

SENATE FILE **2183**
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SF 2163)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to asset disregard under the medical assistance
2 program for the purchase of a qualified long-term care
3 insurance policy, providing for a repeal, and providing a
4 contingent effective date.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SENATE FILE 2183

S-5056

- 1 Amend Senate File 2183 as follows:
- 2 1. Page 5, line 11, by striking the word "may"
- 3 and inserting the following: "shall".

By NEAL SCHUERER

S-5056 FILED MARCH 9, 2004

SF 2183
COMMERCE

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1 Section 1. NEW SECTION. 249J.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Health maintenance organization" means health
5 maintenance organization as defined in section 514B.1.

6 2. "Long-term care facility" includes, but is not limited
7 to, a facility licensed under chapter 135C or an assisted
8 living program certified under chapter 231C.

9 3. "Qualified long-term care insurance policy" means a
10 qualified long-term care insurance contract as defined in
11 section 7702B(b) of the Internal Revenue Code that is issued
12 by an insurer or other person who complies with section
13 249J.5.

14 4. "Qualified long-term care services" means qualified
15 long-term care services as defined in section 7702B(c) of the
16 Internal Revenue Code.

17 Sec. 2. NEW SECTION. 249J.2 ESTABLISHMENT AND
18 ADMINISTRATION OF THE PROGRAM.

19 1. The Iowa long-term care asset disregard incentive
20 program is established to do the following:

21 a. Provide incentives for individuals to insure against
22 the costs of providing for their long-term care needs.

23 b. Provide a mechanism for individuals to qualify for
24 coverage of the costs of their long-term care needs under the
25 medical assistance program without first being required to
26 substantially exhaust all their resources.

27 c. Assist in developing methods for increasing access to
28 and the affordability of long-term care insurance.

29 d. Provide counseling to individuals in understanding
30 their long-term care insurance options.

31 e. Alleviate the financial burden on the state's medical
32 assistance program by encouraging the pursuit of private
33 initiatives.

34 2. The insurance division of the department of commerce
35 shall administer the program in cooperation with the division

1 responsible for medical services within the department of
2 human services.

3 Sec. 3. NEW SECTION. 249J.3 INFORMATION ABOUT THE
4 PROGRAM -- AVAILABILITY OF ASSISTANCE.

5 1. The insurance division shall develop and coordinate a
6 plan to provide counseling as described in section 249J.2.

7 2. The insurance division shall make available to any
8 individual interested in participating in the Iowa long-term
9 care asset disregard incentive program information concerning
10 all of the following:

11 a. The Iowa long-term care asset disregard incentive
12 program.

13 b. Qualified long-term care insurance policies.

14 c. Medicare supplement insurance policies.

15 d. Parts A and B coverage under the Medicare program
16 pursuant to 42 U.S.C. § 1395 et seq.

17 e. Health maintenance organizations that contract with the
18 Medicare program.

19 f. The medical assistance program.

20 3. If an individual elects to pursue any of the options
21 about which information is provided under subsection 2, the
22 insurance division shall assist the individual.

23 Sec. 4. NEW SECTION. 249J.4 ELIGIBILITY.

24 An individual who meets either of the following criteria is
25 eligible for assistance under the medical assistance program
26 using the asset disregard provisions pursuant to section
27 249J.6:

28 1. Is the beneficiary of a qualified long-term care
29 insurance policy approved by the insurance division.

30 2. Is enrolled in a health maintenance organization that
31 both provides qualified long-term care services and provides a
32 qualified long-term care insurance policy.

33 Sec. 5. NEW SECTION. 249J.5 INSURER REQUIREMENTS.

34 1. An insurer or other person who wishes to issue a
35 qualified long-term care insurance policy meeting the

1 requirements of this chapter shall, at a minimum, offer to
2 each policyholder or prospective policyholder a policy that
3 provides both of the following:

4 a. Facility coverage, including but not limited to long-
5 term care facility coverage.

6 b. Nonfacility coverage, including but not limited to home
7 and community care coverage.

8 2. An insurer or other person who complies with subsection
9 1 may also elect to offer a qualified long-term care insurance
10 policy that provides only facility coverage.

11 Sec. 6. NEW SECTION. 249J.6 ASSET DISREGARD ADJUSTMENT.

12 1. As used in this section, "asset disregard" means any of
13 the following:

14 a. A one dollar increase in the amount of assets an
15 individual who purchases a qualified long-term care insurance
16 policy and meets the requirements of section 249J.4 may retain
17 under section 249A.34 for each one dollar of benefit paid out
18 under the individual's qualified long-term care insurance
19 policy for qualified long-term care services if the policy
20 provides benefits at the time of initial purchase of at least
21 one hundred thousand dollars if purchased on or before January
22 1, 2004, and includes a provision under which the total
23 benefit increases by at least five percent per year,
24 compounded annually beginning January 1, 2005, for individuals
25 up to seventy-two years of age.

26 b. The total assets an individual owns and may retain
27 under section 249A.34 and still qualify for benefits under
28 chapter 249A at the time the individual applies for benefits
29 if the individual meets all of the following criteria:

30 (1) Is the beneficiary of a qualified long-term care
31 insurance policy that provides benefits at the time of initial
32 purchase of at least one hundred forty thousand dollars if
33 purchased on or before January 1, 1998, and includes a
34 provision under which the total benefit increases by at least
35 five percent per year, compounded annually, beginning January

1 1, 1999, for individuals up to seventy-two years of age.

