder group homes.

MICHAEL E. MARSHALL, Secretary

### Unfinished Business Calendar

[House File 619](#), a bill for an act relating to health care including reimbursement of health care facilities based on resident program eligibility, was taken up for consideration.

Carroll of Poweshiek offered amendment [H-1216](#) filed by Carroll, et al., as follows:

H-1216

- 1 Amend [House File 619](#) as follows:
- 2 1. Page 1, by inserting before line 1, the

3 following:  
4 "Section 1. NEW SECTION. 135.131 INTERAGENCY  
5 PHARMACEUTICALS BULK PURCHASING COUNCIL.  
6 1. For the purposes of this section, "interagency  
7 pharmaceuticals bulk purchasing council" or "council"  
8 means the interagency pharmaceuticals bulk purchasing  
9 council created in this section.  
10 2. An interagency pharmaceuticals bulk purchasing  
11 council is created within the Iowa department of  
12 public health. The department shall provide staff  
13 support to the council and the department of  
14 pharmaceutical care of the university of Iowa  
15 hospitals and clinics shall act in an advisory  
16 capacity to the council. The council shall be  
17 composed of all of the following members:  
18 a. The director of public health, or the  
19 director's designee.  
20 b. The director of human services, or the  
21 director's designee.  
22 c. The director of the department of personnel, or  
23 the director's designee.  
24 d. A representative of the state board of regents.  
25 e. The director of the department of corrections,  
26 or the director's designee.  
27 f. The director, or the director's designee, of  
28 any other agency that purchases pharmaceuticals  
29 designated to be included as a member by the director  
30 of public health.  
31 3. The council shall select a chairperson annually  
32 from its membership. A majority of the members of the  
33 council shall constitute a quorum.  
34 4. The council shall do all of the following:  
35 a. Develop procedures that member agencies must  
36 follow in purchasing pharmaceuticals. However, a  
37 member agency may elect not to follow the council's  
38 procedures if the agency is able to purchase the  
39 pharmaceuticals for a lower price than the price  
40 available through the council. An agency that does  
41 not follow the council's procedures shall report all  
42 of the following to the council:  
43 (1) The purchase price for the pharmaceuticals.  
44 (2) The name of the wholesaler, retailer, or  
45 manufacturer selling the pharmaceuticals.  
46 b. Designate a member agency as the central  
47 purchasing agency for purchasing of pharmaceuticals.  
48 c. Use existing distribution networks, including  
49 wholesale and retail distributors, to distribute the  
50 pharmaceuticals.

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1 d. Investigate options that maximize purchasing

2 power, including expanding purchasing under the  
3 medical assistance program, qualifying for  
4 participation in purchasing programs under 42 U.S.C. §  
5 256b, as amended, and utilizing rebate programs,  
6 hospital disproportionate share purchasing, multistate  
7 purchasing alliances, and health department and  
8 federally qualified health center purchasing.

9 e. In collaboration with the department of  
10 pharmaceutical care of the university of Iowa  
11 hospitals and clinics, make recommendations to member  
12 agencies regarding drug utilization review, prior  
13 authorization, the use of restrictive formularies, the  
14 use of mail order programs, and copayment structures.  
15 This paragraph shall not apply to the medical  
16 assistance program but only to the operations of the  
17 member agencies.

18 5. The central purchasing agency may enter into  
19 agreements with a local governmental entity to  
20 purchase pharmaceuticals for the local governmental  
21 entity.

22 6. The council shall develop procedures under  
23 which the council may disclose information relating to  
24 the prices manufacturers or wholesalers charge for  
25 pharmaceuticals by category of pharmaceutical. The  
26 procedure shall prohibit the council from disclosing  
27 information that identifies a specific manufacturer or  
28 wholesaler or the prices charged by a specific  
29 manufacturer or wholesaler for a specific  
30 pharmaceutical."

31 2. Page 1, line 11, by inserting after the word  
32 "department" the following: "of inspections and  
33 appeals, in cooperation with the department of human  
34 services,".

35 3. Page 1, by inserting after line 19, the  
36 following:

37 "Sec. NEW SECTION. 155A.4A PHARMACEUTICAL  
38 MARKETERS – PROHIBITION OF GIFTS.

39 1. A pharmaceutical marketer shall not offer or  
40 provide to any practitioner, hospital, health care  
41 facility, pharmacist, health benefit plan  
42 administrator, or any other person in this state  
43 authorized or licensed to prescribe, dispense,  
44 distribute, or purchase prescription drugs, any gift  
45 not otherwise exempt under this section.

46 2. The following gifts are exempt from the  
47 prohibition of this section:

48 a. Free samples of prescription drugs intended for  
49 distribution to patients.

50 b. The payment of reasonable compensation and

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1 reimbursement of expenses in connection with bona fide  
2 clinical trials. As used in this paragraph, "clinical  
3 trial" means an approved clinical trial conducted in  
4 connection with a research study designed to answer  
5 specific questions about vaccines, new therapies, or  
6 new ways of utilizing known treatments.

7 c. Any gift, fee, payment, subsidy, or other  
8 economic benefit the value of which is less than  
9 twenty-five dollars.

10 d. A scholarship or other support for medical  
11 students, residents, or fellows to attend a  
12 significant educational, scientific, or policymaking  
13 conference of a national, regional, or specialty  
14 medical or other professional association if the  
15 recipient of the scholarship or other support is  
16 selected by the association.

17 3. a. Annually on or before January 1, every  
18 pharmaceutical manufacturing company shall disclose to  
19 the board the value, nature, and purpose of any gift,  
20 fee, payment, subsidy, or other economic benefit  
21 provided in connection with detailing, promotional, or  
22 other marketing activities by the company, directly or  
23 through its pharmaceutical marketers, to any  
24 practitioner, hospital, health care facility,  
25 pharmacist, health benefit plan administrator, or any  
26 other person in this state authorized to prescribe,  
27 dispense, distribute, or purchase prescription drugs  
28 in this state. Disclosure shall be made on a form and  
29 in a manner prescribed by the board and shall be made  
30 for the period beginning July 1 and ending June 30 of  
31 the previous state fiscal year. An initial disclosure  
32 shall be made on January 15, 2004, for the period  
33 beginning July 1, 2003, and ending December 31, 2003.  
34 The board shall provide to the office of the attorney  
35 general complete access to the information required to  
36 be disclosed under this subsection. The office of the  
37 attorney general shall report annually on the  
38 disclosures made under this section to the governor  
39 and the general assembly on or before March 1.

40 b. Each company subject to the provisions of this  
41 section shall also disclose to the board, on or before  
42 January 1, 2004, and annually thereafter, the name and  
43 address of the individual responsible for the  
44 company's compliance with this section.

45 c. The board and the office of the attorney  
46 general shall keep confidential all trade secrets as  
47 defined in section 550.2. The disclosure form  
48 prescribed by the board shall permit the company to  
49 identify any information that is a trade secret.

50 d. The company is exempt from disclosure of any

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1 gifts that are exempt from the prohibition pursuant to  
2 subsection 2.

3 e. The attorney general may bring an action for  
4 injunctive relief, costs, and attorney fees, and may  
5 impose a civil penalty of not more than ten thousand  
6 dollars per violation on a company that fails to  
7 disclose information as required by this subsection.  
8 Each failure to disclose constitutes a separate  
9 violation.

10 4. For the purposes of this section:

11 a. "Pharmaceutical manufacturing company" means  
12 any entity engaged in the production, preparation,  
13 propagation, compounding, conversion, or processing of  
14 prescription drugs, either directly or indirectly by  
15 extraction from substances of natural origin, or  
16 independently by means of chemical synthesis, or by a  
17 combination of extraction and chemical synthesis, or  
18 any entity engaged in the packaging, repackaging,  
19 labeling, relabeling, or distribution of prescription  
20 drugs. The term does not include a wholesaler or a  
21 pharmacist licensed under this chapter.

22 b. "Pharmaceutical marketer" means a person who,  
23 while employed by or under contract to represent a  
24 pharmaceutical manufacturing company, engages in  
25 pharmaceutical detailing, promotional activities, or  
26 other marketing of prescription drugs in this state to  
27 any practitioner, hospital, health care facility,  
28 pharmacist, health benefit plan administrator, or any  
29 other person licensed or authorized to prescribe,  
30 dispense, distribute, or purchase prescription drugs.  
31 "Pharmaceutical marketer" does not include a  
32 wholesaler or a wholesale salesperson.

33 Sec. \_\_. NEW SECTION. 249A.20A PREFERRED DRUG  
34 LIST PROGRAM.

35 1. The department shall establish and implement a  
36 preferred drug list program under the medical  
37 assistance program. The department shall submit a  
38 medical assistance state plan amendment to the centers  
39 for Medicare and Medicaid services of the United  
40 States department of health and human services, no  
41 later than May 1, 2003, to implement the program.

