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FISCAL IMPACT REPORT

ORIGINAL DATE 1/29/08

SPONSOR Jennings LAST UPDATED _____ HB _____

SHORT TITLE Prescription Drug Program Expenditures SB 354

ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
\$3303.0	\$474.0	Recurring	Pharmacy

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	\$14.0	\$474.0	\$14.0	\$502.0	Recurring	Pharmacy

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and licensing Department (RLD)
 NM Health Policy Commission (NMHPC)

SUMMARY

Synopsis of Bill

Senate Bill 354 appropriates all fees collected from wholesale drug distributors, drug manufacturers and drug warehouses to be used for funding a prescription drug program serving persons pursuant to the Medical Insurance Pool Act.

Current statute provides that amounts paid into the Pharmacy Fund **prior to October 1, 2005** shall be used for a prescription drug program for persons over the age of sixty-five.

SB354 appropriates amounts paid into the Pharmacy Fund to the Board of Pharmacy for a prescription drug program serving persons pursuant to the Medical Insurance Pool Act.

FISCAL IMPLICATIONS

The appropriation of all fees collected from the wholesalers/manufacturers does not have a limit and therefore all fees collected from that category would be utilized for the funding of the New Mexico Medical Insurance Pool prescription drug program.

A person is eligible for a pool policy only if on the effective date of coverage or renewal of coverage the person is a New Mexico resident, and:

- (1) is not eligible as an insured or covered dependent for any health plans that provide coverage for comprehensive major medical or comprehensive physician and hospital services;
- (2) is currently paying a rate for a health plan that is higher than 125% of the pool's standard rate;
- (3) has a mental health diagnosis and has individual health insurance coverage that does not include coverage for mental health services;
- (4) has been rejected for coverage for comprehensive major medical or comprehensive physician and hospital services;
- (5) is only eligible for a health plan with a rider, waiver or restrictive provision for that particular individual based on a specific condition;
- (6) has a medical condition that is listed on the pool's pre-qualifying conditions;
- (7) has as of the date the individual seeks coverage from the pool an aggregate of 18 or more months of creditable coverage, the most recent of which was under a group health plan, governmental plan or church plan as defined; or
- (8) is entitled to continuation coverage pursuant to Section 59A-23E-19 NMSA 1978.

According to a 2006 FIR for SB726, Transfer of Prescription Drug Funds, a joint powers agreement was in place through 2005 to fund a senior drug program administered through the New Mexico Medical Insurance Pool (NMMIP). The Pharmacy Board had collected and set aside \$3,271,585.98. However, there were far fewer persons than expected enrolled in the program, with the result that NMMIP had only billed the board a total of \$39,696 through July 2005. The total due to NMMIP was somewhat higher, reflecting additional reimbursements through the end of 2005.

As a result, after meeting its obligations to NMMIP, the Pharmacy Fund has approximately \$3.2 million available for another prescription drug program for persons over the age of sixty-five.

Complicating the matter, the board has never (until now – see below) been given budgetary authority to spend the money collected for this purpose and has not been able to reimburse the NMMIP for its expenditures. As of 2/6/06, the Pharmacy Board indicated that an attempt was being made to amend House Bill 2 in the Senate to provide the necessary authority for the Pharmacy Board to reimburse NMMIP and to transfer the remaining funds to the ALTSD for a senior prescription drug program.

The Pharmacy Board currently has 657 licensees in this category. The current fee, set by rule, is \$700 for a 2-year permit. The Board typically issues approximately 40 new licenses in this category each year. The fees collected from these new licensees would also be used to fund the prescription drug program.

Operating Revenue Loss

\$700 X 657 = 459,900 from current registrants every two years.

\$350 X 40 new each year = 14,000 per year

The fees from drug wholesalers/manufacturers typically have provided one third of the Pharmacy Board's operating revenue each year. The Board would have to drastically increase its fees for all the other licensees in order to maintain its current level of services.

SIGNIFICANT ISSUES

The fees from drug wholesalers/manufacturers resulted from legislation passed in 2004, were increased to \$5,000 per year. The increased fee was collected for two years (August 1, 2004 through October 1, 2005). The total collected was 3.3 million dollars. The legislation specified the money was to be used for a senior prescription drug benefit for persons older than 65 until the Federal Medicare Part D program began. The Federal program began Jan 1, 2006. The number of persons utilizing the NMMIP drug program was initially 20 persons. The program now has 10 persons enrolled. Those persons chose to remain in the program because the benefits exceed those provided by Medicare Part D.

The Board currently has approximately \$3,096,000 remaining in the Pharmacy Fund from the fees collected in 2004-2005.

OTHER SUBSTANTIVE ISSUES

There is currently a prescription drug coverage program under Medicare so making the fund available beyond that population is sound policy. The revised language broadens the applicability, as well as, requires participation and oversight by the Pharmacy Board.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Board needs the ability to continue funding the NMMIP prescription drug program utilizing the money collected in 2004 and 2005 from drug wholesalers and manufacturers. Without some legislation that allows the Pharmacy Board to utilize those funds for the intended purpose the funds will remain in the Pharmacy Fund.

CS/bb