2 (2) Meets the requirements of section 249J.4.

3 (3) Has exhausted the benefits of the qualified long-term
4 care insurance policy.

5 2. When the division responsible for medical services
6 within the department of human services determines whether an
7 individual is eligible for medical services under chapter
8 249A, the division shall make an asset disregard adjustment
9 for any individual who meets the requirements of section
10 249J.4. The asset disregard shall be available after benefits
11 of the qualified long-term care insurance policy have been
12 applied to the cost of qualified long-term care services as
13 required under this chapter.

14 Sec. 7. NEW SECTION. 249J.7 APPLICATION OF ASSET
15 DISREGARD TO DETERMINATION OF INDIVIDUAL'S ASSETS.

16 A public program administered by the state that provides
17 long-term care services and bases eligibility upon the amount
18 of the individual's assets shall apply the asset disregard
19 under section 249J.6 in determining the amount of the
20 individual's assets.

21 Sec. 8. NEW SECTION. 249J.8 DISCONTINUATION OF PROGRAM.

22 1. If the Iowa long-term care asset disregard incentive
23 program is discontinued, an individual who is covered by a
24 qualified long-term care insurance policy prior to the date
25 the program is discontinued is eligible to continue to receive
26 an asset disregard as defined under section 249J.6.

27 2. An individual who is covered by a long-term care
28 insurance policy under the long-term care asset preservation
29 program established pursuant to chapter 249G, Code 2003, on or
30 before June 30, 2004, is eligible to continue to receive the
31 asset adjustment as defined under that chapter.

32 3. The insurance division shall adopt rules to provide an
33 asset disregard to individuals who are covered by a long-term
34 care insurance policy prior to July 1, 2004, consistent with
35 the Iowa long-term care program asset disregard.

1 Sec. 9. NEW SECTION. 249J.9 RECIPROCAL AGREEMENTS TO
2 EXTEND ASSET DISREGARD.

3 The division responsible for medical services within the
4 department of human services may enter into reciprocal
5 agreements with other states to extend the asset disregard
6 under section 249J.6 to Iowa residents who had purchased or
7 were covered by qualified long-term care insurance policies in
8 other states.

9 Sec. 10. NEW SECTION. 249J.10 RULES.

10 The department of human services and the insurance division
11 may adopt rules pursuant to chapter 17A as necessary to
12 administer this chapter. The insurance division shall consult
13 with representatives of the insurance industry in adopting
14 such rules. This delegation of rulemaking authority shall be
15 construed narrowly.

16 Sec. 11. NEW SECTION. 249A.34 PURCHASE OF QUALIFIED
17 LONG-TERM CARE INSURANCE POLICY -- COMPUTATION UNDER MEDICAL
18 ASSISTANCE PROGRAM.

19 A computation for the purposes of determining eligibility
20 under this chapter concerning an individual who has purchased
21 a qualified long-term care insurance policy under chapter 249J
22 shall include consideration of the asset disregard provided in
23 section 249J.6.

24 Sec. 12. Chapter 249G, Code 2003, is repealed.

25 Sec. 13. MEDICAID STATE PLAN.

26 1. The department shall amend the medical assistance state
27 plan to provide that all amounts paid for qualified long-term
28 care services under a qualified long-term care insurance
29 policy shall be considered in determining the amount of the
30 asset disregard.

31 2. The department shall amend the medical assistance state
32 plan to extend nursing home coverage using the special
33 institutional income rule to the medically needy directly
34 without the requirement of establishing a qualifying income
35 trust.

1 both facility coverage and nonfacility coverage, including but
2 not limited to home and community care coverage.

3 Under the bill, an individual who purchases or is covered
4 by a qualified long-term care insurance policy would be
5 allowed an asset disregard under the medical assistance
6 program. The asset disregard is either a \$1 increase in the
7 amount of assets the individual may retain under the medical
8 assistance program for each \$1 of benefit paid out under the
9 individual's qualified long-term care insurance policy for
10 qualified long-term care services if the benefit is at least
11 \$100,000 if purchased on or before January 1, 2004, and the
12 total benefit increases by at least 5 percent compounded
13 annually beginning January 1, 2005, for individuals up to
14 seventy-two years of age, or a disregard of the total assets
15 the individual owns and may retain and still be eligible under
16 the medical assistance program if the individual is the
17 beneficiary of a qualified long-term care insurance policy
18 with a benefit of at least \$140,000 if purchased on or before
19 January 1, 1998, with a total benefit that increases by at
20 least 5 percent compounded annually beginning January 1, 1999,
21 for individuals up to 72 years of age, is otherwise eligible
22 and has exhausted the benefits of the policy.