42 2. A medical assistance pharmaceutical and  
43 therapeutics committee shall be established within the  
44 department by July 1, 2003, for the purpose of  
45 developing and providing ongoing review of the  
46 preferred drug list. The committee shall be comprised  
47 of members as specified in 42 U.S.C. § 1396r-8,  
48 appointed by the governor. The members shall be  
49 appointed to terms of two years. Members may be  
50 appointed to more than one term. The department shall

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1 provide staff support to the committee. Committee  
2 members shall select a chairperson and vice  
3 chairperson annually from the committee membership.  
4 3. The pharmaceutical and therapeutics committee  
5 shall recommend a preferred drug list to the  
6 department. The committee shall develop the preferred  
7 drug list by considering each drug's clinically  
8 meaningful therapeutic advantages in terms of safety,  
9 effectiveness, and clinical outcome. The committee  
10 shall use evidence-based research methods in selecting  
11 the drugs to be included on the preferred drug list.  
12 The committee shall periodically review all drug  
13 classes included on the preferred drug list and may  
14 amend the list to ensure that the list provides for  
15 medically appropriate drug therapies for medical  
16 assistance recipients and achieves cost savings to the  
17 medical assistance program. The department may  
18 procure a sole source contract with an outside entity  
19 or contractor to provide professional administrative  
20 support to the pharmaceutical and therapeutics  
21 committee in researching and recommending drugs to be  
22 placed on the preferred drug list.  
23 4. Prescribing and dispensing of prescription  
24 drugs not included on the preferred drug list shall be  
25 subject to prior authorization.  
26 5. The preferred drug list program shall provide  
27 that if a medical assistance program recipient is  
28 being prescribed a mental health-related drug or  
29 antiretroviral drug prior to the implementation of the  
30 preferred drug list and the prescription drug is not  
31 included on the preferred drug list, prescribing and  
32 dispensing of the prescription drug is not subject to  
33 prior authorization. The preferred drug list program  
34 shall also provide that certain prescription drugs for  
35 age-related populations that are not included on the  
36 preferred drug list are not subject to prior  
37 authorization.  
38 6. The department may negotiate supplemental  
39 rebates from manufacturers that are in addition to  
40 those required by Title XIX of the federal Social  
41 Security Act. The committee shall consider a product  
42 for inclusion on the preferred drug list if the  
43 manufacturer provides a supplemental rebate. The  
44 department may procure a sole source contract with an  
45 outside entity or contractor to conduct negotiations  
46 for supplemental rebates.  
47 7. The department shall publish and disseminate  
48 the preferred drug list to all medical assistance  
49 providers in this state.  
50 8. Until such time as the pharmaceutical and

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1 therapeutics committee is operational, the department  
2 shall adopt and utilize a preferred drug list  
3 developed by a midwestern state that has received  
4 approval for its medical assistance state plan  
5 amendment from the centers for Medicare and Medicaid  
6 services of the United States department of health and  
7 human services.

8 9. The department may procure a sole source  
9 contract with an outside entity or contractor to  
10 participate in a pharmaceutical pooling program with  
11 midwestern or other states to provide for an enlarged  
12 pool of individuals for the purchase of pharmaceutical  
13 products and services for medical assistance  
14 recipients.

15 10. The department may adopt administrative rules  
16 under section 17A.4, subsection 2, and section 17A.5,  
17 subsection 2, paragraph "b", to implement this  
18 section.

19 11. Any savings realized under this section may be  
20 used to the extent necessary to pay the costs  
21 associated with implementation of this section prior  
22 to reversion to the medical assistance program. The  
23 department shall report the amount of any savings  
24 realized and the amount of any costs paid to the  
25 chairpersons of the joint appropriations subcommittee  
26 on health and human services.

27 Sec. \_\_. NEW SECTION. 249A.20B NURSING FACILITY  
28 QUALITY ASSURANCE ASSESSMENT.

29 1. The department may assess nursing facilities a  
30 quality assurance assessment not to exceed six percent  
31 of the total annual revenue of the facility.

32 2. The quality assurance assessment shall be paid  
33 to the department in equal monthly amounts on or  
34 before the fifteenth day of each month. The  
35 department may deduct the monthly assessment amount  
36 from medical assistance payments to a nursing  
37 facility. The amount deducted from payments shall not  
38 exceed the total amount of the fee due.

39 3. Revenue generated from the quality assurance  
40 assessment shall be deposited in the senior living  
41 trust fund created in section 249H.4. The revenues  
42 shall only be used for services for which federal  
43 financial participation under the medical assistance  
44 program is available to match state funds.

45 4. If federal financial participation to match the  
46 assessments made under subsection 1 becomes  
47 unavailable under federal law, the department shall  
48 terminate the imposition of the assessment beginning  
49 on the date that the federal statutory, regulatory, or  
50 interpretive change takes effect.



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1 5. The department may procure a sole source  
2 contract to implement the provisions of this section.

3 6. For the purposes of this section, "nursing  
4 facility" means nursing facility as defined in section  
5 135C.1, excluding residential care facilities and  
6 nursing facilities that are operated by the state.

7 7. The department may adopt administrative rules  
8 under section 17A.4, subsection 2, and section 17A.5,  
9 subsection 2, paragraph "b", to implement this  
10 section.

11 Sec. \_\_. NEW SECTION. 249A.29A HOME AND  
12 COMMUNITY-BASED SERVICES WAIVER – ELIGIBILITY  
13 DETERMINATIONS.

14 1. A level of care eligibility determination of an  
15 individual seeking approval by the department to  
16 receive services under a waiver shall be completed  
17 only by a person not participating as a provider of  
18 services under a waiver. For the purposes of this  
19 section, "provider" and "waiver" mean provider and  
20 waiver as defined in section 249A.29.

21 2. Funds appropriated to the department of elder  
22 affairs for the purpose of conducting level of care  
23 eligibility determinations shall be transferred and  
24 made available to the department of human services.

25 3. The department of human services may procure a  
26 sole source contract with an outside entity or  
27 contractor to conduct level-of-care eligibility  
28 determinations.

29 4. The department may adopt administrative rules  
30 under section 17A.4, subsection 2, and section 17A.5,  
31 subsection 2, paragraph "b", to implement this  
32 section.

33 Sec. \_\_. Section 249B.3, subsection 1, unnumbered  
34 paragraph 1, Code 2003, is amended to read as follows:

35 The department ~~may~~ shall issue a notice  
36 establishing and demanding payment of an accrued or  
37 accruing spousal support debt due and owing to the  
38 department. The notice shall be served upon the  
39 community spouse in accordance with the rules of civil  
40 procedure. The notice shall include all of the  
41 following:

42 Sec. \_\_. MEDICAL ASSISTANCE PROGRAM –  
43 PHARMACEUTICALS – RECIPIENT REQUIREMENTS.

44 1. The department of human services shall  
45 reimburse pharmacy dispensing fees using a single rate  
46 of \$4.26 per prescription or the pharmacy's usual and  
47 customary fee, whichever is lower.

48 2. The department of human services shall require  
49 recipients of medical assistance to pay the following  
50 copayment on each prescription filled for a covered

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1 prescription drug, including on each refill of such  
2 prescription, as follows:  
3 a. A copayment of \$1 for each covered generic  
4 prescription drug.  
5 b. A copayment of 50 cents for each covered brand-  
6 name prescription drug for which the cost to the state  
7 is \$10 or less.  
8 c. A copayment of \$1 for each covered brand-name  
9 prescription drug for which the cost to the state is  
10 more than \$10 and up to and including \$25.  
11 d. A copayment of \$2 for each covered brand-name  
12 prescription drug for which the cost to the state is  
13 more than \$25 and up to and including \$50.  
14 e. A copayment of \$3 for each covered brand-name  
15 prescription drug for which the cost to the state is  
16 over \$50.  
17 3. The department of human services shall  
18 establish an ingredient reimbursement basis equal to  
19 the average wholesale price minus 12 percent for  
20 pharmacy reimbursement for prescription drugs under  
21 the medical assistance program.  
22 4. a. The department of human services shall  
23 continue the sole source contract relative to the  
24 state maximum allowable cost (SMAC) program as  
25 authorized in 2001 Iowa Acts, chapter 191, section 31,  
26 subsection 1, paragraph "b", subparagraph (5). The  
27 department shall expand the state maximum allowable  
28 cost program for prescription drugs to the greatest  
29 extent possible as determined under the contract.  
30 b. Pharmacies and providers that are enrolled in  
31 the medical assistance program shall make available  
32 drug acquisition cost information, product  
33 availability information, and other information deemed  
34 necessary by the department for the determination of  
35 reimbursement rates and the efficient operation of the  
36 pharmacy benefit. Pharmacies and providers shall  
37 produce and submit the requested information in the  
38 manner and format requested by the department or its  
39 designee at no cost to the department or designee.  
40 Pharmacies and providers shall submit information to  
41 the department or its designee within thirty days  
42 following receipt of a request for information unless  
43 the department or its designee grants an extension  
44 upon written request of the pharmacy or provider.  
45 c. The state maximum allowable cost shall be  
46 established at the average wholesale acquisition cost  
47 for a prescription drug and all equivalent products,  
48 adjusted by a multiplier of 1.4. The department shall  
49 update the state maximum allowable cost every two  
50 months, or more often if necessary, to ensure adequate

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1 product availability.

2 d. The department shall review its current method  
3 for determining which prescription drugs are to be  
4 included in the SMAC program and shall adjust the  
5 method to maximize the cost savings realized through  
6 the SMAC program.

7 5. The department of human services shall require  
8 recipients of medical assistance to pay a copayment of  
9 \$3 for each physician office visit.

10 6. The department of human services shall maximize  
11 expansion of prior authorization of prescription drugs  
12 under the medical assistance program beyond the 25  
13 current categories of medications.

14 7. The department of human services shall  
15 establish a fixed-fee reimbursement schedule for home  
16 health agencies under the medical assistance program.

17 8. The department may adopt emergency rules to  
18 implement this section.

19 Sec. \_\_. HOME AND COMMUNITY-BASED SERVICES  
20 WAIVERS CONSOLIDATION – BUDGET NEUTRALITY. It is the  
21 intent of the general assembly that the consolidation  
22 of home and community-based services waivers by the  
23 department of human services be designed in a manner  
24 that does not result in additional cost, with the  
25 exception of any services added to the waivers through  
26 legislative enactment. The department of human  
27 services shall submit an initial report regarding the  
28 cost neutrality and status of the waiver consolidation  
29 to the legislative fiscal committee no later than  
30 January 31, 2004, and a subsequent report no later  
31 than July 31, 2004.

32 Sec. \_\_. NURSING FACILITY REIMBURSEMENT.  
33 Notwithstanding 2001 Iowa Acts, chapter 192, section  
34 4, subsection 2, paragraph "c", and subsection 3,  
35 paragraph "a", subparagraph (2), if the appropriation  
36 provided for reimbursement of nursing facilities for  
37 the fiscal year beginning July 1, 2003, is  
38 insufficient to reimburse nursing facilities in  
39 accordance with the reimbursement rate specified in  
40 2001 Iowa Acts, chapter 192, section 4, subsection 2,  
41 paragraph "c", the department shall adjust the  
42 inflation factor of the reimbursement rate calculation  
43 to provide reimbursement within the amount  
44 appropriated.

