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FISCAL NOTE

Drafting Number: LLS 19-0406 **Date:** January 28, 2018
Prime Sponsors: Sen. Rodriguez; Ginal **Bill Status:** Senate HHS
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Bill Topic: IMPORT PRESCRIPTION DRUGS FROM CANADA

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue (<i>conditional</i>)	<input checked="" type="checkbox"/> TABOR Refund (<i>conditional</i>)
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government (<i>conditional</i>)
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill requires the Department of Health Care Policy and Financing to design and, if approved, implement a program to import prescription 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: This bill requires an appropriation of \$1.36 million to the Department of Health Care Policy and Financing in FY 2019-20.

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

**Table 1
State Fiscal Impacts Under SB 19-005**

		FY 2019-20	FY 2020-21
Revenue		-	-
Expenditures	General Fund	\$1,361,217	\$1,347,169
	Federal Funds	(\$70,000)	(\$70,000)
	Centrally Appropriated	\$71,612	\$86,623
	Total	\$1,362,829	\$1,363,792
	Total FTE	5.1 FTE	5.5 FTE
Transfers		-	-
TABOR Refund		-	-

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 this program, making wholesale imported prescription pharmaceutical products from Canada 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, 2020, post the report on its website, and hold two public meetings — one in the Denver metropolitan area and one on the Western Slope. By April 15, 2020, HCPF must prepare a final report, post the report on its website, and submit it to the General Assembly. By May 1, 2020, HCPF must submit the final report to the federal government for approval of the program.

If federal approval of the program is received, the bill authorizes HCPF to operate the program and to charge a fee on prescription pharmaceuticals purchased through the 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 Request for Proposals (RFP) process. HCPF must report to the General Assembly by January 1, 2022, and each January 1 thereafter, on the implementation of the program, including which prescription pharmaceuticals were imported and the savings to consumers.

Assumptions

The fiscal note assumes that, if federal approval for the program is received, the importation of prescription pharmaceuticals will begin July 1, 2021. For FY 2019-20 and FY 2020-21, the fiscal note shows costs for program planning, design, and support for the federal approval process. If federal approval is received, it is assumed that additional funding will be requested through the annual budget process, as needed.

State Revenue

Conditional upon federal approval, the bill increases state revenue from fees on imported prescription pharmaceutical products from Canada sold through the program starting in FY 2021-22, based on the implementation timeline discussed in the Assumptions section 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. In addition, the bill is expected to minimally increase licensing fees to the Division of Professions and Occupations Cash Fund in the Department of Regulatory Agencies (DORA). Both revenue streams are subject to TABOR.

State Expenditures

To design and seek federal approval for the prescription pharmaceutical importation program, the bill increases General Fund expenditures in HCPF by \$1.36 million and 4.1 FTE in FY 2019-20 and \$1.36 million and 5.0 FTE in FY 2020-21. An allocation of 1.0 FTE in FY 2019-20 and of 0.5 FTE in FY 2020-21 is also required for legal services hours. These costs are summarized in Table 2 and discussed below. Future costs have not been estimated, such as purchasing or building

information technology systems and contracting with pharmaceutical wholesalers; 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.

**Table 2
Expenditures Under SB 19-005**

	FY 2019-20	FY 2020-21
Department of Health Care Policy and Financing		
Personal Services	\$399,293	\$479,152
Operating Expenses and Capital Outlay Costs	\$27,410	\$4,750
Fund Source Adjustment	-	-
Pharmaceutical and Trade Consultant	\$350,000	\$700,000
Information Technology Systems	\$296,160	TBD
Legal Services	\$186,534	\$93,267
Public Hearings and Travel	\$31,820	-
Centrally Appropriated Costs*	\$71,612	\$86,623
FTE – Personal Services	4.1 FTE	5.0 FTE
FTE – Legal Services	1.0 FTE	0.5 FTE
Total Cost	\$1,362,829	\$1,363,792
Total FTE	5.1 FTE	5.5 FTE

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

Department of Health Care Policy and Financing. 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 4.1 FTE in the first year to reflect an August effective date and the General Fund pay date shift. Standard operating and capital outlay expenses for these staff are included. Workload will also increase in the current fiscal year for existing HCPF staff to begin work on the RFP for the contract consultants and hiring in advance of the bill's effective date; however, the bill's deadlines are not feasible for the RFP process. See Technical Note section.