23 The bill provides that if the Iowa long-term care asset
24 disregard incentive program is discontinued, an individual who
25 purchased or is covered under a qualified long-term care
26 insurance policy prior to the date the program is discontinued
27 is eligible to continue to receive an asset disregard under
28 the bill. The bill allows an individual participating in the
29 asset preservation program existing on June 30, 2004, to
30 continue to receive that asset adjustment and directs the
31 department to adopt rules to allow an individual who purchased
32 long-term care insurance prior to July 1, 2004, to receive an
33 asset disregard incentive prior to July 1, 2004. The bill
34 allows for reciprocal agreements to extend the asset disregard
35 program and the division of insurance to Iowa residents who

1 have purchased or are covered under qualified long-term care
2 insurance policies in other states.

3 The bill authorizes the department of human services and
4 the insurance division to adopt rules to administer this new
5 Code chapter but this authority is to be construed narrowly.
6 The insurance division is directed to consult with
7 representatives of the insurance industry in adopting such
8 rules.

9 The bill directs the department of human services to amend
10 the medical assistance state plan to allow for disregard of
11 all amounts paid out under a qualified long-term care
12 insurance policy and to allow for extension of nursing home
13 coverage using the special institutional income rule to the
14 medically needy directly without requiring the establishment
15 of a qualifying income trust.

16 The bill repeals Code chapter 249G, the current long-term
17 care asset preservation program.

18 The bill provides that the long-term care asset disregard
19 incentive program takes effect only if funds are specifically
20 appropriated to the insurance division for that purpose.

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**Fiscal Services Division
Legislative Services Agency
Fiscal Note**

SF 2183 - Long Term Care (LSB 6099 SV)

Analyst: Jennifer Vermeer (Phone: (515) 281-4611) (jennifer.vermeer@legis.state.ia.us)

Fiscal Note Version - New

Description

Senate File 2183 creates a Long-term Care Asset Disregard Incentive Program to provide incentives for individuals to purchase long-term care insurance. The Program provides a mechanism for individuals who purchase qualified long-term care insurance policies to qualify for the Medical Assistance (Medicaid) Program without substantially exhausting their financial resources. A person who purchases a qualified long-term care insurance plan would be allowed an "asset disregard" equal to the amount of benefit paid by the plan. The dollar value of the benefits paid under the plan would be deducted from the individual's total resources in qualifying for Medicaid, and the individual would be able to retain that amount of resources.

Senate File 2183 requires the Insurance Division within the Department of Commerce to develop and coordinate a plan to provide counseling to individuals in understanding long-term care insurance options and to provide information about the Asset Disregard Program to interested individuals.

Assumptions

1. The Insurance Division will incur additional costs of approximately \$265,000 for developing a counseling program and providing staff support to the Program. This estimate is based on a similar program in Indiana. The increased costs include \$240,000 in salary funds for four additional FTE Positions: two program planner FTE positions, one public information officer, and one administrative assistant. In addition, the cost of publishing and distributing promotional and educational materials is estimated at \$25,000. This cost would be lower in the second year and is estimated at \$15,000.
2. One of the goals of the Program stated in the Bill is to encourage individuals to purchase long-term care insurance to prevent or delay eligibility for the State Medicaid Program. The current average payment for nursing home services is approximately \$100,000 based on a statewide average cost of nursing home services of \$3,180 per month and an average length of stay of 2.5 years. The current savings to the State for each person covered by this Program rather than Medicaid is \$100,000 and will increase over time. Persons purchasing insurance through this Program are likely at least 10 years from needing to use the coverage. As a result, any savings from preventing or delaying Medicaid eligibility would be in the long term.
3. How many individuals will participate in the Program, and of the participants, how many otherwise would have been served in the Medicaid Program cannot be determined. Therefore, there is the potential for long-term savings; however the amount of the savings cannot be determined.

Fiscal Impact

Senate File 2183 will result in increased General Fund expenditures to the Insurance Division of \$265,000 in FY 2005 and \$255,000 in FY 2006. There are potential long-term savings to the Medical Assistance (Medicaid) Program within the Department of Human Services (DHS); however, due to insufficient information, the amount of savings cannot be determined.

Sources

Insurance Division, Department of Commerce
Department of Human Services

Dennis C Prouty

March 8, 2004

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

SENATE FILE 2183**S-5081**

1 Amend Senate File 2183 as follows:

2 1. Page 3, by striking lines 14 through 25, and
3 inserting the following:

4 "a. A one dollar increase in the amount of assets
5 an individual who purchases a qualified long-term care
6 insurance policy and meets the requirements of section
7 249J.4 may retain under section 249A.34 for each one
8 dollar of benefit paid out under the individual's
9 qualified long-term care insurance policy for
10 qualified long-term care services if the policy meets
11 all of the following criteria:

12 (1) If purchased prior to January 1, 2004,
13 provides benefits in an amount equal to at least one
14 hundred thousand dollars as computed on January 1,
15 2004.

16 (2) If purchased on or after January 1, 2004,
17 provides benefits in an amount equal to at least one
18 hundred thousand dollars as computed on January 1,
19 2004, compounded annually by at least five percent.

20 (3) Includes a provision under which the total
21 amount of the benefit increases by at least five
22 percent annually for individuals up to seventy-two
23 years of age."

24 2. By striking page 3, line 30, through page 4,
25 line 1, and inserting the following:

26 "(1) Is the beneficiary of a qualified long-term
27 care insurance policy that provides benefits, if
28 purchased prior to January 1, 1998, in an amount equal
29 to at least one hundred forty thousand dollars as
30 computed on January 1, 1998.

31 (2) Is the beneficiary of a qualified long-term
32 care insurance policy that provides benefits, if
33 purchased on or after January 1, 1998, in an amount
34 equal to at least one hundred forty thousand dollars
35 as computed on January 1, 1998, compounded annually by
36 at least five percent.

37 (3) Is the beneficiary of a qualified long-term
38 care insurance policy that includes a provision under
39 which the total amount of the benefit increases by at
40 least five percent annually for individuals up to
41 seventy-two years of age."

42 3. Page 4, line 2, by striking the figure "(2)"
43 and inserting the following: "(4)".

44 4. Page 4, line 3, by striking the figure "(3)"
45 and inserting the following: "(5)".

46 5. By renumbering as necessary.

By NEAL SCHUERER

S-5081 FILED MARCH 10, 2004

ADOPTED

SENATE FILE 2183**S-5083**

1 Amend Senate File 2183 as follows:

2 1. Page 3, by striking lines 14 through 25, and
3 inserting the following:

4 "a. A one dollar increase in the amount of assets
5 an individual who purchases a qualified long-term care
6 insurance policy and meets the requirements of section
7 249J.4 may retain under section 249A.34 for each one
8 dollar of benefit paid out under the individual's
9 qualified long-term care insurance policy for
10 qualified long-term care services if the policy meets
11 all of the following criteria:

12 (1) If purchased on or after July 1, 2004,
13 provides benefits in an amount equal to at least one
14 hundred thousand dollars as computed on July 1, 2004,
15 compounded annually by at least five percent.

16 (2) Includes a provision under which the total
17 amount of the benefit increases by at least five
18 percent annually for individuals up to seventy-two
19 years of age."

20 2. By striking page 3, line 30, through page 4,
21 line 1, and inserting the following:

22 "(1) Is the beneficiary of a qualified long-term
23 care insurance policy purchased on or after July 1,
24 2004, that provides benefits, in an amount equal to at
25 least one hundred eighty-eight thousand dollars as
26 computed on July 1, 2004, compounded annually by at
27 least five percent.

28 (2) Is the beneficiary of a qualified long-term
29 care insurance policy purchased on or after July 1,
30 2004, that includes a provision under which the total
31 amount of the benefit increases by at least five
32 percent annually for individuals up to seventy-two
33 years of age."

34 3. Page 4, line 2, by striking the figure "(2)"
35 and inserting the following: "(3)".

36 4. Page 4, line 3, by striking the figure "(3)"
37 and inserting the following: "(4)".

38 5. Page 4, by striking lines 32 through 35.

39 6. Page 5, by striking lines 1 through 8.

40 7. By renumbering as necessary.

By HERMAN C. QUIRMBACH

S-5083 FILED MARCH 10, 2004

LOST

SENATE FILE **2183**
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SF 2163)

(AS AMENDED AND PASSED BY THE SENATE MARCH 10, 2004)

~~_____~~ - New Language by the Senate

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to asset disregard under the medical assistance
2 program for the purchase of a qualified long-term care
3 insurance policy, providing for a repeal, and providing a
4 contingent effective date.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2183

1 Section 1. NEW SECTION. 249J.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Health maintenance organization" means health
5 maintenance organization as defined in section 514B.1.

6 2. "Long-term care facility" includes, but is not limited
7 to, a facility licensed under chapter 135C or an assisted
8 living program certified under chapter 231C.

9 3. "Qualified long-term care insurance policy" means a
10 qualified long-term care insurance contract as defined in
11 section 7702B(b) of the Internal Revenue Code that is issued
12 by an insurer or other person who complies with section
13 249J.5.

14 4. "Qualified long-term care services" means qualified
15 long-term care services as defined in section 7702B(c) of the
16 Internal Revenue Code.

17 Sec. 2. NEW SECTION. 249J.2 ESTABLISHMENT AND
18 ADMINISTRATION OF THE PROGRAM.

19 1. The Iowa long-term care asset disregard incentive
20 program is established to do the following:

21 a. Provide incentives for individuals to insure against
22 the costs of providing for their long-term care needs.

23 b. Provide a mechanism for individuals to qualify for
24 coverage of the costs of their long-term care needs under the
25 medical assistance program without first being required to
26 substantially exhaust all their resources.

27 c. Assist in developing methods for increasing access to
28 and the affordability of long-term care insurance.

29 d. Provide counseling to individuals in understanding
30 their long-term care insurance options.

31 e. Alleviate the financial burden on the state's medical
32 assistance program by encouraging the pursuit of private
33 initiatives.

34 2. The insurance division of the department of commerce
35 shall administer the program in cooperation with the division

1 responsible for medical services within the department of
2 human services.

3 Sec. 3. NEW SECTION. 249J.3 INFORMATION ABOUT THE
4 PROGRAM -- AVAILABILITY OF ASSISTANCE.

5 1. The insurance division shall develop and coordinate a
6 plan to provide counseling as described in section 249J.2.

7 2. The insurance division shall make available to any
8 individual interested in participating in the Iowa long-term
9 care asset disregard incentive program information concerning
10 all of the following:

11 a. The Iowa long-term care asset disregard incentive
12 program.

13 b. Qualified long-term care insurance policies.

14 c. Medicare supplement insurance policies.

15 d. Parts A and B coverage under the Medicare program
16 pursuant to 42 U.S.C. § 1395 et seq.

17 e. Health maintenance organizations that contract with the
18 Medicare program.

19 f. The medical assistance program.

20 3. If an individual elects to pursue any of the options
21 about which information is provided under subsection 2, the
22 insurance division shall assist the individual.

23 Sec. 4. NEW SECTION. 249J.4 ELIGIBILITY.

24 An individual who meets either of the following criteria is
25 eligible for assistance under the medical assistance program
26 using the asset disregard provisions pursuant to section
27 249J.6:

28 1. Is the beneficiary of a qualified long-term care
29 insurance policy approved by the insurance division.

30 2. Is enrolled in a health maintenance organization that
31 both provides qualified long-term care services and provides a
32 qualified long-term care insurance policy.

33 Sec. 5. NEW SECTION. 249J.5 INSURER REQUIREMENTS.

34 1. An insurer or other person who wishes to issue a
35 qualified long-term care insurance policy meeting the

1 requirements of this chapter shall, at a minimum, offer to
2 each policyholder or prospective policyholder a policy that
3 provides both of the following:

4 a. Facility coverage, including but not limited to long-
5 term care facility coverage.

6 b. Nonfacility coverage, including but not limited to home
7 and community care coverage.

8 2. An insurer or other person who complies with subsection
9 1 may also elect to offer a qualified long-term care insurance
10 policy that provides only facility coverage.

11 Sec. 6. NEW SECTION. 249J.6 ASSET DISREGARD ADJUSTMENT.

12 1. As used in this section, "asset disregard" means any of
13 the following:

14 a. A one dollar increase in the amount of assets an
15 individual who purchases a qualified long-term care insurance
16 policy and meets the requirements of section 249J.4 may retain
17 under section 249A.34 for each one dollar of benefit paid out
18 under the individual's qualified long-term care insurance
19 policy for qualified long-term care services if the policy
20 meets all of the following criteria:

21 (1) If purchased prior to January 1, 2004, provides
22 benefits in an amount equal to at least one hundred thousand
23 dollars as computed on January 1, 2004.

24 (2) If purchased on or after January 1, 2004, provides
25 benefits in an amount equal to at least one hundred thousand
26 dollars as computed on January 1, 2004, compounded annually by
27 at least five percent.

28 (3) Includes a provision under which the total amount of
29 the benefit increases by at least five percent annually for
30 individuals up to seventy-two years of age.

31 b. The total assets an individual owns and may retain
32 under section 249A.34 and still qualify for benefits under
33 chapter 249A at the time the individual applies for benefits
34 if the individual meets all of the following criteria:

35 (1) Is the beneficiary of a qualified long-term care

1 insurance policy that provides benefits, if purchased prior to
2 January 1, 1998, in an amount equal to at least one hundred
3 forty thousand dollars as computed on January 1, 1998.

4 (2) Is the beneficiary of a qualified long-term care
5 insurance policy that provides benefits, if purchased on or
6 after January 1, 1998, in an amount equal to at least one
7 hundred forty thousand dollars as computed on January 1, 1998,
8 compounded annually by at least five percent.

9 (3) Is the beneficiary of a qualified long-term care
10 insurance policy that includes a provision under which the
11 total amount of the benefit increases by at least five percent
12 annually for individuals up to seventy-two years of age.

13 (4) Meets the requirements of section 249J.4.

14 (5) Has exhausted the benefits of the qualified long-term
15 care insurance policy.

16 2. When the division responsible for medical services
17 within the department of human services determines whether an
18 individual is eligible for medical services under chapter
19 249A, the division shall make an asset disregard adjustment
20 for any individual who meets the requirements of section
21 249J.4. The asset disregard shall be available after benefits
22 of the qualified long-term care insurance policy have been
23 applied to the cost of qualified long-term care services as
24 required under this chapter.

25 Sec. 7. NEW SECTION. 249J.7 APPLICATION OF ASSET
26 DISREGARD TO DETERMINATION OF INDIVIDUAL'S ASSETS.

27 A public program administered by the state that provides
28 long-term care services and bases eligibility upon the amount
29 of the individual's assets shall apply the asset disregard
30 under section 249J.6 in determining the amount of the
31 individual's assets.

32 Sec. 8. NEW SECTION. 249J.8 DISCONTINUATION OF PROGRAM.

33 1. If the Iowa long-term care asset disregard incentive
34 program is discontinued, an individual who is covered by a
35 qualified long-term care insurance policy prior to the date

1 the program is discontinued is eligible to continue to receive
2 an asset disregard as defined under section 249J.6.

3 2. An individual who is covered by a long-term care
4 insurance policy under the long-term care asset preservation
5 program established pursuant to chapter 249G, Code 2003, on or
6 before June 30, 2004, is eligible to continue to receive the
7 asset adjustment as defined under that chapter.

8 3. The insurance division shall adopt rules to provide an
9 asset disregard to individuals who are covered by a long-term
10 care insurance policy prior to July 1, 2004, consistent with
11 the Iowa long-term care program asset disregard.

