

1 **PRESCRIPTION DRUG PURCHASING POOLS**

2 2006 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Bradley G. Last**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

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

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines the state entities subject to the bulk purchasing plan;
- 15 ▶ creates an advisory committee within the Department of Administrative Services
16 which consists of representatives of state entities subject to the bulk purchasing
17 requirements;
- 18 ▶ instructs the Department of Administrative Services, with the advice of the
19 committee, to develop a plan for cost savings for state funded prescription drugs;
- 20 ▶ prohibits the implementation of any prescription drug plan until:
 - 21 • the department reports to the Legislative Auditor General;
 - 22 • the Legislative Auditor General conducts an audit of the plan; and
 - 23 • after July, 1, 2007; and
- 24 ▶ provides protection of trade secrets and proprietary information regarding drug
25 prices, discounts, and rebates.

26 **Monies Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 ENACTS:

32 **63A-1-115**, Utah Code Annotated 1953



34 *Be it enacted by the Legislature of the state of Utah:*

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

36 **63A-1-115. Aggregate purchasing of prescription drugs.**

37 (1) For purposes of this section, "state entity" includes:

38 (a) an employer who participates in the Public Employees' Benefit and Insurance

39 Program created in Title 49, Chapter 20, Public Employees' Benefit and Insurance Program

40 Act;

41 (b) state institutions of higher education;

42 (c) state institutions of public education;

43 (d) except to the extent federal Medicaid funding is involved as provided in Subsection

44 (4)(b)(iii), the state:

45 (i) Developmental Center;

46 (ii) psychiatric hospital; and

47 (iii) child welfare system;

48 (e) the Department of Corrections;

49 (f) the state's Comprehensive Health Insurance Pool created in Title 31A, Chapter 29,

50 Comprehensive Health Insurance Pool Act; and

51 (g) political subdivisions of the state which pay for or arrange for the payment of

52 prescription drugs.

53 (2) (a) There is created within the department, the Aggregate Prescription Drug

54 Purchasing Committee to assist the department with developing and implementing an

55 aggregate prescription drug purchasing program in accordance with this section.

56 (b) The department shall provide staff and administrative support to the committee.

57 (3) The committee shall consist of:

58 (a) a representative selected by the Public Employees' Benefit and Insurance Program

59 created in Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

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

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

64 (d) a representative from the Comprehensive Health Insurance Pool, created in Title
65 31A, Chapter 29, Comprehensive Health Insurance Pool Act, selected by the board of directors
66 of the pool;

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

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

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

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

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

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

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

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

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

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

81 (4) (a) The department:

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

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

88 (A) the audit report by the Legislative Auditor General's Office required by Subsection
89 (6); and

90 (B) after July 1, 2007.

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

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

96 (iii) The state Medicaid program may ~~H→~~ not ~~←H~~ participate in the aggregate
 96a prescription drug

97 purchasing program ~~H→~~ [to the extent:

98 ——— (A) permitted by federal law; and

99 ——— (B) participation in the plan would reduce the Medicaid program's costs for

100 prescription drugs] ~~←H~~ .

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

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

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

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

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

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

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

113 (i) coordinating programs offered by pharmaceutical manufacturers that provide
 114 prescription drugs for free or at reduced prices; ~~H→~~ and ~~←H~~

115 (ii) ~~H→~~ [study the feasibility and appropriateness of including in the aggregate purchasing
 116 programs entities in the private sector, including employers, providers, and individual
 117 consumers;

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

120 ——— (iv) enter] entering ~~←H~~ into agreements with other states to jointly purchase prescription
 120a drugs in the

121 aggregate to reduce the prescription drug costs for the state.

122 (6) (a) On or before October 1, 2006, the department shall submit a report to the
 123 Legislative Auditor General's Office on activities that have been or will be undertaken pursuant
 124 to this section. The report shall include all of the following:

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

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

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

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

134 (b) The Legislative Auditor General will conduct an audit of the program proposed
 135 under this section and shall submit the results of the audit to the Legislature before January 1,
 136 2007.

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

140a **H→ (8) If a state entity is participating in a bulk purchasing of prescription drugs**
 140b **program prior to the effective date of this act, this section does not prohibit that state entity**
 140c **from continuing its participation in that bulk purchasing of prescription drugs program. ←H**

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.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
General Fund	\$29,400	\$29,400	\$0	\$0
General Fund, One-Time	\$3,000	\$0	\$0	\$0
TOTAL	\$32,400	\$29,400	\$0	\$0

Individual and Business Impact

No fiscal impact.