Fund source adjustment. Because current senior executive staff will be responsible for supervising this program rather than federally funded operations, personal services costs from the General Fund will increase by \$70,000 to cover a decrease of the same amount in federal funds. See State Appropriations section.

Pharmaceutical and trade consultant. To design the program, HCPF will use contract consultants with expertise in pharmaceuticals and international trade. These experts will identify pharmaceutical products that are most promising for generating savings through 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 2019-20 and \$700,000 in FY 2020-21, 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 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. FY 2019-20 system design costs are estimated at \$296,160, based on 2,400 hours of contract services at a rate of \$123.40 per hour. Costs will be paid with reappropriated funds from HCPF. Future costs for system procurement and implementation will depend on the program design and will likely be incurred in FY 2020-21. 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 \$186,534 and an allocation of 1.0 FTE in FY 2019-20 for 1,800 hours of legal services, and \$93,267 and an allocation of 0.5 FTE in FY 2020-21 for 900 hours of legal services. Costs are estimated based on the blended legal service rate of \$103.63 per hour and will be paid with reappropriated funds from HCPF.

Public hearings and travel. HCPF will have costs to hold two public hearings. Each hearing is estimated to cost \$15,000, which includes costs for meeting space, materials, and necessary public accommodations. It is assumed that five HCPF employees will travel to the hearing on the Western Slope at an estimated cost of \$364 per person, including mileage, lodging, and board.

Department of Regulatory Agencies. Conditional upon federal approval of the program, the Colorado Board of Pharmacy will have a minimal workload increase to approve any new wholesale licenses. The board may conduct rulemaking, education, and outreach, as well. These workload increases can be accomplished within existing appropriations.

Potential state savings. As discussed below, state programs may realize savings through lower pharmaceutical costs if the importation program is implemented. The extent of potential savings cannot be estimated at this time. It is assumed the annual budget process will address this, as needed.

State employee group health insurance. If the importation program allows state employees to purchase less expensive pharmaceuticals, costs for state employee group health insurance may decrease.

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. 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.

Other agencies. The Departments of Corrections, Human Services, and Public Health and Environment, and any other state agency that purchases pharmaceuticals, may also see a decrease in costs.

TABOR refund. If federal approval of the program is received, HCPF will charge a fee on prescription pharmaceuticals purchased through the program to cover administrative costs and DORA may receive additional licensing fees. This will increase state General Fund obligations for TABOR refunds in years the state collects a TABOR surplus beginning in FY 2021-22, which is outside the current forecast period.

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 \$71,612 in FY 2018-19 and \$86,623 in FY 2019-20.

Local Government

Similar to the state, local governments that offer health insurance as an employee benefit or purchase pharmaceuticals may realize savings under the bill if the importation program is implemented. The extent of these savings cannot be estimated.

Technical Note

The bill necessitates an RFP process to procure pharmaceutical and trade consulting; however, the bill's deadlines do not provide enough time for this process to occur.

Effective Date

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, 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 2019-20, the bill requires an appropriation of \$1,361,217 General Fund and an allocation of 4.1 FTE to the Department of Health Care Policy and Financing. It also requires a reduction in federal funds to HCPF of \$70,000 to account for the refinancing of certain personal services costs that are instead paid with General Fund. Of the General Fund appropriation, \$296,160 is reappropriated to the Office of Information Technology for information technology services and \$186,534 is reappropriated to the Department of Law for legal services, with an allocation of 1.0 FTE.

State and Local Government Contacts

Corrections
Human Services
Law
Public Health and Environment

Health Care Policy and Financing
Information Technology
Personnel
Regulatory Agencies