45 Sec. \_\_. UTILIZATION MANAGEMENT AND TARGETED  
46 AUDITS.

47 1. The department of human services shall conduct  
48 ongoing review of recipients and providers of medical  
49 assistance services to determine the appropriateness  
50 of the scope, duration, and utilization of services.

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1 If inappropriate usage is identified, the department  
2 shall implement procedures necessary to restrict  
3 utilization.

4 2. The department of human services shall conduct  
5 a review of selected medical assistance services  
6 categories and providers for state fiscal years  
7 beginning July 1, 2001, July 1, 2002, and July 1,  
8 2003. The review shall include intense data analysis  
9 to test compliance with rules, regulations, and  
10 policies and selected on-site audits.

11 3. The review required under subsection 2 shall  
12 attempt to identify any incorrectly paid billings or  
13 claims for the state medical assistance program. If  
14 inappropriate payments are identified, provider  
15 billings shall be adjusted accordingly. If there is  
16 substantiated evidence to suggest fraudulent activity,  
17 the department shall submit the audit data regarding  
18 the medical assistance provider or recipient to the  
19 department of inspections and appeals for further  
20 action.

21 4. The department of human services may procure a  
22 sole source contract to implement the provisions of  
23 this section.

24 5. Any savings realized under this section may be  
25 used to the extent necessary to pay the costs  
26 associated with implementation of this section prior  
27 to reversion to the medical assistance program. The  
28 department shall report the amount of any savings  
29 realized and the amount of any costs paid to the  
30 chairpersons of the joint appropriations subcommittee  
31 on health and human services.

32 Sec. \_\_. MEDICAL ASSISTANCE – CERTAIN PUBLICLY  
33 OWNED HOSPITALS – PHYSICIAN SUPPLEMENTAL PAYMENTS.

34 1. For the fiscal year beginning July 1, 2003, and  
35 for each fiscal year thereafter, the department of  
36 human services shall institute a supplemental payment  
37 adjustment applicable to physician services provided  
38 to medical assistance recipients at publicly owned  
39 acute care teaching hospitals. The adjustment shall  
40 generate supplemental payments to physicians which are  
41 equal to the difference between the physician's charge  
42 and the physician's fee schedule under the medical  
43 assistance program. To the extent of the supplemental  
44 payments, a qualifying hospital shall, after receipt  
45 of the payments, transfer to the department of human  
46 services an amount equal to the actual supplemental  
47 payments that were made in that month. The department  
48 of human services shall deposit these payments in the  
49 department's medical assistance account. The  
50 department of human services shall amend the medical

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1 assistance state plan as necessary to implement this  
2 section. The department may adopt emergency rules to  
3 implement this section.

4 2. The department may use any savings realized  
5 under this section to the extent necessary to pay the  
6 costs associated with implementation of this section  
7 prior to reversion to the medical assistance program.  
8 The department shall report the amount of any savings  
9 realized and the amount of any costs paid to the  
10 chairpersons of the joint appropriations subcommittee  
11 on health and human services.

12 Sec. \_\_. IOWA CHRONIC CARE CONSORTIUM.

13 1. The department of human services shall  
14 aggressively pursue chronic disease management in  
15 order to improve care and reduce costs under the  
16 medical assistance program.

17 2. The department of human services, in  
18 cooperation with the department's fiscal agent and in  
19 consultation with a chronic care management resource  
20 group, shall profile medical assistance recipients  
21 within a select number of disease diagnosis  
22 categories. The assessment shall focus on those  
23 diagnosis areas that present the greatest opportunity  
24 for impact to improved care and cost reduction.

25 3. The department of human services, in  
26 consultation with a chronic care management resource  
27 group, shall conduct a chronic disease management  
28 pilot project for a select number of individuals who  
29 are participants in the medical assistance program.  
30 The project shall focus on a select number of chronic  
31 diseases which may include congestive heart failure,  
32 diabetes, and asthma. The initial pilot project shall  
33 be implemented by October 1, 2003.

34 4. The department of human services may procure a  
35 sole source contract with a vendor to manage  
36 individuals with select chronic diseases following the  
37 conclusion of the profiling of medical assistance  
38 recipients. The management of chronic diseases for  
39 individuals under this subsection may be coordinated  
40 with the pilot project established in subsection 3.

41 5. The department of human services shall amend  
42 the medical assistance state plan and seek any waivers  
43 necessary from the centers for Medicare and Medicaid  
44 services of the United States department of health and  
45 human services to implement this section.

46 6. The department of human services shall submit a  
47 progress report regarding chronic disease management  
48 measures undertaken pursuant to this section to the  
49 governor and the general assembly by November 1, 2003.  
50 The report shall include recommendations regarding

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1 incorporating chronic disease management programming  
 2 into the medical assistance system and the potential  
 3 improvements in care and reductions in costs that may  
 4 be obtained through chronic disease management.  
 5 7. The department of human services may adopt  
 6 emergency rules to implement this section.  
 7 8. Any savings realized under this section may be  
 8 used as necessary to pay the costs associated with  
 9 implementation of this section prior to reversion to  
 10 the medical assistance program. The department shall  
 11 report the amount of any savings realized and the  
 12 amount of any costs paid to the chairpersons of the  
 13 joint appropriations subcommittee on health and human  
 14 services.  
 15 Sec. \_\_. EFFECTIVE DATES.  
 16 1. The section of this Act enacting section  
 17 249A.20A takes effect upon enactment.  
 18 2. The section of this Act enacting section  
 19 249A.20B, being deemed of immediate importance, takes  
 20 effect upon enactment.  
 21 3. The section of this Act relating to physician  
 22 supplemental payments at certain publicly owned  
 23 hospitals, being deemed of immediate importance, takes  
 24 effect upon enactment.  
 25 4. The section of this Act relating to chronic  
 26 disease management, being deemed of immediate  
 27 importance, takes effect upon enactment."  
 28 4. Title page, line 2, by inserting after the  
 29 word "eligibility" the following: "and providing  
 30 effective dates".  
 31 5. By renumbering as necessary.

Carroll of Poweshiek offered the following amendment [H-1250](#), to amendment [H-1216](#), filed by him from the floor and requested division as follows:

H-1250

1 Amend the amendment, H-1216, to [House File 619](#) as  
 2 follows:

H-1250A

3 1. By striking page 2, line 37, through page 4,  
 4 line 32.  
 5 2. By striking page 4, line 42, through page 5,  
 6 line 3, and inserting the following:  
 7 "2. a. a medical assistance pharmaceutical and  
 8 therapeutics committee shall be established within the

9 department by July 1, 2003, for the purpose of  
10 developing and providing ongoing review of the  
11 preferred drug list.  
12 b. (1) The members of the committee shall be  
13 appointed by the governor and shall include health  
14 care professionals who possess recognized knowledge  
15 and expertise in one or more of the following:  
16 (a) The clinically appropriate prescribing of  
17 covered outpatient drugs.  
18 (b) The clinically appropriate dispensing and  
19 monitoring of covered outpatient drugs.  
20 (c) Drug use review, evaluation, and intervention.  
21 (d) Medical quality assurance.  
22 (2) The membership of the committee shall be  
23 comprised of at least one third but not more than  
24 fifty-one percent licensed and actively practicing  
25 physicians and at least one third licensed and  
26 actively practicing pharmacists.  
27 c. The members shall be appointed to terms of two  
28 years. Members may be appointed to more than one  
29 term. The department shall provide staff support to  
30 the committee. Committee members shall select a  
31 chairperson and vice chairperson annually from the  
32 committee membership."

## H-1250B

33 3. Page 5, by striking lines 27 through 29, and  
34 inserting the following: "that if a medical  
35 assistance program recipient was prescribed a mental  
36 health-related drug, an antiretroviral drug, or a drug  
37 related to the treatment of transplantation or cancer,  
38 prior to the implementation of the".

## H-1250A

39 4. Page 6, by striking lines 25 and 26, and  
40 inserting the following: "legislative fiscal  
41 committee on a quarterly basis."  
42 5. Page 9, by inserting after line 6 the  
43 following:  
44 "e. The department shall report any savings  
45 realized through the SMAC program to the legislative  
46 fiscal committee on a monthly basis."  
47 6. Page 9, by striking lines 35 through 38, and  
48 inserting the following: "paragraph "a", subparagraph  
49 (2), if projected state fund expenditures for  
50 reimbursement of nursing facilities for the fiscal

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## H-1250A

1 year beginning July 1, 2003, in".

H-1250A

2 7. Page 9, line 41, by inserting before the words  
3 "the department" the following: "exceeds  
4 \$147,252,856,".  
5 8. Page 9, by striking line 44, and inserting the  
6 following: "projected."  
7 9. Page 11, by inserting after line 11 the  
8 following:  
9 "3. The department of human services shall, in any  
10 compilation of data or other report distributed to the  
11 public concerning payments to providers under the  
12 medical assistance program, set forth reimbursements  
13 to physicians of the university of Iowa college of  
14 medicine through supplemental adjustments as a  
15 separate item and shall not include such payments in  
16 the amounts otherwise reported as the reimbursement to  
17 a physician for services to medical assistance  
18 recipients."  
19 10. Page 12, by inserting after line 20, the  
20 following:  
21 "\_\_\_ The portion of the section of this Act  
22 relating to the state maximum allowable cost (SMAC)  
23 program, being deemed of immediate importance, takes  
24 effect upon enactment."

The House stood at ease at 5:27 p.m., until the fall of the gavel.

The House resumed session at 6:22 p.m., Speaker Rants in the chair.

Further division was requested as follows:

[H-1250A](#) — Page 1 lines 5 through 32 and page 1 lines 39 through 50, page 2 lines 2 through 24.

[H-1250B](#) — Page 1 lines 11 through 38.

[H-1250C](#) — Page 1 lines 3 and 4.

Carroll of Poweshiek moved the adoption of amendment [H-1250A](#), to amendment [H-1216](#).

Amendment [H-1250A](#) was adopted.

Carroll of Poweshiek moved the adoption of amendment [H-1250C](#) to amendment [H-1216](#).

A non-record roll call was requested.



The ayes were 50, nays 36.

Amendment [H-1250C](#) was adopted.

