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FISCAL IMPACT REPORT

SPONSOR: Picraux DATE TYPED: 03/12/03 HB 666/aHBIC/aHAFC

SHORT TITLE: Reporting of Prescription Drug Information SB _____

ANALYST: Weber

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	0.0		See Narrative	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From
 Regulations and Licensing-Pharmacy board
 Human Services Department
 Health Policy Commission

SUMMARY

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment makes the following changes:

1. On page 1, lines 13 and 14, strike "; MAKING AN APPROPRIATION".
2. On page 2, line 8, after the period insert "The information required under Subsection A of this section is confidential and shall not be disclosed pursuant to Section 3 of this act and shall not be subject to public inspection pursuant to the provisions of Section 14-2-1 NMSA 1978.". This reiterates the confidential nature of the information.
3. On page 2, strike lines 18 through 25 and on page 3, strike lines 1 through 18. This eliminates all of Section 2 relating to disclosure of promotional and marketing expenses.
4. Renumber the succeeding sections accordingly. After the elimination of Section 2 the subsequent sections must be renumbered.
5. On page 4, between lines 2 and 3, insert the following new section to read:
 "Section 5. SEVERABILITY.--If any part or application of this act is held invalid, the remainder or its application to other situations or persons shall not be affected."
6. On page 4, strike lines 3 through 8 in their entirety and insert in lieu thereof:
 "Section 6. EFFECTIVE DATE.--The effective date of the provisions of Section 2 of this

- act is January 1, 2004.". This removes the appropriation and establishes an effective date.
7. Renumber the sections to correspond with these amendments.

Significant Issues

There will be administrative costs involved with such activity and the appropriation has been deleted. It appears there will be a vast volume of data to be collected. The collection method remains unspecified but it must be assumed there will be systems developed to electronically capture the information. Without an appropriation it may not be reasonable to assume much progress will be made on this project.

Synopsis of HBIC Amendment

The House Business and Industry Committee Amendment to House Bill 666 makes the following changes.

1. On page 1, line 13 after "ENFORCEMENT" insert "AND PENALTIES".
2. On page 3, lines 19 through 24, strike Section 3 in its entirety and insert thereof:

Section 3. UNLAWFUL DISCLOSURE--PENALTIES.—

A. It is unlawful for an employee, former employee, contractor or former contractor of the human services department to reveal to another person, except to another employee or contractor of the department as required by the employee's or contractor's duties or responsibilities or by state or federal court order, information acquired pursuant to Section 1 of this act or any other information about a prescription drug manufacturer acquired as a result of his employment or contract by the department and not available from public sources.

B. An employee, former employee, contractor or former contractor of the human services department who reveals to another person information that he is prohibited from lawfully revealing is guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one year, or both, together with costs of prosecution, and shall not be employed by the state for a period of five years after the date of the conviction."

Synopsis of Original Bill

House Bill 666 appropriates \$25,000 from the General Fund to the Human Services Department to maintain the following data furnished by manufacturers of prescription drugs.

1. The average manufacturer price for the drug;
2. The price that each wholesaler or pharmacy benefit manager doing business in this state pays the manufacturer to purchase the drug; and
3. The price paid to the manufacturer by any entity in an arrangement or contract that sells or provides prescription drugs in New Mexico without the services of a wholesaler.

In addition, House Bill 666 requires manufacturers of prescription drugs for sale or consumption in New Mexico to report to the Health Policy Commission the value nature and purpose of any

gift, fee, etc., used for marketing or promotions of its product to any physician, hospital or a variety of other health care providers.

The Office of the Attorney General is authorized to take action to investigate and enforce the requirements of House Bill 666.

Significant Issues

HB 666 would require the Human Services Department to receive an immense amount of data. There are more than 500 drug manufacturers participating in the Medicaid drug rebate program alone. Each manufacturer may have thousands of National Drug Code (NDC) numbers involved. There may be legal ramifications due to proprietary issues involved in the pricing of all drugs. The purpose of HB 666 is unclear and the directives to HSD are difficult to determine. There is no directive on what HSD is to do with the information submitted by the manufacturers.

The Pharmacy Board reports price changes in drugs are much like gasoline price changes. It would be a never-ending job to keep up with the constant price changes. Regulations would be necessary to impose reporting requirements.

FISCAL IMPLICATIONS

The appropriation of \$25.0 contained in this bill is a recurring expense to the General Fund. Any unexpended or unencumbered balance remaining at the end of Fiscal Year 2004 shall revert to the General Fund.

ADMINISTRATIVE IMPLICATIONS

The costs associated with collection, storage and maintenance of such a vast amount of data are not known. Likewise, the level of enforcement will include expenses for the Attorney General. There is no provision for these additional costs.

POSSIBLE QUESTIONS

How will this data be used?

MW/yr/njw:yr