12 Sec. 9. NEW SECTION. 249J.9 RECIPROCAL AGREEMENTS TO
13 EXTEND ASSET DISREGARD.

14 The division responsible for medical services within the
15 department of human services may enter into reciprocal
16 agreements with other states to extend the asset disregard
17 under section 249J.6 to Iowa residents who had purchased or
18 were covered by qualified long-term care insurance policies in
19 other states.

20 Sec. 10. NEW SECTION. 249J.10 RULES.

21 The department of human services and the insurance division
22 shall adopt rules pursuant to chapter 17A as necessary to
23 administer this chapter. The insurance division shall consult
24 with representatives of the insurance industry in adopting
25 such rules. This delegation of rulemaking authority shall be
26 construed narrowly.

27 Sec. 11. NEW SECTION. 249A.34 PURCHASE OF QUALIFIED
28 LONG-TERM CARE INSURANCE POLICY -- COMPUTATION UNDER MEDICAL
29 ASSISTANCE PROGRAM.

30 A computation for the purposes of determining eligibility
31 under this chapter concerning an individual who has purchased
32 a qualified long-term care insurance policy under chapter 249J
33 shall include consideration of the asset disregard provided in
34 section 249J.6.

35 Sec. 12. Chapter 249G, Code 2003, is repealed.

1 Sec. 13. MEDICAID STATE PLAN.

2 1. The department shall amend the medical assistance state
3 plan to provide that all amounts paid for qualified long-term
4 care services under a qualified long-term care insurance
5 policy shall be considered in determining the amount of the
6 asset disregard.

7 2. The department shall amend the medical assistance state
8 plan to extend nursing home coverage using the special
9 institutional income rule to the medically needy directly
10 without the requirement of establishing a qualifying income
11 trust.

12 Sec. 14. CONTINGENT EFFECTIVE DATE -- IOWA LONG-TERM CARE
13 ASSET DISREGARD INCENTIVE PROGRAM. The Iowa long-term care
14 asset disregard incentive program established in this Act
15 shall take effect only if funding is specifically appropriated
16 to the insurance division for that purpose. The insurance
17 division shall notify the Code editor if such an appropriation
18 is made.

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SENATE FILE 2183

H-8329

- 1 Amend Senate File 2183, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 1, by striking lines 29 and 30.
4 2. Page 2, by striking lines 3 through 22.
5 3. Page 2, by striking lines 24 through 32 and
6 inserting the following:
7 "An individual who is the beneficiary of a
8 qualified long-term care insurance policy approved by
9 the insurance division is eligible for assistance
10 under the medical assistance program using the asset
11 disregard provisions pursuant to section 249J.6."
12 4. Page 3, lines 29 and 30, by striking the words
13 "for individuals up to seventy-two years of age".
14 5. Page 4, line 12, by striking the words "for
15 individuals up to seventy-two years of age".
16 6. By renumbering as necessary.

By COMMITTEE ON COMMERCE, REGULATION
AND LABOR
JENKINS of Black Hawk, Chairperson

H-8329 FILED MARCH 29, 2004

**HOUSE AMENDMENT TO
SENATE FILE 2183**

S-5277

- 1 Amend Senate File 2183, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 1, by striking lines 29 and 30.
4 2. Page 2, by striking lines 3 through 22.
5 3. Page 2, by striking lines 24 through 32 and
6 inserting the following:
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8 qualified long-term care insurance policy approved by
9 the insurance division is eligible for assistance
10 under the medical assistance program using the asset
11 disregard provisions pursuant to section 249J.6."
12 4. Page 3, lines 29 and 30, by striking the words
13 "for individuals up to seventy-two years of age".
14 5. Page 4, line 12, by striking the words "for
15 individuals up to seventy-two years of age".
16 6. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-5277 FILED APRIL 5, 2004

VETO

May 14, 2004

The Honorable Chester Culver
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit **Senate File 2183**, an Act relating to asset disregard under the medical assistance program for the purchase of a qualified long-term care insurance policy, providing for a repeal, and providing contingent effective date.

I am unable to approve Senate File 2183 for the following reasons. The policy behind this legislation is very sound and one which I support. However, there are numerous problems in the drafting of this bill. Senate File 2183 proposes to recast and amend current Iowa Code Chapter 249G (Long-term Care Asset Preservation Program) as new Iowa Code Chapter 249J. Iowa Code 249G was adopted in 1993 to take advantage of a waiver from the U.S. Department of Health and Human Services (HHS) which allowed states to offer incentive programs for long-term care insurance. Iowa is one of five states that have such a waiver. States obtained initial grants from various sources to launch these programs and all are now state-funded. However, no grants or appropriations are provided for this program in Iowa.

In addition to a lack of funding, there are several provisions in this bill that make it difficult for the Iowa Insurance Division (IID) to administer.