Jochum of Dubuque offered the following amendment [H-1251](#), to amendment [H-1216](#), filed by her from the floor and moved its adoption:

H-1251

- 1 Amend the amendment, H-1216, to [House File 619](#) as
- 2 follows:
- 3 1. Page 4, by inserting before line 33, the
- 4 following:
- 5 "Sec. \_\_. NEW SECTION. 155B.1 SHORT TITLE.
- 6 This chapter shall be known and may be cited as the
- 7 "Pharmacy Benefits Manager Regulation Act".
- 8 Sec. \_\_. NEW SECTION. 155B.2 PURPOSE AND
- 9 INTENT.
- 10 The purposes of this chapter are:
- 11 1. To establish standards and criteria for the
- 12 regulation and licensing of pharmacy benefits
- 13 managers.
- 14 2. To promote, preserve, and protect the public
- 15 health, safety, and welfare by and through effective
- 16 regulation and licensing of pharmacy benefits
- 17 managers.
- 18 Sec. \_\_. NEW SECTION. 155B.3 DEFINITIONS.
- 19 For purposes of this chapter, unless the context
- 20 otherwise requires:
- 21 1. "Board of pharmacy" or "board" means the board
- 22 of pharmacy examiners.
- 23 2. "Cease and desist order" means an order of the
- 24 board prohibiting a pharmacy benefits manager or other
- 25 person from continuing a particular course of conduct
- 26 which violates this chapter or the rules adopted under
- 27 this chapter.
- 28 3. "Commissioner" means the commissioner of
- 29 insurance.
- 30 4. "Enrollee" means an individual who is enrolled
- 31 in a pharmacy benefits management plan.
- 32 5. "Health insurance plan or contract" means a
- 33 third-party payment provider contract or policy that
- 34 is an individual or group policy of accident or health
- 35 insurance or individual or group hospital or health
- 36 care services contract issued pursuant to chapter 509,
- 37 509A, 514, or 514A, or an individual or group health
- 38 maintenance organization contract issued and regulated
- 39 under chapter 514B.
- 40 6. "Insolvent" or "insolvency" means a financial

41 situation in which, based upon the financial  
42 information required by this chapter for the  
43 preparation of a pharmacy benefits manager's annual  
44 statement, the assets of the pharmacy benefits manager  
45 are less than the sum of all the company's liabilities  
46 and required reserves.  
47 7. "Maintenance drug" means a drug prescribed by a  
48 practitioner who is licensed to prescribe drugs and  
49 used to treat a medical condition for a period of more  
50 than thirty days.

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1 8. "Multisource drug" means a drug that is stocked  
2 and is available from three or more suppliers.  
3 9. "Pharmacist" means pharmacist as defined in  
4 section 155A.3.  
5 10. "Pharmacists' services" include drug therapy  
6 and other patient care services provided by a licensed  
7 pharmacist intended to achieve outcomes related to the  
8 cure or prevention of a disease, elimination or  
9 reduction of a patient's symptoms, or arresting or  
10 slowing of a disease process as defined by rule of the  
11 board.  
12 11. "Pharmacy" means pharmacy as defined in  
13 section 155A.3.  
14 12. "Pharmacy benefits management plan" means an  
15 arrangement for the delivery of prescription services  
16 in which a pharmacy benefits manager provides,  
17 arranges for, pays for, or reimburses any of the costs  
18 of prescription services for an enrollee on a prepaid  
19 or insured basis which provides all of the following:  
20 a. Contains one or more incentive arrangements  
21 intended to influence the cost or level of  
22 prescription services between the plan sponsor and one  
23 or more pharmacies with respect to the delivery of  
24 prescription services.  
25 b. Requires or creates benefit payment  
26 differential incentives for enrollees to use under  
27 contract with the pharmacy benefits manager.  
28 "Pharmacy benefits management plan" does not mean  
29 an employee welfare benefit plan as defined in the  
30 federal Employee Retirement Income Security Act of  
31 1974, 29 U.S.C. § 1002(1), which is self-insured or  
32 self-funded.  
33 13. "Pharmacy benefits manager" or "company" means  
34 an entity that administers the prescription drug or  
35 device portion of a health insurance plan or contract  
36 on behalf of the sponsors of the health insurance plan  
37 or contract.  
38 14. "Plan sponsor" means an employer, insurance  
39 company, union, or health maintenance organization

40 that contracts with a pharmacy benefits manager for  
41 delivery of prescription services.

42 15. "Usual and customary price" means the price  
43 the pharmacist would have charged a cash-paying  
44 patient for the same services on the same date  
45 inclusive of any discounts applicable.

46 Sec. \_\_. NEW SECTION. 155B.4 CERTIFICATE OF  
47 AUTHORITY.

48 1. A person shall not establish or operate as a  
49 pharmacy benefits manager in this state to provide  
50 pharmacy benefits management plans without first

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1 obtaining a certificate of authority from the board of  
2 pharmacy examiners. A pharmacy benefits manager  
3 providing pharmacy benefits management plans in this  
4 state shall obtain a certificate of authority from the  
5 board every four years.

6 2. A person may apply to the board to obtain a  
7 certificate of authority to establish and operate as a  
8 pharmacy benefits manager in compliance with this  
9 chapter if the person obtains an annual license to do  
10 business in this state from the commissioner under  
11 section 155B.5.

12 3. The board may suspend or revoke a certificate  
13 of authority issued to a pharmacy benefits manager  
14 under this chapter or may deny an application for a  
15 certificate of authority if the board finds any of the  
16 following:

17 a. The pharmacy benefits manager is operating  
18 significantly in contravention of its basic  
19 organizational document.

20 b. The pharmacy benefits manager does not arrange  
21 for pharmacists' services.

22 c. The pharmacy benefits manager has failed to  
23 meet the requirements for issuance of a certificate of  
24 authority established in this chapter.

25 d. The pharmacy benefits manager is unable to  
26 fulfill its obligation to furnish pharmacists'  
27 services as required under its pharmacy benefits  
28 management plan.

29 e. The pharmacy benefits manager is no longer  
30 financially responsible and may reasonably be expected  
31 to be unable to meet its obligations to enrollees or  
32 prospective enrollees.

33 f. The pharmacy benefits manager, or any person on  
34 the company's behalf, has advertised or merchandised  
35 its services in an untrue, misrepresentative,  
36 misleading, deceptive, or unfair manner.

37 g. The continued operation of the pharmacy  
38 benefits manager would be hazardous to its enrollees.

39 h. The pharmacy benefits manager has failed to  
40 file an annual statement with the commissioner in a  
41 timely manner.  
42 i. The pharmacy benefits manager has otherwise  
43 failed to substantially comply with this chapter.  
44 4. When the certificate of authority of a pharmacy  
45 benefits manager is revoked, the company shall  
46 proceed, immediately following the effective date of  
47 the order of revocation, to conclude the company's  
48 affairs and shall conduct no further business except  
49 as may be essential to the orderly conclusion of the  
50 affairs of the company. The board may permit further

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1 operation of the company as the board may find to be  
2 in the best interest of enrollees so that the  
3 enrollees will be afforded the greatest practical  
4 opportunity to obtain pharmacists' services.  
5 Sec. \_\_. NEW SECTION. 155B.5 LICENSE TO DO  
6 BUSINESS.  
7 1. The commissioner shall not issue an annual  
8 license to do business in this state to any pharmacy  
9 benefits manager providing pharmacy benefits  
10 management plans until the commissioner is satisfied  
11 that the pharmacy benefits manager has complied with  
12 all of the following:  
13 a. Paid all fees, taxes, and charges required by  
14 law.  
15 b. Has made any deposit required by this chapter.  
16 c. Has met the minimum capital and surplus  
17 requirements specified by the commissioner.  
18 d. Has filed any necessary financial statement and  
19 any reports, certificates, or other documents the  
20 commissioner considers necessary to secure a full and  
21 accurate knowledge of the company's affairs and  
22 financial condition.  
23 e. Is solvent, and the company's financial  
24 condition, method of operation, and manner of doing  
25 business satisfy the commissioner that the company can  
26 meet the company's obligations to all enrollees.  
27 f. Has otherwise complied with all the  
28 requirements of law.  
29 2. The license shall be in addition to the  
30 certificate of authority required by the board. A  
31 nonrefundable license application fee of five hundred  
32 dollars shall accompany each application for a license  
33 to transact business in this state. The fee shall be  
34 collected by the commissioner and shall be deposited  
35 in the pharmacy benefits manager fund created in  
36 section 155B.16.  
37 3. The license shall be signed by the commissioner

38 or the commissioner's agent and shall expire on the  
39 next June 30 after the date on which the license  
40 becomes effective.  
41 4. A pharmacy benefits manager providing pharmacy  
42 benefits management plans shall obtain an annual  
43 renewal of the company's license from the  
44 commissioner. The commissioner may refuse to renew  
45 the license of any pharmacy benefits manager or may  
46 renew the license, subject to any restrictions  
47 considered appropriate by the commissioner, if the  
48 commissioner finds an impairment of required capital  
49 and surplus, or if the commissioner finds that the  
50 pharmacy benefits manager has not satisfied all the

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1 conditions specified in this chapter. The  
2 commissioner shall not fail to renew the license of  
3 any pharmacy benefits manager to transact business in  
4 this state without providing the pharmacy benefits  
5 manager ten days' notice and providing the company an  
6 opportunity to be heard. The hearing may be informal,  
7 and the commissioner and the pharmacy benefits manager  
8 may waive the required notice.  
9 Sec. \_\_. NEW SECTION. 155B.6 ANNUAL STATEMENT.  
10 1. A pharmacy benefits manager providing pharmacy  
11 management benefits plans in this state shall file a  
12 statement with the commissioner annually by March 1.  
13 The statement shall be verified by at least two  
14 principal officers of the pharmacy benefits manager  
15 and shall cover the preceding calendar year. The  
16 pharmacy benefits manager shall also submit a copy of  
17 the statement to the board.  
18 2. The statement shall be on forms prescribed by  
19 the commissioner and shall include all of the  
20 following:  
21 a. A financial statement of the company, including  
22 its balance sheet and income statement for the  
23 preceding year.  
24 b. The number of persons enrolled during the year,  
25 the number of enrollees as of the end of the year, and  
26 the number of enrollments terminated during the year.  
27 c. Any other information relating to the  
28 operations of the pharmacy benefits manager required  
29 by the commissioner pursuant to this chapter.  
30 3. If the pharmacy benefits manager is audited  
31 annually by an independent certified public  
32 accountant, a copy of the certified audit report shall  
33 be filed annually with the commissioner by June 30.  
34 4. The commissioner may extend the time prescribed  
35 for any pharmacy benefits manager for filing an annual  
36 statement or other reports, or exhibits of the

