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## FISCAL IMPACT REPORT

SPONSOR Stefanics ORIGINAL DATE 03/03/17  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_  
SHORT TITLE State Agency Medication Price Transparency SB 471  
ANALYST Hanika-Ortiz

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$25.0 - \$75.0				General Fund/Other State Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

General Services Department (GSD)  
Office of the Attorney General (OAG)  
Administrative Office of the Courts (AOC)  
Children, Youth and Families Department (CYFD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 471 (SB 471) adds a new section to the Public Assistance Act to require an agency that buys generic drugs directly from a manufacturer to issue a demand for accounting to the manufacturer and notify the OAG if the agency suspects or there is an unjust price increase.

In subsections A and B, within 20 days of a manufacturer receiving the demand, the manufacturer submits a response to the OAG itemizing the input costs to produce the essential generic drug and justifying the timing of the drug's price increase, along with the associated health benefits. In subsections C and D, upon receiving the manufacturer's response, the OAG may require the manufacturer to produce relevant documents; stall the drug price increase; require a refund to consumers including any third-party purchasers of any unjustified price increase; and require the manufacturer to set the price back to the original amount for one year.

Finally, the bill imposes a civil penalty of up to ten thousand dollars (\$10,000) for each violation and requires state agencies to post on the state's Sunshine Portal the list price, any price increases, and any rebates available for generic medications purchased by that state agency.

The bill’s definition of “essential generic medication” includes drugs adopted by the World Health Organization or designated by the various public health and safety secretaries as essential due to the medication’s efficacy in treating life-threatening or debilitating health conditions.

The bill defines “suspect price increase” as one that does not accurately reflect the input costs of an essential generic medication, or when its rate of price increase exceeds inflation plus 10 percent. An “unjustified price increase” is defined as an increase that bears little relationship to the cost to produce or expand access to the essential generic medication to promote public health.

### **FISCAL IMPLICATIONS**

Not all secretaries or the OAG report the expertise to suspect or determine an unjustified price increase. Therefore, experts may need to be retained. The bill does not carry an appropriation.

The table above suggests an impact to operating budgets. However, over time, that impact may be justified if the provisions of the bill result in lower pharmaceutical drug costs for the state.

### **SIGNIFICANT ISSUES**

OAG reports the bill requires the office and/or state agencies buying drugs to analyze complicated medical, production, cost, marketing and access expansion information provided by the manufacturers and take significant actions resulting from their determination of a violation.

The bill also requires state agencies to post on the sunshine portal the list price, any price increase, and any rebates available for a generic drug purchased by a direct purchasing entity.

### **ADMINISTRATIVE IMPLICATIONS**

The agencies with responsibilities under the bill include GSD, Children, Youth and Families Department, Corrections Department, Department of Health and the University of New Mexico.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Duplicate Bill – HB 481 – State Agency Medication Price Transparency

### **TECHNICAL ISSUES**

The OAG notes there are some subjective measures in the bill that may raise interpretation questions, including the term “unjustified” in price increases.

The Sunshine Portal posting requirements appear to apply to all generic medications not just those the various public health and safety secretaries have determined as “essential”.