1. Section 5: Subsections 249J.5(1)(a) and (b) appear to conflict. Subsection (1)(a) calls for purchase of a policy that is roughly equivalent to the current cost of a three-year stay in a nursing home in Iowa. This subsection sets one standard for policies purchased before January 1, 2004 and another for policies purchased after that date. Subsection (1)(b) appears to be copied directly from Indiana law, which amended its law in 1998. There is no legal reason for Iowa to focus on the date January 1, 1998. The variance in minimum policy benefit levels between sub (a) and sub (b) and, i.e. \$100,000 vs. \$140,000 is not explained. At a minimum, these differences will create consumer confusion and make drafting of administrative rules difficult.
2. Effective Date: If Senate File 2183 becomes law, it will take effect on July 1, 2004. As a practical matter, this program cannot take effect until the State Medicaid plan is amended. This requires DHS to obtain approval by the federal government. It is unknown how long this process could take. The IID is directed to adopt rules to implement the program. Rulemaking cannot commence until the Medicaid amendments are in place. To allow time for this process, the legislation should not take effect until at least six months after the Medicaid plan amendments are approved.

3. **Funding:** Section 13 of the bill states that the program is established only if funding is specifically appropriated. The initial version of this bill called for the IID to promote this program, and to conduct consumer education. That version contained an appropriation of \$300,000. The appropriation was stricken, but the language in Section 13 remains. It thus appears that this legislation cannot become effective unless funds are appropriated through some other mechanism.
4. **Administration:** This program would be easier to administer if it contained some mechanism for the minimum policy face amount to increase over time. For example, a chart that presumes a certain level of inflation could be adopted for the first five years or the Insurance Commissioner could be directed to make a finding every two years of the cost of a three-year stay.
5. **Waiver:** Iowa Code 249G.2(1) directs the DHS to obtain a waiver from HHS. This waiver has been obtained. Senate File 2183 repeals Code Section 249G and does not include any reference to the waiver provisions in the proposed new Section 249J.

In addition to these technical and administrative problems there is a significant unintended fiscal impact to Iowa's Medicaid program, specifically as it impacts the Medically Needy. Currently applicants must spend their assets down to less than \$2,000 before they qualify for payment of nursing facility services. By covering nursing facility services under the Medically Needy program, applicants will only be required to spend their assets down to less than \$10,000. This higher resource limit will result in approximately 6,000 applicants each year that will qualify for coverage of nursing facility services two months earlier than they would under the current rules. This results in Medicaid covering an additional 12,000 months of nursing facility services per year. The fiscal impact is estimated to be about \$12 million to the state general fund and about \$32.4 million in state and federal funds.

There is some additional confusion. The bill directs the Department of Human Services to amend the state plan to cover nursing facility services using the special income rule (three times the SSI limit) for the medically needy without requiring the individual to establish a qualifying income trust. Using the special income rule for nursing facility coverage under Medically Needy is in conflict with federal law. However, it appears that this legislation would still require us to cover nursing facility services under the Medically Needy Program using the current income limit.

This legislation in its current form creates significant administrative and fiscal problems. I encourage the legislature to revisit this issue next year and propose workable legislation that fixes the problems with Section 249G and thus make available to consumers an incentive to plan for their own long-term care needs.

For the above reasons, I hereby respectfully disapprove **Senate File 2183**.

Sincerely,

Thomas J. Vilsack
Governor

TJV:jmc
cc: Secretary of the Senate
Chief Clerk of the House

VETO

SENATE FILE 2183

AN ACT

RELATING TO ASSET DISREGARD UNDER THE MEDICAL ASSISTANCE PROGRAM FOR THE PURCHASE OF A QUALIFIED LONG-TERM CARE INSURANCE POLICY, PROVIDING FOR A REPEAL, AND PROVIDING A CONTINGENT EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 249J.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Health maintenance organization" means health maintenance organization as defined in section 514B.1.
2. "Long-term care facility" includes, but is not limited to, a facility licensed under chapter 135C or an assisted living program certified under chapter 231C.
3. "Qualified long-term care insurance policy" means a qualified long-term care insurance contract as defined in section 7702B(b) of the Internal Revenue Code that is issued by an insurer or other person who complies with section 249J.4.
4. "Qualified long-term care services" means qualified long-term care services as defined in section 7702B(c) of the Internal Revenue Code.

Sec. 2. NEW SECTION. 249J.2 ESTABLISHMENT AND ADMINISTRATION OF THE PROGRAM.

1. The Iowa long-term care asset disregard incentive program is established to do the following:
 - a. Provide incentives for individuals to insure against the costs of providing for their long-term care needs.

- b. Provide a mechanism for individuals to qualify for coverage of the costs of their long-term care needs under the medical assistance program without first being required to substantially exhaust all their resources.

- c. Assist in developing methods for increasing access to and the affordability of long-term care insurance.

- d. Alleviate the financial burden on the state's medical assistance program by encouraging the pursuit of private initiatives.

2. The insurance division of the department of commerce shall administer the program in cooperation with the division responsible for medical services within the department of human services.

Sec. 3. NEW SECTION. 249J.3 ELIGIBILITY.

An individual who is the beneficiary of a qualified long-term care insurance policy approved by the insurance division is eligible for assistance under the medical assistance program using the asset disregard provisions pursuant to section 249J.5.

Sec. 4. NEW SECTION. 249J.4 INSURER REQUIREMENTS.

1. An insurer or other person who wishes to issue a qualified long-term care insurance policy meeting the requirements of this chapter shall, at a minimum, offer to each policyholder or prospective policyholder a policy that provides both of the following:
 - a. Facility coverage, including but not limited to long-term care facility coverage.
 - b. Nonfacility coverage, including but not limited to home and community care coverage.
2. An insurer or other person who complies with subsection 1 may also elect to offer a qualified long-term care insurance policy that provides only facility coverage.

