SB 18-080

Legislative Council Staff
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FISCAL NOTE

Drafting Number: LLS 18-0509
Prime Sponsors: Sen. Aguilar; Rep. Lontine

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Bill Status: Senate SVMA
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Bill Topic: WHOLESALE CANADIAN DRUG IMPORTATION PROGRAM

Summary of Fiscal Impact:

- ☒ State Revenue *(conditional)*
- ☒ State Expenditure
- ☐ State Transfer
- ☐ TABOR Refund
- ☒ Local Government *(conditional)*
- ☐ Statutory Public Entity

This bill requires the Department of Health Care Policy and Financing to design and implement an importation program for pharmaceutical products from Canada for sale to Colorado consumers. This bill will increase state expenditures initially to design the program; conditional upon federal approval, it will increase state revenue and expenditures, with these expenditures potentially offset by savings in future years. Local governments may also realize future savings under the bill.

Appropriation Summary: For FY 2018-19, the bill requires an appropriation of $1,152,557 to the Department of Health Care Policy and Financing.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 18-080

		FY 2018-19	FY 2019-20
Revenue		-	-
Expenditures	General Fund	$1,152,557	$1,252,373
	Centrally Appropriated	$60,483	$79,185
	Total	**$1,213,040**	**$1,331,558**
	Total FTE	**4.5 FTE**	**5.4 FTE**
Transfers		-	-

Summary of Legislation

This bill requires the Department of Health Care Policy and Financing (HCPF) to design a wholesale importation program for prescription pharmaceutical products from Canada, and subject to federal approval, to implement the program and make wholesale imported prescription pharmaceutical products available to Colorado consumers. The bill specifies certain safety, quality, and pricing requirements that must be met by the program. HCPF must present a draft report on the program design to the General Assembly by January 1, 2019, post the report on its website, and hold public meetings throughout the state. By May 1, 2019, HCPF must prepare a final report for submission to the federal government for approval of the plan.

Once federal approval is received, the bill authorizes HCPF to operate the program and to charge a fee on prescription pharmaceuticals purchased through the importation program to cover the costs of the program. The bill specifies that HCPF must select one or more wholesaler to operate the program through a competitive bidding process. HCPF must report to the General Assembly by January 1, 2021, and each January 1 thereafter, on the implementation of the program, including which drugs were imported and the savings to consumers.

Assumptions

The fiscal note assumes that federal approval for the program, if received, will allow for the importation of drugs beginning July 1, 2020. For FY 2018-19 and FY 2019-20, the fiscal note shows costs for program planning, design, and support for the federal approval process. Once approval is received, it is assumed that additional funding will be requested through the annual budget process, as needed.

State Revenue

The bill potentially increases state revenue from fees on imported drugs sold through the Canadian drug importation program starting in FY 2020-21, based on the implementation timeline above. At this time, this revenue amount cannot be estimated as the scope of the program and fee schedule are not known. The bill does not specify a cash fund into which this revenue is deposited, so it is assumed that it will be deposited into the General Fund.

TABOR Refund

The bill increases state revenue subject to TABOR starting in FY 2020-21. This is outside the current TABOR refund forecast period; however, if a refund is required in future years, this bill will increase the amount to be refunded.

State Expenditures

To design and seek federal approval for a drug importation program, the bill increases General Fund expenditures in HCPF by $1.2 million and 3.9 FTE in FY 2018-19 and $1.3 million and 5.0 FTE in FY 2019-20. It is assumed that federal matching funds will not be available for this program. These costs are summarized in Table 2 and discussed below. Additional costs, such as purchasing or building information technology systems and contracting with pharmaceutical wholesalers, have not been estimated. It is assumed that appropriations for these costs will be requested through the budget process once additional information about the program design and likelihood of federal approval is known.

Table 2
Expenditures Under SB 18-080

	FY 2018-19	FY 2019-20
Department of Health Care Policy and Financing		
Personal Services	$350,777	$467,703
Operating Expenses and Capital Outlay Costs	$27,220	$4,750
Pharmaceutical and Trade Consultant	$350,000	$700,000
Information Technology Systems	$288,000	TBD
Legal Services	$106,560	$79,920
Public Hearings	$30,000	-
Centrally Appropriated Costs*	$60,483	$79,185
FTE – Personal Services	3.9 FTE	5.0 FTE
FTE – Legal Services	0.6 FTE	0.4 FTE
Total Cost	**$1,213,040**	**$1,331,558**
Total FTE	**4.5 FTE**	**5.4 FTE**

** Centrally appropriated costs are not included in the bill's appropriation.*

Personal services. HCPF will require an additional 5.0 FTE to manage the program design process, compile required reports, hold public meetings, interact with the federal government, and oversee and work with contract consultants. This staff is prorated to 3.9 FTE in the first year to reflect a start date of September 1, 2018. Personal service costs and standard operating and capital outlay expenses for these staff are shown in Table 2 above.

Pharmaceutical and trade consultant. To design the program, HCPF will use contracted consultants with expertise in pharmaceuticals and international trade. These experts will identify drugs that are most promising for generating savings via the importation program and will ensure that the process meets federal requirements for the importation of pharmaceuticals. These costs are estimated at $350,000 in FY 2018-19 and $700,000 in FY 2019-20, based on a consultant rate of $250 per hour and 1,400 hours of consultant time in the first year and 2,800 hours in the second year. Actual costs may vary depending on the rates for services obtained through the competitive bidding process.

Information technology system costs. HCPF will work with the Office of Information Technology (OIT) in the first year to design data systems needed to support the drug importation program, including data collection, fee tracking, connectivity with contracted wholesalers, and other functions. In the first year, system design costs are estimated at $288,000, based on 1,920 hours of business analyst time at a rate of $150 per hour. Future costs for system procurement and implementation will depend on the program design and will likely be incurred in FY 2019-20. It is assumed that these costs will be addressed through the annual budget process once the program design and likelihood of federal approval are known.

Legal services. HCPF will have costs for legal services from the Department of Law for rulemaking, legal advice, and the prevention of anti-competitive behavior by manufacturers, as specified in the bill. These costs are estimated at $106,560 in FY 2018-19 for 1,000 hours of legal services, and $79,920 in FY 2019-20 for 750 hours of legal services. Costs are estimated based on the blended legal service rate of $106.56 per hour.

State employee health insurance costs. If the importation program allows state employees to purchase less expensive pharmaceuticals, costs for state employee group health insurance may decrease. At this time these potential savings are unknown. It is assumed that savings will be addressed through the annual budget process as they are realized.

HCPF pharmacy benefits. Programs administered by HCPF, including Medicaid and the Children's Basic Health Plan (CHP+) may have savings from lower pharmaceutical costs if the importation program is implemented. Again, the extent of these savings is unknown, and it is assumed they will be addressed through the annual budget process. The state Medicaid program currently receives rebates on pharmaceuticals that reduce costs by nearly 50 percent compared to the retail prices. It is unknown if wholesale importation from Canada will result in greater savings than from currently available rebates for domestically obtained pharmaceutical products.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be $60,483 in FY 2018-19 and $79,185 in FY 2019-20.

Local Government

Local governments that offer health insurance as an employee benefit may have savings under the bill if the importation program is implemented and savings result. As discussed above, the extent of these savings is unknown and will depend on the drugs available for importation and the prices compared to domestically produced pharmaceutical products.

Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed, except that the provisions of the bill in Sections 25.5-2.5-206 to 25.5-2.5-209 only take effect once notice is given to the Revisor of Statutes that federal approval for the program has been received.

State Appropriations

For FY 2018-19, the bill requires an appropriation of $1,152,557 General Fund and an allocation of 3.9 FTE to the Department of Health Care Policy and Financing. Of this appropriation, $288,000 is reappropriated to the Office of Information Technology for information technology services and $106,560 is reappropriated to the Department of Law for legal services. The Department of Law requires an additional allocation of 0.6 FTE.

State and Local Government Contacts

Health Care Policy and Financing
Human Services
Information Technology
Law
Personnel
Public Health and Environment
Regulatory Agencies