37 statement or report for good cause shown. However,  
38 the commissioner shall not extend the time for filing  
39 annual statements beyond sixty days after the time  
40 prescribed by subsection 1. A pharmacy benefits  
41 manager which fails to file its annual statement  
42 within the time prescribed by this section may have  
43 its license revoked by the commissioner or its  
44 certificate of authority revoked or suspended by the  
45 board until the annual statement is filed. The  
46 commission may waive the requirements for a pharmacy  
47 benefits manager to file financial information if an  
48 affiliate of the pharmacy benefits manager is also  
49 required to file the same information.  
50 Sec. \_\_. NEW SECTION. 155B.7 FINANCIAL

Page 6

1 EXAMINATION.

2 1. In lieu of or in addition to performing a  
3 financial examination of a pharmacy benefits manager,  
4 the commissioner may accept the report of a financial  
5 examination by another person responsible for pharmacy  
6 benefits managers under the laws of another state who  
7 is certified by the insurance supervisory official,  
8 similar regulatory agency, or the state health  
9 commissioner of the other state.

10 2. The commissioner shall coordinate financial  
11 examinations of pharmacy benefits managers that  
12 provide pharmacy management benefits plans in this  
13 state to ensure an appropriate level of regulatory  
14 oversight and to avoid any undue duplication of effort  
15 or regulation. The pharmacy benefits manager being  
16 examined shall pay the cost of the examination.  
17 Payments of the cost of the examination shall be  
18 collected by the commissioner and shall be deposited  
19 in the pharmacy benefits manager fund created in  
20 section 155B.16.

21 Sec. \_\_. NEW SECTION. 155B.8 ASSESSMENT.

22 1. The expense of administering this chapter,  
23 including the costs incurred by the commissioner and  
24 the board, shall be assessed annually by the board  
25 against all pharmacy benefits managers operating in  
26 this state. Before determining the assessment, the  
27 board shall request from the commissioner an estimate  
28 of all expenses for the regulation, supervision, and  
29 examination of all companies subject to regulation  
30 under this chapter. The assessment shall be in  
31 proportion to the business done in this state.

32 2. Assessments shall be collected by the  
33 commissioner and shall be deposited in the pharmacy  
34 benefits manager fund created in section 155B.16.

35 3. The board shall provide each pharmacy benefits

36 manager notice of the assessment, which shall be paid  
37 to the board on or before March 1 of each year. A  
38 pharmacy benefits manager that fails to pay the  
39 assessment on or before the date prescribed shall be  
40 subject to a penalty imposed by the board which is ten  
41 percent of the assessment and interest for the period  
42 between the due date and the date of full payment. If  
43 a payment is made in an amount later found to be in  
44 error, the following shall apply:  
45 a. If the error found is an underpayment and an  
46 additional amount is due, the commission shall notify  
47 the company of the additional amount and the company  
48 shall pay the additional amount within fourteen days  
49 of the date of the notice.  
50 b. If the error found is an overpayment, a refund

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1 shall be ordered.

2 4. If an assessment made under this chapter is not  
3 paid to the board by the prescribed date, the amount  
4 of the assessment, penalty, and interest may be  
5 recovered from the defaulting company on motion of the  
6 board made in the name and for the use of the state in  
7 the appropriate court after ten days' notice to the  
8 company. The certificate of authority of a defaulting  
9 company to transact business in this state may be  
10 revoked or suspended by the board until the company  
11 has paid the assessment.

12 Sec. \_\_. NEW SECTION. 155B.9 PHARMACY BENEFITS  
13 MANAGER CONTRACTS.

14 1. A pharmacy benefits manager that contracts with  
15 a pharmacy or pharmacist to provide pharmacists'  
16 services through a pharmacy management plan for  
17 enrollees in this state shall file the contract with  
18 the board thirty days before the execution of the  
19 contract. The contract shall be deemed approved  
20 unless the board disapproves the contract within  
21 thirty days after the contract is filed with the  
22 board.

23 2. Disapproval of the contract shall be in  
24 writing, stating the reasons for the disapproval, and  
25 a copy of the written disapproval shall be delivered  
26 to the pharmacy benefits manager.

27 3. The board, consistent with the board's  
28 responsibility for protecting the public interest,  
29 shall develop formal criteria for the approval and  
30 disapproval of pharmacy benefits manager contracts.

31 4. The pharmacy benefits manager shall provide a  
32 contract to the pharmacy or pharmacist that is written  
33 in plain language that is generally understood by  
34 pharmacists.

35 5. A pharmacy benefits manager that contracts with  
36 a pharmacy or pharmacist to provide pharmacist  
37 services through a pharmacy benefits management plan  
38 for enrollees in this state on behalf of any health  
39 plan sponsors shall be identified as the agent of the  
40 health plan sponsor. The health plan fiduciary  
41 responsibilities shall transfer to the contracting  
42 pharmacy benefits manager.

43 6. A contract shall apply the same coinsurance,  
44 copayment, and deductible to covered drug  
45 prescriptions filled by any pharmacy or pharmacist who  
46 participates in the network.

47 7. This section shall not be construed to prohibit  
48 a contract from applying different coinsurance,  
49 copayment, and deductible factors between generic and  
50 brand-name drugs that an enrollee may obtain with a

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1 prescription if the limits are applied uniformly to  
2 all pharmacies or pharmacists in the health insurance  
3 plan or contract network.

4 8. A pharmacy benefits management plan shall not  
5 require a pharmacy or pharmacist to change an  
6 enrollee's maintenance drug unless the prescribing  
7 physician and the enrollee agree to the change.

8 9. A pharmacy's or pharmacist's participation in  
9 any plan or network offered by a pharmacy benefits  
10 manager is optional and at the discretion of the  
11 pharmacy or pharmacist. The pharmacy's or  
12 pharmacist's participation or lack of participation in  
13 one plan shall not affect the pharmacy's or  
14 pharmacist's participation in any other plan or  
15 network ordered by the pharmacy benefits manager.

16 10. A pharmacy benefits manager that initiates an  
17 audit of a pharmacy or pharmacist under the provisions  
18 of the contract shall limit the methods and procedures  
19 that are recognized as fair and equitable for both the  
20 pharmacy benefits manager and the pharmacy or  
21 pharmacist. An audit shall not allow for  
22 extrapolation calculations. A pharmacy benefits  
23 manager shall not recoup any moneys due from an audit  
24 by setoff from future remittances until the results of  
25 the audit are resolved and finalized by both the  
26 pharmacy benefits manager and the pharmacy or  
27 pharmacist. If the findings of an audit cannot be  
28 finalized and agreed to by both parties, the  
29 commissioner shall establish an independent review  
30 board to adjudicate unresolved grievances.

31 11. a. Prior to terminating a pharmacy or  
32 pharmacist from the network, a pharmacy benefits  
33 manager shall provide the pharmacy or pharmacist with



34 a written explanation of the reason for the  
35 termination at least thirty days before the actual  
36 termination unless the contract termination action is  
37 taken as the result of any of the following:

38 (1) Loss of the pharmacy's or pharmacist's license  
39 to practice pharmacy or loss of professional liability  
40 insurance.

41 (2) Conviction of fraud or misrepresentation in  
42 regard to the contract.

43 b. A pharmacy or pharmacist may request and  
44 receive, within thirty days, a review of the proposed  
45 termination by the board prior to the termination.

46 12. The pharmacy or pharmacist shall not be held  
47 responsible for actions of the pharmacy benefits  
48 manager or plan sponsors and the pharmacy benefits  
49 manager or plan sponsors shall not be held responsible  
50 for the actions of the pharmacy or pharmacist.

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1 Sec. \_\_. NEW SECTION. 155B.10 ENFORCEMENT.

2 1. The board shall develop formal investigation  
3 and compliance procedures for responding to complaints  
4 by health insurance plans or contract sponsors,  
5 pharmacists, or enrollees concerning the failure of a  
6 pharmacy benefits manager to comply with this chapter.

7 If, based upon an investigation or complaint, the  
8 board has reason to believe that there is a violation  
9 of this chapter, the board shall issue and serve upon  
10 the pharmacy benefits manager concerned a statement of  
11 the charges and a notice of a hearing to be held at a  
12 time and place fixed in the notice, which shall not be  
13 less than thirty days after notice is served. The  
14 notice shall require the pharmacy benefits manager to  
15 show cause why an order should not be issued directing  
16 the company to cease and desist from the violation.  
17 At the hearing, the pharmacy benefits manager shall  
18 have an opportunity to be heard and to show cause why  
19 an order should not be issued requiring the pharmacy  
20 benefits manager to cease and desist from the  
21 violation.

22 2. The board may perform an examination concerning  
23 the quality of services of any pharmacy benefits  
24 manager and providers with whom the pharmacy benefits  
25 manager has contracts, agreements, or other  
26 arrangements pursuant to its pharmacy benefits  
27 management plan as often as the board deems necessary  
28 for the protection of the interests of the people of  
29 this state. The pharmacy benefits manager being  
30 examined shall pay the cost of the examination.