Sec. 5. NEW SECTION. 249J.5 ASSET DISREGARD ADJUSTMENT.

1. As used in this section, "asset disregard" means any of the following:

a. A one dollar increase in the amount of assets an individual who purchases a qualified long-term care insurance policy and meets the requirements of section 249J.3 may retain under section 249A.34 for each one dollar of benefit paid out under the individual's qualified long-term care insurance policy for qualified long-term care services if the policy meets all of the following criteria:

(1) If purchased prior to January 1, 2004, provides benefits in an amount equal to at least one hundred thousand dollars as computed on January 1, 2004.

(2) If purchased on or after January 1, 2004, provides benefits in an amount equal to at least one hundred thousand dollars as computed on January 1, 2004, compounded annually by at least five percent.

(3) Includes a provision under which the total amount of the benefit increases by at least five percent annually.

b. The total assets an individual owns and may retain under section 249A.34 and still qualify for benefits under chapter 249A at the time the individual applies for benefits if the individual meets all of the following criteria:

(1) Is the beneficiary of a qualified long-term care insurance policy that provides benefits, if purchased prior to January 1, 1998, in an amount equal to at least one hundred forty thousand dollars as computed on January 1, 1998.

(2) Is the beneficiary of a qualified long-term care insurance policy that provides benefits, if purchased on or after January 1, 1998, in an amount equal to at least one hundred forty thousand dollars as computed on January 1, 1998, compounded annually by at least five percent.

(3) Is the beneficiary of a qualified long-term care insurance policy that includes a provision under which the total amount of the benefit increases by at least five percent annually.

(4) Meets the requirements of section 249J.3.

(5) Has exhausted the benefits of the qualified long-term care insurance policy.

2. When the division responsible for medical services within the department of human services determines whether an individual is eligible for medical services under chapter 249A, the division shall make an asset disregard adjustment for any individual who meets the requirements of section 249J.3. The asset disregard shall be available after benefits of the qualified long-term care insurance policy have been applied to the cost of qualified long-term care services as required under this chapter.

Sec. 6. NEW SECTION. 249J.6 APPLICATION OF ASSET DISREGARD TO DETERMINATION OF INDIVIDUAL'S ASSETS.

A public program administered by the state that provides long-term care services and bases eligibility upon the amount of the individual's assets shall apply the asset disregard under section 249J.5 in determining the amount of the individual's assets.

Sec. 7. NEW SECTION. 249J.7 DISCONTINUATION OF PROGRAM.

1. If the Iowa long-term care asset disregard incentive program is discontinued, an individual who is covered by a qualified long-term care insurance policy prior to the date the program is discontinued is eligible to continue to receive an asset disregard as defined under section 249J.5.

2. An individual who is covered by a long-term care insurance policy under the long-term care asset preservation program established pursuant to chapter 249G, Code 2003, on or before June 30, 2004, is eligible to continue to receive the asset adjustment as defined under that chapter.

3. The insurance division shall adopt rules to provide an asset disregard to individuals who are covered by a long-term care insurance policy prior to July 1, 2004, consistent with the Iowa long-term care program asset disregard.

Sec. 8. NEW SECTION. 249J.8 RECIPROCAL AGREEMENTS TO EXTEND ASSET DISREGARD.

The division responsible for medical services within the department of human services may enter into reciprocal agreements with other states to extend the asset disregard under section 249J.5 to Iowa residents who had purchased or were covered by qualified long-term care insurance policies in other states.

Sec. 9. NEW SECTION. 249J.9 RULES.

The department of human services and the insurance division shall adopt rules pursuant to chapter 17A as necessary to administer this chapter. The insurance division shall consult with representatives of the insurance industry in adopting such rules. This delegation of rulemaking authority shall be construed narrowly.

Sec. 10. NEW SECTION. 249A.34 PURCHASE OF QUALIFIED LONG-TERM CARE INSURANCE POLICY -- COMPUTATION UNDER MEDICAL ASSISTANCE PROGRAM.

A computation for the purposes of determining eligibility under this chapter concerning an individual who has purchased a qualified long-term care insurance policy under chapter 249J shall include consideration of the asset disregard provided in section 249J.5.

Sec. 11. Chapter 249G, Code 2003, is repealed.

Sec. 12. MEDICAID STATE PLAN.

1. The department shall amend the medical assistance state plan to provide that all amounts paid for qualified long-term care services under a qualified long-term care insurance policy shall be considered in determining the amount of the asset disregard.

2. The department shall amend the medical assistance state plan to extend nursing home coverage using the special institutional income rule to the medically needy directly without the requirement of establishing a qualifying income trust.

Sec. 13. CONTINGENT EFFECTIVE DATE -- IOWA LONG-TERM CARE ASSET DISREGARD INCENTIVE PROGRAM. The Iowa long-term care

asset disregard incentive program established in this Act shall take effect only if funding is specifically appropriated to the insurance division for that purpose. The insurance division shall notify the Code editor if such an appropriation is made.

JEFFREY M. LAMBERTI
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2183, Eightieth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2004

THOMAS J. VILSACK
Governor