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FISCAL IMPACT REPORT

ORIGINAL DATE 01-30-08

SPONSOR Papen LAST UPDATED _____ HB _____

SHORT TITLE Prescription Drug Program Expenditures SB 421

ANALYST Geisler

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	\$3,133.0	Non-Recurring	Pharmacy Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to: SB 354

SOURCES OF INFORMATION

LFC Files

Responses Received From

Human Services Department (HSD)
 New Mexico Medical Insurance Pool (NMMIP)
 Board of Pharmacy

SUMMARY

Synopsis of Bill

SB 421 modifies the allowed use of fees collected prior to October 1, 2005 into the Board of Pharmacy's Pharmacy Fund, removing the age restriction of a pharmacy program for which the funds may be used and specifying the funds is to support a pharmacy program serving persons pursuant to the New Mexico Medical Insurance Pool Act. SB 421 also clarifies that the funds are to be appropriated to the Board of Pharmacy for such use, provided the Board enters into an arrangement with a state agency or state-created entity to operate the program.

FISCAL IMPLICATIONS

License fees were temporarily increased to fund a senior pharmacy program in 2004/2005 and placed into the Pharmacy Fund, which is a non-reverting fund. Only these existing funds (\$3.1 million) are being appropriated.

SIGNIFICANT ISSUES

NMMIP notes that pursuant to SB 536 of the 2004 Legislative Session, license fees for a wholesale drug distributor, nonresident pharmacy, drug manufacturer or drug warehouse, which are deposited in the Pharmacy Fund, were temporarily raised, with a percentage of such fees collected to be used to support a prescription drug program for persons over the age of 65 operated by a state agency or state-created entity. The time period for which the increased fees were collected by the Board of Pharmacy was August 1 2004 to October 1, 2005, after which Medicare Part D prescription drug program went into effect.

The New Mexico Medical Insurance Pool (Pool), a legislatively created non profit entity, implemented a prescription drug program in 2005 for persons over the age of 65. However, only a small number of people enrolled and the program ceased new enrollment once Medicare Part D went into effect on January 1, 2006. Currently about 12 people remain in the program. To date, claims by the Pool against the Pharmacy Fund have totaled less than \$100,000.00. Since the use of this portion of the Fund is restricted to persons over age 65, who now have access to Medicare Part D prescription drug plans, it leaves more than \$3 million in funds that can't be spent on supporting pharmacy programs unless the age restriction is removed.

The New Mexico Medical Insurance Pool was legislatively created in 1987 as a non-profit entity whose primary purpose is to provide access to health insurance coverage to all residents of New Mexico who are denied adequate health insurance and are considered uninsurable. The Pool administers pharmacy programs that are not exclusive as to age. However, the Pool experiences significant losses on pharmacy benefits. Those losses must then be assessed to health insurance carriers doing business in New Mexico, who then receive a credit against their premium taxes based upon a percentage of assessment paid. By utilizing the Pharmacy Fund to offset the losses incurred on pharmacy costs, the assessment to insurance carriers will be lower and, ultimately, the tax credit provided by the State to those carriers will be lower.

ADMINISTRATIVE IMPLICATIONS

A Joint Powers Agreement will need to be developed between the Board of Pharmacy and the New Mexico Medical Insurance Pool in order to draw down the funds.

RELATIONSHIP

SB 421 relates to SB 354, which also amends the same section of the Pharmacy Act 61-11-19D.

TECHNICAL ISSUES

Claims were not paid by the Fund in 2005 as the statutory language did not state the funds were “appropriated” and RLD/Board of Pharmacy did not have budget increase authority. In 2006 and 2007 there was language added to the General Appropriations Act giving budget increase authority to the Board of Pharmacy for this purpose. RLD/Board of Pharmacy may still need specific budget increase authority in the General Appropriations Act.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The more than \$3,200.0 in license fees collected in 2004/2005 dedicated to fund a pharmacy program will continue to go largely unutilized.

ANA/jp