31 Sec. \_\_. NEW SECTION. 155B.11 PRESCRIPTION DRUG  
32 REIMBURSEMENT COSTS.

33 Pharmacy benefits managers shall use a current and  
34 nationally recognized benchmark on which to base  
35 reimbursements for prescription drugs and products  
36 dispensed by pharmacies and pharmacists as follows:  
37 1. For brand-name, single-source products, the  
38 average wholesale price as listed in first data bank  
39 or facts and comparisons correct and current on the  
40 date the service was provided shall be used as the  
41 index.  
42 2. For generic drug, multisource products, maximum  
43 allowable cost shall be established by referencing  
44 first data bank facts and comparisons baseline prices.  
45 Only products that are compliant with pharmacy laws as  
46 equivalent and generically interchangeable with a  
47 federal food and drug administration orange book  
48 rating of "A-B" shall be reimbursed from a maximum  
49 allowable cost price methodology. In the event a  
50 multisource product has no baseline price, the product

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1 shall be treated as a single-source branded drug for  
2 the purpose of valuing reimbursement.  
3 Sec. \_\_. NEW SECTION. 155B.12 PROHIBITED  
4 PRACTICES.  
5 1. A pharmacy benefits manager or its  
6 representative shall not cause or knowingly permit any  
7 of the following:  
8 a. The use of advertising that is untrue or  
9 misleading.  
10 b. Solicitation that is untrue or misleading.  
11 c. Any form of evidence of coverage that is  
12 deceptive.  
13 2. A pharmacy benefits manager, unless licensed as  
14 an insurer, shall not use in its name, contracts, or  
15 literature any of the following:  
16 a. Any form of the word "insurance", "casualty",  
17 "surety", or "mutual".  
18 b. Any other words descriptive of the insurance,  
19 casualty, or surety business, or deceptively similar  
20 to the name or description of any insurer or fidelity  
21 and surety insurer, doing business in this state.  
22 3. A pharmacy benefits manager shall not  
23 discriminate on the basis of race, creed, color, sex,  
24 or religion in the selection of pharmacies or  
25 pharmacists with whom the company does business.  
26 4. A pharmacy benefits manager shall not unfairly  
27 discriminate against pharmacists when contracting for  
28 pharmacists' services.  
29 5. A pharmacy benefits manager shall be entitled  
30 access to usual and customary pricing only for  
31 comparison to the reimbursement of a specific claims

32 payment made by the pharmacy benefits manager. Usual  
33 and customary pricing is confidential and a pharmacy  
34 benefits manager is prohibited from any other use or  
35 disclosure of usual and customary pricing.

36 6. A pharmacy benefits manager shall not move a  
37 plan to another payment network unless the pharmacy  
38 benefits manager receives written consent from the  
39 plan sponsor.

40 7. A pharmacy benefits manager shall not receive  
41 or accept any rebate, kickback, or any special payment  
42 or favor or advantage of any valuable consideration or  
43 inducement for changing a patient's drug product  
44 unless the change is specified in a written contract  
45 that has been filed with the commissioner at least  
46 thirty days prior to the execution of the contract.

47 8. A claim paid by a pharmacy benefits manager  
48 shall not be retroactively denied or adjusted after  
49 seven days from adjudication of the claim.  
50 Acknowledgement of eligibility shall not be

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1 retroactively reversed. A pharmacy benefits manager  
2 may retroactively deny or adjust a claim only if the  
3 original claim was submitted fraudulently, the  
4 original claim payment was incorrect because the  
5 provider was previously paid for services rendered, or  
6 the services were not rendered by the pharmacist.

7 9. A pharmacy benefits manager shall not terminate  
8 a pharmacy from a network based on any of the  
9 following:

10 a. The pharmacy expresses disagreement with the  
11 pharmacy benefits manager's decision to deny or limit  
12 benefits to an enrollee.

13 b. A pharmacist employed by the pharmacy discusses  
14 with a current, former, or prospective enrollee any  
15 aspect of the person's medical condition or treatment  
16 alternatives whether or not the service is a covered  
17 service.

18 c. A pharmacist employed by the pharmacy makes a  
19 personal recommendation regarding selecting a pharmacy  
20 benefits manager based on the pharmacist's personal  
21 knowledge of the health needs of the individual.

22 d. The pharmacy protests or expresses disagreement  
23 with a medical decision, medical policy, or medical  
24 practice of a pharmacy benefits manager.

25 e. The pharmacy has in good faith communicated  
26 with or advocated on behalf of one or more of the  
27 pharmacy's current, former, or prospective enrollees  
28 regarding the provisions, terms, or requirements of  
29 the pharmacy benefits manager's health benefit plans  
30 as they relate to the needs of the individual

31 regarding the method by which the pharmacy is  
32 compensated for services provided under the agreement  
33 with the pharmacy benefits manager.  
34 10. A pharmacy benefits manager shall not  
35 terminate a pharmacy from a network or otherwise  
36 penalize a pharmacy solely because of the pharmacy's  
37 invoking of the pharmacy's right under the contract or  
38 applicable law or regulation.  
39 11. A pharmacy benefits manager's termination due  
40 to incompetence or unprofessional behavior shall not  
41 release the pharmacy benefits manager from the  
42 obligation to make any payment due to the pharmacy for  
43 services provided in special circumstances post-  
44 termination to the enrollees at less than agreed-upon  
45 rates.  
46 12. Participation or lack of participation by a  
47 pharmacy in a plan or network shall not affect  
48 participation in any other plan or network offered by  
49 a pharmacy benefits manager.  
50 Sec. \_\_. NEW SECTION. 155B.13 DISCLOSURES.

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1 1. The following shall be provided to the pharmacy  
2 benefits manager enrollees at the time of enrollment  
3 or at the time the contract is issued and shall be  
4 made available upon request or at least annually:  
5 a. A list of the names and locations of all  
6 affiliated pharmacists' services providers.  
7 b. A description of the service area or areas  
8 within which the pharmacy benefits manager provides  
9 prescription services.  
10 c. A description of the method of resolving  
11 complaints of enrollees, including a description of  
12 any arbitration procedure if complaints may be  
13 resolved through a specified arbitration agreement.  
14 d. Notice that the pharmacy benefits manager is  
15 subject to regulation in this state by both the board  
16 of pharmacy examiners and the commissioner of  
17 insurance.  
18 e. A prominent notice included within the evidence  
19 of coverage, providing substantially the following:  
20 "If you have any questions regarding an appeal or  
21 grievance concerning the pharmacists' services that  
22 you have been provided, which have not been  
23 satisfactorily addressed by your plan, you may contact  
24 the board of pharmacy examiners." The notice shall  
25 also provide the toll-free telephone number, mailing  
26 address, and electronic mail address of the board of  
27 pharmacy examiners.  
28 2. Any disclosure from a pharmacy benefits manager  
29 to enrollees shall be written plainly, using terms

30 generally understood by the general public and a copy  
31 of the disclosure shall be provided to all pharmacies  
32 that are members of the network.

33 Sec. \_\_. NEW SECTION. 155B.14 PRIVACY.

34 An enrollee has the right to privacy and  
35 confidentiality in the provision of pharmacists'  
36 services. This right may be expressly waived in  
37 writing by the enrollee or the enrollee's guardian.

38 Sec. \_\_. NEW SECTION. 155B.15 INSOLVENCY.

39 1. If a pharmacy benefits manager becomes  
40 insolvent or ceases to be a company in this state in  
41 any assessable or license year, the company shall  
42 remain liable for the payment of the assessment for  
43 the period in which the company operated as a pharmacy  
44 benefits manager in this state.

45 2. If a pharmacy benefits manager becomes  
46 insolvent, the commissioner may, after notice and  
47 hearing, levy an assessment, in addition to an  
48 assessment pursuant to section 155B.8, on pharmacy  
49 benefits managers licensed to do business in this  
50 state. The assessments shall be paid quarterly to the

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1 commissioner, and upon receipt by the commissioner  
2 shall be paid over into an escrow account in the  
3 pharmacy benefits manager fund. The escrow account  
4 shall be used solely for the benefit of enrollees of  
5 the insolvent pharmacy benefits manager.

6 Sec. \_\_. NEW SECTION. 155B.16 PHARMACY BENEFITS  
7 MANAGER FUND – USES – ESCROW ACCOUNT.

8 1. A pharmacy benefits manager fund is created in  
9 the state treasury under the authority of the  
10 commissioner of insurance. Moneys received from  
11 licensure of pharmacy benefits managers pursuant to  
12 section 155B.5, from examinations collected pursuant  
13 to section 155B.7, and from assessments collected  
14 pursuant to section 155B.8 shall be deposited in the  
15 fund. Moneys in the fund shall be used and an amount  
16 necessary is appropriated, annually, to the division  
17 of insurance of the department of commerce for the  
18 purposes of enforcing this chapter.

19 2. An escrow account is created in the pharmacy  
20 benefits manager fund. Assessments collected pursuant  
21 to section 155B.15 shall be deposited in the account  
22 and are appropriated to the division of insurance of  
23 the department of commerce to be used solely for the  
24 benefit of the enrollees of an insolvent pharmacy  
25 benefits manager."

26 2. By renumbering as necessary.

Roll call was requested by Myers of Johnson and Stevens of Dickinson.

Rule 75 was invoked.

On the question "Shall amendment [H-1251](#) be adopted?" ([H.F. 619](#))

The ayes were, 45:

Bell	Berry	Bukta	Cohoon
Dandekar	Davitt	Fallon	Foege
Ford	Frevert	Gaskill	Greimann
Heddens	Hogg	Hunter	Huser
Jochum	Kuhn	Lensing	Lykam
Mascher	McCarthy	Mertz	Miller
Murphy	Myers	Oldson	Olson, D.
Osterhaus	Petersen	Quirk	Reasoner
Shoultz	Smith	Stevens	Struyk
Swaim	Taylor, D.	Taylor, T.	Thomas
Wendt	Whitaker	Whitead	Winckler
Wise			

The nays were, 54:

Alons	Arnold	Baudler	Boal
Boddicker	Bogess	Carroll	Chambers
De Boef	Dennis	Dix	Dolecheck
Drake	Eichhorn	Elgin	Freeman
Gipp	Granzow	Greiner	Hahn
Hansen	Hanson	Heaton	Hoffman
Horbach	Huseman	Hutter	Jacobs
Jenkins	Jones	Klemme	Kramer
Kurtenbach	Lalk	Lukan	Maddox
Manternach	Olson, S.	Paulsen	Raecker
Rasmussen	Rayhons	Roberts	Sands
Schickel	Tjepkes	Tymeson	Upmeyer
Van Engelenhoven	Van Fossen, J.K.	Van Fossen, J.R.	Watts
Wilderdyke	Mr. Speaker		
	Rants		

Absent or not voting, 1:

Connors

Amendment [H-1251](#) lost.

