PRESCRIPTION DRUG PURCHASING POOLS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bradley G. Last
Senate Sponsor: ____________

LONG TITLE

General Description:
This bill requires the Department of Administrative Services to develop a plan for bulk purchasing of prescription drugs and other cost-saving measures for the purchase of prescription drugs by state entities.

Highlighted Provisions:
This bill:
- defines the state entities subject to the bulk purchasing plan;
- creates an advisory committee within the Department of Administrative Services which consists of representatives of state entities subject to the bulk purchasing requirements;
- instructs the Department of Administrative Services, with the advice of the committee, to develop a plan for cost savings for state funded prescription drugs;
- prohibits the implementation of any prescription drug plan until:
  - the department reports to the Legislative Auditor General;
  - the Legislative Auditor General conducts an audit of the plan; and
  - after July, 1, 2007; and
- provides protection of trade secrets and proprietary information regarding drug prices, discounts, and rebates.

Monies Appropriated in this Bill:
None
Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-1-115 is enacted to read:


(1) For purposes of this section, "state entity" includes:
   (a) an employer who participates in the Public Employees' Benefit and Insurance
       Program created in Title 49, Chapter 20, Public Employees' Benefit and Insurance Program
       Act;
   (b) state institutions of higher education;
   (c) state institutions of public education;
   (d) except to the extent federal Medicaid funding is involved as provided in Subsection
       (4)(b)(iii), the state:
       (i) Developmental Center;
       (ii) psychiatric hospital; and
       (iii) child welfare system;
   (e) the Department of Corrections;
   (f) the state's Comprehensive Health Insurance Pool created in Title 31A, Chapter 29,
       Comprehensive Health Insurance Pool Act; and
   (g) political subdivisions of the state which pay for or arrange for the payment of
       prescription drugs.

(2) (a) There is created within the department, the Aggregate Prescription Drug
       Purchasing Committee to assist the department with developing and implementing an
       aggregate prescription drug purchasing program in accordance with this section.
   (b) The department shall provide staff and administrative support to the committee.

(3) The committee shall consist of:
   (a) a representative selected by the Public Employees' Benefit and Insurance Program
created in Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

(b) a representative from the Insurance Commission selected by the Commissioner of
Insurance;

(c) a representative from the Department of Health selected by the executive director of
the Department of Health;

(d) a representative from the Comprehensive Health Insurance Pool, created in Title
31A, Chapter 29, Comprehensive Health Insurance Pool Act, selected by the board of directors
of the pool;

(e) a representative from the Department of Human Services selected by the executive
director of the Department of Human Services;

(f) a representative of higher education appointed by the State Board of Regents;

(g) a representative of public education appointed by the State School Board;

(h) a representative appointed by the Utah School Board's Association;

(i) a representative appointed by the State Office of Education;

(j) two representatives appointed by the Utah Association of School Business Officials
as follows:

(i) one representative from a local rural school district; and

(ii) one representative from an urban local school district;

(k) a representative from the Department of Corrections appointed by the executive
director of the department; and

(l) a representative of a political subdivision in the state appointed by the Utah
Association of Counties.

(4) (a) The department:

(i) shall establish an aggregate prescription drug purchasing program, in accordance
with this section, through which terms are negotiated related to the purchase of prescription
drugs by a state entity that provides coverage for prescription drugs or arranges for the payment
of the costs of prescription drugs; and

(ii) shall not implement or maintain the aggregate prescription drug purchasing
program established under Subsection (4)(a)(i), until:

(A) the audit report by the Legislative Auditor General's Office required by Subsection
(6); and
(B) after July 1, 2007.

(b) (i) A state entity as defined in Subsection (1) shall participate in the aggregate drug purchasing program established by this section.

(ii) Any state, district, county, city, municipality, public agency, or governmental entity other than a state entity defined in Subsection (1) may elect to participate in the aggregate prescription drug purchasing program established by this section.

(iii) The state Medicaid program may participate in the aggregate prescription drug purchasing program to the extent:

(A) permitted by federal law; and

(B) participation in the plan would reduce the Medicaid program’s costs for prescription drugs.

(5) The department, in consultation with the committee, may:

(a) investigate and implement options and strategies to achieve the greatest savings on prescription drugs with prescription drug manufacturers and wholesalers;

(b) appoint and contract with a pharmaceutical benefits manager or any other entity to do any of the following:

(i) negotiate price discounts, rebates, or other options that achieve the greatest savings on prescription drugs with prescription drug manufacturers and wholesalers;

(ii) purchase prescription drugs for participating state, district, county, or municipal governmental employees; or

(iii) act as a consultant to the department; or

(c) explore additional strategies for managing the increasing costs of prescription drugs, including:

(i) coordinating programs offered by pharmaceutical manufacturers that provide prescription drugs for free or at reduced prices;

(ii) study the feasibility and appropriateness of including in the aggregate purchasing programs entities in the private sector, including employers, providers, and individual consumers;

(iii) implementing other strategies, as permitted under state and federal law, aimed at managing escalating prescription drug prices; and

(iv) enter into agreements with other states to jointly purchase prescription drugs in the
(6) (a) On or before October 1, 2006, the department shall submit a report to the Legislative Auditor General's Office on activities that have been or will be undertaken pursuant to this section. The report shall include all of the following:

(i) the number and description of contracts that are contemplated with manufacturers and suppliers of drugs, including any rebates, discounts, or refunds to be obtained under the contracts;

(ii) the number and a description of state entities participating in the coordinated purchasing program;

(iii) other options and strategies that have been or will be implemented under the program; and

(iv) estimated costs and savings attributable to activities that have been or will be undertaken pursuant to this section.

(b) The Legislative Auditor General will conduct an audit of the program proposed under this section and shall submit the results of the audit to the Legislature before January 1, 2007.

(7) Information that includes prescription drug prices and discounts or other proprietary information, trade secrets, or commercial information provided to the committee or to the department under the provisions of this section may be classified as protected records in accordance with Section 63-2-304 of the Government Records Access and Management Act.

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Legislative Review Note

as of 12-19-05 3:53 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel
State Impact

Provisions of this bill will require an appropriation of $32,400 in FY 2007 and $29,400 in FY 2008 for one-half FTE in the Department of Administrative Services. The bill may result in cost savings for state-funded prescription drugs.

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Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst