



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2021 Biennium

Bill # HB0344

Title: Require transparency reporting of pharmacy benefit managers

Primary Sponsor: Kelker, Kathy

Status: As Introduced

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2020</u> <u>Difference</u>	<u>FY 2021</u> <u>Difference</u>	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact: This bill has no fiscal impact to the State Auditor’s Office, since the duties required by this legislation can be performed by the office without the need for additional resources.

FISCAL ANALYSIS

Assumptions:

State Auditor’s Office

- As written, this bill requires the State Auditor’s Office to collect reports from pharmacy benefit managers on an annual basis, publish the reports on the commissioner’s website, and impose fines for non-compliance after a hearing as required by 33-1-317, MCA. These duties can be performed by the State Auditor’s Office without the need for additional resources.

Technical Notes:

State Auditor’s Office

- Section 1, subsection (2)(b) requires the pharmacy benefit manager to provide information regarding the administrative fees received from “pharmaceutical manufacturers for all health insurance issuers and each health benefit plan”. This may be an erroneous reference, as pharmacy benefit managers typically receive administrative fees from issuers and plans, but not typically from manufacturers. As written, this section may yield little to no reportable data.

2. Section 1, Subsection (3) allows the pharmacy benefit manager to designate any and all information provided in the report as a trade secret (as defined in 30-14-402, MCA), and subsection (4) requires the State Auditor's Office to publish the transparency report without violating trade secret laws. These sections could cause protracted delays in publishing the reports if the commissioner must litigate trade secret designations.
3. Section 1, subsection (5) allows for a \$1,000 penalty per day for non-compliance. This section conflicts with the commissioner's statutory authority to impose penalties up to \$25,000 under 33-1-317, MCA, and is a substantially smaller penalty than that imposed upon other entities for like conduct.

KAK
Sponsor's Initials

02/06/2019
Date

TL
Budget Director's Initials

2/5/19
Date