## LEAVE OF ABSENCE

Leave of absence was granted as follows:

Connors of Polk on request of Myers of Johnson.

Jenkins of Black Hawk in the chair at 6:58 p.m.

Smith of Marshall asked and received unanimous consent that amendment [H-1225](#) to amendment [H-1216](#), be deferred.

Carroll of Poweshiek asked and received unanimous consent to withdraw amendment [H-1250B](#), to amendment [H-1216](#).

Carroll of Poweshiek offered the following amendment [H-1257](#), to amendment [H-1216](#), filed by him from the floor and moved its adoption:

H-1257

- 1 Amend the amendment, H-1216, to [House File 619](#) as
- 2 follows:
- 3 1. Page 5, line 23, by striking the word
- 4 "Prescribing" and inserting the following: "With the
- 5 exception of drugs prescribed for the treatment of
- 6 human immunodeficiency virus or acquired immune
- 7 deficiency syndrome, transplantation, or cancer and
- 8 drugs prescribed for mental illness with the exception
- 9 of drugs and drug compounds that do not have a
- 10 significant variation in a therapeutic profile or side
- 11 affect profile within a therapeutic class,
- 12 prescribing".
- 13 2. Page 5, by striking lines 26 through 37.
- 14 3. By renumbering as necessary.

Amendment [H-1257](#) was adopted, placing out of order amendment [H-1225](#), to amendment [H-1216](#), previously deferred, filed by Smith of Marshall from the floor.

Carroll of Poweshiek offered the following amendment [H-1236](#), to amendment [H-1216](#), filed by him from the floor and moved its adoption:

H-1236

- 1 Amend the amendment, H-1216, to [House File 619](#) as

2 follows:

3 1. Page 6, by inserting after line 31, the  
4 following:

5 "1A. The department of human services shall submit  
6 a medical assistance state plan amendment to the  
7 centers for Medicare and Medicaid services of the  
8 United States department of health and human services  
9 to effectuate the nursing facility quality assurance  
10 assessment.

11 1B. The department of human services shall submit  
12 an application to the secretary of the United States  
13 department of health and human services to request a  
14 waiver of the uniform tax requirement pursuant to 42  
15 U.S.C. § 1396b(w)(3)(E) and 42 C.F.R. § 433.68(e)(2)."

16 2. Page 12, by inserting after line 14, the  
17 following:

18 "Sec. \_\_. CONTINGENT EFFECTIVE DATE.

19 1. Section 249A.20B, as enacted in this Act, shall  
20 not take effect unless the department of human  
21 services receives approval of both the medical  
22 assistance state plan amendment from the centers for  
23 Medicare and Medicaid services of the United States  
24 department of health and human services to effectuate  
25 the nursing facility quality assurance assessment and  
26 of the application to the secretary of the United  
27 States department of health and human services for a  
28 waiver of the uniform tax requirement pursuant to 42  
29 U.S.C. § 1396b(w)(3)(E) and 42 C.F.R. § 433.68(e)(2).  
30 If both approvals are received, section 249A.20B shall  
31 take effect upon the date that both approvals have  
32 been received by the department and the department  
33 shall notify the Code editor of the date of receipt of  
34 the approvals.

35 2. If both approvals described in subsection 1 are  
36 not received by June 30, 2004, the section of this Act  
37 enacting section 249A.20B shall not take effect."

38 3. Page 12, by striking lines 18 through 20.

39 4. Page 12, by inserting after line 27, the  
40 following:

41 "4A. The portions of the section of this Act  
42 enacting section 249A.20B relating to directing the  
43 department of human services to submit a medical  
44 assistance state plan amendment to the centers for  
45 Medicare and Medicaid services of the United States  
46 department of health and human services to effectuate  
47 the nursing facility quality assurance assessment and  
48 directing the department of human services to submit  
49 an application to the secretary of the United States  
50 department of health and human services for a waiver



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- 1 of the uniform tax requirement pursuant to 42 U.S.C. §
- 2 1396b(w)(3)(E) and 42 C.F.R. § 433.68(e)(2), being
- 3 deemed of immediate importance, take effect upon
- 4 enactment."
- 5 5. Page 12, line 30, by inserting after the word
- 6 "dates" the following: "and a contingent effective
- 7 date".
- 8 6. By renumbering as necessary.

Amendment [H-1236](#) was adopted.

Osterhaus of Jackson asked and received unanimous consent that amendment [H-1240](#) to amendment [H-1216](#) be deferred.

Osterhaus of Jackson offered the following amendment [H-1252](#), to amendment [H-1216](#), filed by him from the floor and moved its adoption:

H-1252

- 1 Amend the amendment, H-1216, to [House File 619](#) as
- 2 follows:
- 3 1. Page 7, line 46, by striking the figure "4.26"
- 4 and inserting the following: "4.50".

Speaker Rants in the chair at 7:26 p.m.

A non-record roll call was requested.

The ayes were 45, nays 49.

Amendment [H-1252](#) lost.

Osterhaus of Jackson offered the following amendment [H-1253](#), to amendment [H-1216](#), filed by him from the floor and moved its adoption:

H-1253

- 1 Amend the amendment, H-1216, to [House File 619](#) as
- 2 follows:
- 3 1. Page 8, line 19, by striking the figure "12"
- 4 and inserting the following: "11".

Amendment [H-1253](#) lost.

Osterhaus of Jackson offered the following amendment [H-1254](#), to amendment [H-1216](#), filed by him from the floor and moved its adoption:

H-1254

- 1 Amend the amendment, H-1216, to [House File 619](#) as
- 2 follows:
- 3 1. Page 8, by striking lines 30 through 44.
- 4 2. By renumbering as necessary.

Amendment [H-1254](#) lost.

Osterhaus of Jackson offered the following amendment [H-1239](#), to amendment [H-1216](#), filed by him from the floor and moved its adoption:

H-1239

- 1 Amend the amendment, H-1216, to [House File 619](#) as
- 2 follows:
- 3 1. Page 9, by inserting after line 16, the
- 4 following:
- 5 "7A. The department of human services shall
- 6 continue the pharmaceutical case management program.
- 7 The university of Iowa college of public health, in
- 8 cooperation with the university of Iowa colleges of
- 9 pharmacy and medicine, shall provide oversight for the
- 10 pharmaceutical case management program and shall
- 11 submit annual reports regarding program savings and
- 12 quality improvement to the chairpersons of the joint
- 13 appropriations subcommittee on health and human
- 14 services of the general assembly."

Amendment [H-1239](#) lost.

Osterhaus of Jackson offered the following amendment [H-1249](#), to amendment [H-1216](#), filed by him from the floor and moved its adoption:

H-1249

- 1 Amend the amendment, H-1216, to [House File 619](#) as
- 2 follows:
- 3 1. Page 9, by inserting after line 16, the

- 4 following:  
5 "7A. The department shall reimburse the dispensing  
6 of prescription drugs for long-term care facility  
7 residents at two cents per unit dose in addition to  
8 the regular dispensing fee."  
9 2. By renumbering as necessary.

Amendment [H-1249](#) lost.

Eichhorn of Hamilton asked and received unanimous consent that amendment [H-1231](#) to amendment [H-1216](#), be deferred.

Eichhorn of Hamilton offered the following amendment [H-1229](#), to amendment [H-1216](#), filed by him from the floor and moved its adoption:

H-1229

- 1 Amend the amendment, H-1216, to [House File 619](#) as  
2 follows:  
3 1. Page 11, lines 34 and 35, by striking the  
4 words "may procure a sole source contract with a  
5 vendor" and inserting the following: "shall issue a  
6 request for proposals or otherwise solicit bids from  
7 potential vendors".

Amendment [H-1229](#) was adopted.

Osterhaus of Jackson offered amendment [H-1240](#), to amendment [H-1216](#), previously deferred, filed by him from the floor as follows:

H-1240

- 1 Amend the amendment, H-1216, to [House File 619](#) as  
2 follows:  
3 1. Page 7, line 44, by inserting after the figure  
4 "1." the following: "a."  
5 2. Page 7, by inserting after line 47, the  
6 following:  
7 "b. The department of human services in  
8 collaboration with the university of Iowa pharmacy  
9 division of pharmaceutical socioeconomics shall  
10 conduct a cost of dispensing study. Notwithstanding  
11 paragraph "a" based on the results of the dispensing  
12 study, the department shall establish a pharmacy  
13 dispensing fee equal to one hundred five percent of  
14 the average dispensing fee."

A non-record roll call was requested.

The ayes were 44, nays 51.

Amendment [H-1240](#) lost.

Eichhorn of Hamilton offered the following amendment [H-1231](#), to amendment [H-1216](#), previously deferred, filed by him from the floor and moved its adoption:

H-1231

1 Amend the amendment, H-1216, to [House File 619](#), as  
2 follows:  
3 1. Page 11, by striking line 12, and inserting  
4 the following:  
5 "Sec. \_\_. CHRONIC CARE MANAGEMENT."

Amendment [H-1231](#) was adopted.

Carroll of Poweshiek moved the adoption of amendment [H-1216](#), as amended.

A non-record roll call was requested.

The ayes were 53, nays 43.

Amendment [H-1216](#), as amended, was adopted.

#### RULE 32 INVOKED

Shultz of Black Hawk rose on a point of order and invoked Rule 32.

The Speaker ruled the point well taken and [House File 619](#) was referred to the committee on ways and means.

#### RULE 57 SUSPENDED

Gipp of Winneshiek asked and received unanimous consent to suspend Rule 57, relating to committee notice and agenda, for a meeting of the committee on ways and means immediately.

The House stood at ease at 9:55 p.m., until the fall of the gavel.

The House resumed session at 10:07 p.m., Speaker Rants in the chair.

COMMITTEE ON WAYS AND MEANS

[House File 619](#), a bill for an act relating to health care including reimbursement of health care facilities based on resident program eligibility.

Fiscal Note is not required.

Recommended **Do Pass** April 2, 2003.

The House resumed consideration of [House File 619](#).

Carroll of Poweshiek moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 619](#))

The ayes were, 54:

Alons	Arnold	Baudler	Boal
Boddicker	Boggess	Carroll	Chambers
De Boef	Dennis	Dix	Dolecheck
Drake	Eichhorn	Elgin	Freeman
Gipp	Granzow	Greiner	Hahn
Hansen	Hanson	Heaton	Hoffman
Horbach	Huseman	Hutter	Jacobs
Jenkins	Jones	Klemme	Kramer
Kurtenbach	Lalk	Lukan	Maddox
Manternach	Olson, S.	Paulsen	Raecker
Rasmussen	Rayhons	Roberts	Sands
Schickel	Tjepkes	Tymeson	Upmeyer
Van Engelenhoven	Van Fossen, J.K.	Van Fossen, J.R.	Watts
Wilderdyke	Mr. Speaker		
	Rants		

The nays were, 46:

Bell	Berry	Bukta	Cohon
Connors	Dandekar	Davitt	Fallon
Foege	Ford	Frevert	Gaskill
Greimann	Heddens	Hogg	Hunter
Huser	Jochum	Kuhn	Lensing
Lykam	Mascher	McCarthy	Mertz
Miller	Murphy	Myers	Oldson
Olson, D.	Osterhaus	Petersen	Quirk
Reasoner	Shoultz	Smith	Stevens

Struyk  
Thomas  
Winckler

Swaim  
Wendt  
Wise

Taylor, D.  
Whitaker

Taylor, T.  
Whitead

Absent or not voting, none.

The bill having received a constitutional majority was declared to have passed the House and the title, as amended, was agreed to.

#### IMMEDIATE MESSAGE

Gipp of Winneshiek asked and received unanimous consent that [House File 619](#) be immediately messaged to the Senate.

#### SENATE MESSAGES CONSIDERED

[Senate File 344](#), by committee on business and labor relations, a bill for an act concerning regulatory and statutory requirements impacting business relating to liability reform, unemployment compensation benefits eligibility and employer contributions, workers' compensation, occupational safety and health, financial services, environmental regulatory requirements, public project contractor requirements, and economic development.

Read first time and referred to committee on **commerce, regulation and labor**

[Senate File 372](#), by committee on commerce, a bill for an act relating to the licensing of persons providing money transmission and currency exchange services, providing penalties, and providing an effective date.

Read first time and referred to committee on **commerce, regulation and labor**.

[Senate File 392](#), by committee on agriculture, a bill for an act relating to the animal agriculture compliance Act, providing for penalties, and providing an effective date.

Read first time and referred to committee on **agriculture**.

[Senate File 412](#), by committee on human resources, a bill for an act relating to the management of elder group homes.

Read first time and referred to committee on **human resources**.

## MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker: I am directed to inform your honorable body that the Senate has on April 2, 2003, passed the following bill in which the concurrence of the Senate was asked:

[House File 659](#), a bill for an act relating to ownership of alternate energy production facilities by public utilities, making related changes, and providing an effective date.

Also: That the Senate has on April 2, 2003, passed the following bill in which the concurrence of the House is asked:

[Senate File 354](#), a bill for an act implementing the federal Indian Child Welfare Act.

MICHAEL E. MARSHALL, Secretary

## PRESENTATION OF VISITORS

The Speaker announced that the following visitors were present in the House chamber:

Eighty Senior students from Davis County Community High School, Bloomfield, Iowa, accompanied by Mr. Pat Perry and Mr. Ed Good. By Swaim of Davis.

## SUBCOMMITTEE ASSIGNMENTS

### [House File 432](#)

Appropriations: Eichhorn, Chair; Dolecheck and T. Taylor.

### [House File 651](#)

Appropriations: Boggess, Chair; Dolecheck and Reasoner.

## HOUSE STUDY BILL COMMITTEE ASSIGNMENT

### **H.S.B. 309 Appropriations**

Relating to and making appropriations for health and human services to the department of elder affairs, the Iowa department of public health, the department of inspections and appeals, the department of

human services, and the commission of veteran affairs, and providing effective dates.

### **H.S.B. 310 Government Oversight**

Establishing a veterans trust fund under the control of the commission of veterans affairs and making an appropriation.

#### COMMITTEE RECOMMENDATIONS

MR. SPEAKER: The Chief Clerk of the House respectfully reports that the following committee recommendations have been received and are on file in the office of the Chief Clerk.

MARGARET A. THOMSON  
Chief Clerk of the House

#### COMMITTEE ON AGRICULTURE

[Senate File 379](#), a bill for an act relating to certain agriculture liens.

Fiscal Note is not required.

Recommended **Amend and Do Pass with amendment [H-1246](#)** April 2, 2003.

[Senate File 394](#), a bill for an act relating to the regulation of the grain industry, and making penalties applicable.

Fiscal Note is not required.

Recommended **Do Pass** April 2, 2003.

[Senate File 395](#), a bill for an act relating to assistance services provided to the department of agriculture and land stewardship, including for the filing of documents and the payment of fees and civil penalties, and the authorization to assess additional charges.

Fiscal Note is not required.

Recommended **Do Pass** April 2, 2003.

[Senate File 396](#), a bill for an act providing for the animal unit capacity of pullets for purposes of regulation under the animal agriculture compliance Act.

Fiscal Note is not required.

Recommended **Amend and Do Pass with amendment [H-1247](#)** April 2, 2003.



## COMMITTEE ON HUMAN RESOURCES

[Senate File 351](#), a bill for an act relating to child care requirements involving prohibitions against involvement with child care, record checks and evaluations performed by the department of human services, eligibility for state assistance, and child care fraud program sanctions, and making penalties applicable.

Fiscal Note is not required.

Recommended **Amend and Do Pass with amendment [H-1245](#)** April 2, 2003.

## COMMITTEE ON NATURAL RESOURCES

[Senate File 297](#), a bill for an act relating to the regulation of snowmobiles and all-terrain vehicles, establishing fees, providing penalties, and providing applicability dates.

Fiscal Note is required.

Recommended **Amend and Do Pass with amendment [H-1244](#)** April 2, 2003.

Pursuant to Rule 31.7, [Senate File 297](#) was referred to the committee on ways and means.

## RESOLUTION FILED

[HR 51](#), by Eichhorn, a resolution supporting the nomination of federal court of appeals judicial nominee Miguel A. Estrada.

Laid over under **Rule 25**.

## AMENDMENTS FILED

<a href="#">H-1222</a>	<a href="#">H.F. 654</a>	Jochum of Dubuque
<a href="#">H-1223</a>	<a href="#">H.F. 595</a>	Tjepkes of Webster
<a href="#">H-1224</a>	<a href="#">H.F. 595</a>	Tjepkes of Webster
<a href="#">H-1226</a>	<a href="#">H.F. 654</a>	Jochum of Dubuque
		Shoultz of Black Hawk
<a href="#">H-1227</a>	<a href="#">H.F. 663</a>	Wendt of Woodbury
<a href="#">H-1228</a>	<a href="#">H.F. 448</a>	Kurtenbach of Story
<a href="#">H-1232</a>	<a href="#">S.F. 390</a>	Elgin of Linn
<a href="#">H-1233</a>	<a href="#">S.F. 390</a>	Elgin of Linn
<a href="#">H-1234</a>	<a href="#">H.F. 502</a>	Hoffman of Crawford
<a href="#">H-1235</a>	<a href="#">S.F. 433</a>	Wendt of Woodbury
		Whitead of Woodbury
		Struyk of Pottawattamie

<a href="#"><u>H-1237</u></a>	<a href="#"><u>H.F. 662</u></a>	Tymeson of Madison
		Dolecheck of Ringgold
		Chambers of O'Brien
		Hansen of Pottawattamie
		Boddicker of Cedar
		Manternach of Jones
		Drake of Pottawattamie
		Lukan of Dubuque
		Kurtenbach of Story
<a href="#"><u>H-1238</u></a>	<a href="#"><u>H.F. 654</u></a>	Hogg of Linn
<a href="#"><u>H-1241</u></a>	<a href="#"><u>H.F. 553</u></a>	Maddox of Polk
<a href="#"><u>H-1242</u></a>	<a href="#"><u>S.F. 435</u></a>	Eichhorn of Hamilton
<a href="#"><u>H-1243</u></a>	<a href="#"><u>S.F. 435</u></a>	Eichhorn of Hamilton
<a href="#"><u>H-1244</u></a>	<a href="#"><u>S.F. 297</u></a>	Committee on Natural Resources
<a href="#"><u>H-1245</u></a>	<a href="#"><u>S.F. 351</u></a>	Committee on Human Resources
<a href="#"><u>H-1246</u></a>	<a href="#"><u>S.F. 379</u></a>	Committee on Agriculture
<a href="#"><u>H-1247</u></a>	<a href="#"><u>S.F. 396</u></a>	Committee on Agriculture
<a href="#"><u>H-1248</u></a>	<a href="#"><u>H.F. 542</u></a>	Baudler of Adair
		J.R. Van Fossen of Scott
<a href="#"><u>H-1255</u></a>	<a href="#"><u>H.F. 617</u></a>	Greiner of Washington
<a href="#"><u>H-1256</u></a>	<a href="#"><u>H.F. 595</u></a>	Huser of Polk
<a href="#"><u>H-1258</u></a>	<a href="#"><u>S.F. 297</u></a>	Baudler of Adair
<a href="#"><u>H-1259</u></a>	<a href="#"><u>H.F. 448</u></a>	S. Olson of Clinton
<a href="#"><u>H-1260</u></a>	<a href="#"><u>H.F. 595</u></a>	Wise of Lee
<a href="#"><u>H-1261</u></a>	<a href="#"><u>H.F. 662</u></a>	Jenkins of Black Hawk
		Kurtenbach of Story
		Dennis of Black Hawk
		Winckler of Scott
		Greimann of Story
<a href="#"><u>H-1262</u></a>	<a href="#"><u>H.F. 595</u></a>	Wise of Lee

On motion by Gipp of Winneshiek the House adjourned at 10:27 p.m., until 8:45 a.m., Thursday, April 3, 2003.