# HB 1242 - SB 1414
# FISCAL MEMORANDUM

**Fiscal Review Committee**
Tennessee General Assembly

March 4, 2025

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**SUMMARY OF BILL AS AMENDED (004543):** Prohibits a drug manufacturer, or their agent or affiliate, from restricting, prohibiting, discriminating against, or otherwise limiting the acquisition of a 340B drug by, or delivery of a 340B drug to, a 340B entity or other location that is under contract with, or otherwise authorized by, a 340B entity to receive 340B drugs on behalf of the 340B entity unless such receipt is prohibited by the federal Department of Health and Human Services or applicable state law. Prohibits a drug manufacturer, or their agent or affiliate, from imposing certain requirements or limitations on a 340B entity, or requiring a 340B entity to reverse, resubmit, or clarify a claim after the initial adjudication unless these actions are in the normal course of business and not related to the 340B program.

Establishes that a violation of such prohibitions constitutes an unfair trade practice and an unfair or deceptive act, and is subject to a civil penalty of $50,000 per violation.

Establishes that a person or entity that contracts with a 340B entity to dispense 340B drugs or to administer a 340B entity's participation in the 340B program is prohibited from (1) interfering with, prohibiting, restricting, or limiting a 340B entity's contracts or prospective business relationships with another person or entity; (2) denying, restricting, prohibiting, or otherwise interfering with a 340B entity's choice of 340B drugs acquired, delivered, or otherwise distributed; or (3) excluding claims from 340B entities which would result in a net loss to the covered entity.

## FISCAL IMPACT OF BILL AS AMENDED:

| STATE GOVERNMENT | |
|---|---|
| **EXPENDITURES** | **General Fund** |
| **FY25-26 & Subsequent Years** | $7,452,700 |

| FEDERAL GOVERNMENT | |
|---|---|
| **EXPENDITURES** | |
| **FY25-26 & Subsequent Years** | $815,000 |

| LOCAL GOVERNMENT | |
|---|---|
| **EXPENDITURES** | **Mandatory** |
| **FY25-26 & Subsequent Years** | $5,046,000 |
| Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost. | |

Assumptions for the bill as amended:

- The proposed legislation does not apply to the TennCare program or the CoverKids program.
- The Department of Commerce and Insurance can monitor compliance with the proposed legislation utilizing existing personnel and resources.
- There is not expected to be a significant increase in civil penalties assessed as a result of the proposed legislation.
- The proposed legislation prohibits drug manufacturers, and their agents and affiliates, from restricting the use of 340B pharmacies.
- According to the Division of Benefits Administration, the restrictions and limitations of the proposed legislation will result in increased 340B drug utilization under the State Group Insurance Program (SGIP).
- The 340B program has defined prices for outpatient drugs based on reduced pricing agreements with manufacturers. When an SGIP enrollee obtains prescription drugs from a 340B pharmacy, the pharmacy benefits manager (PBM) does not pass the savings from manufacturer rebates back to the state as they would when processing other claims.
- The increased 340B utilization, and corresponding loss of manufacturer rebates, is estimated to result in an increase in expenditures of $51 per covered member of the SGIP per year.
- There are 288,775 enrollees in the SGIP; therefore, the total increase in expenditures is estimated to be $14,727,525 ($51 x 288,775) in FY25-26 and subsequent years.
- It is estimated that 48 percent of members are on the State Employee Plan, 43 percent are on the Local Education Plan and 9 percent are on the Local Government Plan.
- The state contributes 80 percent of member premiums resulting in a recurring increase in state expenditures of $5,655,370 ($14,727,525 x 48% x 80%)
- Some state plan members' insurance premiums are funded through federal dollars. It is estimated 14.41 percent of the state share of the state plan is funded with federal dollars, resulting in an increase in federal expenditures of $814,939 ($5,655,370 x 14.41%).
- The state contributes 45 percent of instructional member premiums (75 percent of Local Education Plan members) and 30 percent of support staff member premiums (25 percent of Local Education Plan members) resulting in state expenditures of $2,612,295 [($14,727,525 x 43% x 75% x 45%) + ($14,727,525 x 43% x 25% x 30%)].
- The mandatory increase in expenditures for the local government share of the Local Education Plan is estimated to be $3,720,541 [($14,727,525 x 43%) - $2,612,295)].
- The state does not contribute to the Local Government Plan. It is estimated the Local Government Plan would be responsible for a mandatory increase in local expenditures estimated to be $1,325,477 ($14,727,525 x 9%).
- The total increase in state expenditures is estimated to be $7,452,726 ($5,655,370 - $814,939 + $2,612,295) in FY25-26 and subsequent years.
- The total increase in federal expenditures is estimated to be $814,939 in FY25-26 and subsequent years.
- The total mandatory increase in local expenditures is estimated to be $5,046,018 ($3,720,541 + $1,325,477) in FY25-26 and subsequent years.

## IMPACT TO COMMERCE OF BILL AS AMENDED:

| BUSINESS IMPACT | |
|---|---|
| **FISCAL YEAR** | **REVENUE** |
| **FY25-26 & Subsequent Years** | $14,727,500 |

| OTHER COMMERCE IMPACT |
|---|
| Due to multiple unknown factors, additional impacts to commerce and jobs cannot be reasonably determined. |

Assumptions for the bill as amended:

- Pharmaceutical manufacturers will experience an increase in business revenue of $14,727,525 in FY25-26 and subsequent years.
- Due to multiple unknown factors, such as negotiated rates with PBMs and 340B entities, current rebate amounts, and specific drug prices, additional impacts to commerce and jobs cannot be reasonably determined.

## CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Bojan Savic

Bojan Savic, Executive Director