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FISCAL IMPACT REPORT

SPONSOR Steinborn/Ferrary **ORIGINAL DATE** 1/25/19
LAST UPDATED 2/28/19 **HB** _____

SHORT TITLE Interagency Pharmacies Purchasing Council **SB** 131/aSFC

ANALYST Felmley

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See fiscal impact				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

General Services Department (GSD)
Children, Youth and Families Department (CYFD)
Human Services Department (HSD)
New Mexico Corrections Department (NMCD)
Office of Superintendent of Insurance (OSI)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment removes the appropriation from the bill.

Synopsis of Original Bill

Senate Bill 131 appropriates \$400 thousand from the general fund to the General Services Department (GSD) for a proposed interagency pharmaceutical purchasing council. The appropriation is to provide staffing and consultant services to support the council, which is administratively attached to GSD and tasked with coordinating cost-containment strategies for the statewide procurement of pharmaceuticals and pharmacy benefits management. The GSD secretary is named as the director of the council.

The council is composed of representatives from nine state agencies and other governmental entities (constituent agencies), plus two members appointed by the governor. The council will be required to hold its first meeting by September 1, 2019, and meet at least quarterly thereafter.

Council meetings are subject to the Open Meetings Act, and there is an additional requirement that the LFC receive written advance notice of meetings.

The bill requires the LFC conduct an annual review and validation of the council's progress and incorporate this information into budget and policy analysis and recommendations for the council or any of the constituent agencies.

SB 131 mostly duplicates Senate Bill 349, which passed during the 2017 legislative session but was pocket vetoed by the governor. There are two changes to the bill this year. The first change is the \$400 thousand appropriation to staff and support the council. The second change expands the charge of the council, which is now directed to include in its review ways to leverage state savings to maximize the purchasing power of New Mexico residents in the private sector.

FISCAL IMPLICATIONS

As drafted, the appropriation of \$400 thousand contained in this bill is a recurring expense to the general fund. The bill states any unexpended or unencumbered balance remaining at the end of FY20 shall revert to the general fund. However, the funding is for staff and consultant support for the council that can reasonably be expected to continue; if SB 131 or any other appropriation for the council is added to GSD's existing appropriation in the General Appropriation Act (GAA), the funds will be treated as recurring and nonreverting unless explicitly stated. The FIR tables for this bill therefore reflect a recurring appropriation.

SB131 does not require cost savings as it pertains to pharmaceutical drug purchasing. It only creates a council to meet quarterly for in-depth discussions about cost containment strategies and coordination among the member entities. The council may vote to recommend certain strategies, but members shall make their own procurement decisions.

Depending on what recommendations the council makes, and on whether those recommendations are adopted by constituent agencies, the savings for the state could be significant. According to LFC analysis, the nine constituent state agencies spent a combined total of over \$703 million on prescription drugs in FY18, a 59 percent increase from the \$442 million spent in FY14. According to some reports, just one cost-containment technique, bulk purchasing of pharmaceuticals, can save between 2 and 5 percent of spend. Using that metric, the state could potentially save between \$14 million and \$35 million annually with bulk purchasing alone.

Four of the constituent agencies already collaborate on procuring health benefits – including prescription drugs – for their members. The New Mexico Retiree Health Care Authority, the New Mexico Public School Insurance Authority, the General Services Department and Albuquerque Public Schools are members of the interagency benefits advisory committee (IBAC), which is governed by the Health Care Purchasing Act (HCPA). The IBAC estimates it saves about \$10 million per year through its joint pharmacy benefits manager (PBM).

The CYFD notes that it is currently a member of the Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP), a multi-state bulk purchasing pool, and that it has succeeded at reducing its prescription drug costs. According to LFC analysis of CYFD's prescription drug spending, the agency cut costs by almost 27 percent between FY17 and FY18. The MMCAP is a free group purchasing organization for government facilities, however, it does not serve Medicaid or public employee programs.

SIGNIFICANT ISSUES

Several past assessments by the LFC evaluation unit have identified cost savings realized by state agencies when they collaborate and coordinate prescription drug purchasing. Evaluations have highlighted the IBAC agencies' success with achieving lower drug costs through combining their market power, HSD's use of risk corridors for high-cost hepatitis C drugs, and the savings gained by Department of Health (DOH) facilities and CYFD through participation in the MMCAP purchasing collaborative. LFC reports have concluded that the state could very likely attain even greater savings through expanded coordinated efforts.

HSD noted that the bill does not require it make any changes to its current practices regarding prescription drug purchasing, but expressed concerns that some potential council recommendations might have fiscal implications, and/or might not be applicable to the Medicaid program, and/or might not be allowed under federal Medicaid law and regulations.

The Office of Superintendent of Insurance (OSI) asserts that any council recommendations that are adopted and implemented will likely require OSI oversight, particularly any that are related to leveraging and cost-savings opportunities for the private sector. OSI therefore suggests the Superintendent of Insurance should be included as a member of the council.

ADMINISTRATIVE IMPLICATIONS

The General Services Department (GSD) suggests the council would require significant administrative resources above the appropriation included in the bill. However, it appears that the appropriation included in SB 131 was drafted specifically to address GSD's response to an earlier version of this bill, Senate Bill 354, 2017 session, and the agency did not provide any data to support its new assumption.

The Office of Superintendent of Insurance (OSI) does not currently have the staff needed to handle its existing PBM oversight responsibilities, as outlined in the Pharmacy Benefit Manager Regulation Act (Section 59A-61-3 NMSA 1978), and the agency suggests that any new oversight duties that evolve as a result of SB 131 will require additional administrative resources.

TECHNICAL ISSUES

GSD expressed concerns that the bill may raise separation of power issues if GSD is required to enforce participation across the executive, legislative, judicial and local branches of government, and also notes that the bill lacks detail in regard to how participation in the council would be enforced, how savings would be measured, and how the LFC would evaluate and assess the council's progress, amongst other issues.

JF/gb/sb