

**REVISED JBC STAFF FISCAL ANALYSIS
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING THE CONTINUATION OF THE PRESCRIPTION DRUG MONITORING PROGRAM, AND, IN CONNECTION THEREWITH, REPEALING THE PRESCRIPTION CONTROLLED SUBSTANCE ABUSE MONITORING COMMITTEE, AND MAKING AN APPROPRIATION.

Prime Sponsors: Sens. Aguilar and Spence
Representative Massey

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Summary of Amendments Made to the Bill After the 03/31/11 Legislative Council Staff Fiscal Note Was Prepared (Amended by the Senate Health and Human Services Committee 03/31/11, Senate Appropriations Committee 04/15/11, Senate Committee of the Whole 04/20/11, and the House Health and Environment Committee 04/28/11)

Note: The March 31, 2011 Legislative Council Staff Fiscal Note was written to the "strike below" amendment passed by the Senate Health and Human Services Committee (L.003).

The Senate Health and Human Services Committee amended L.003 to specify that the license fee for professionals licensed to prescribe controlled substances is capped at \$12.

The Senate Appropriations Committee added the appropriation clause. See the Amendments/Appropriation Status section for additional information on the appropriation clause.

The Senate Committee of the Whole clarified that the prescribers must provide oral notification to the individuals that their information will be entered into the Prescription Drug Monitoring Program database the first time the medication is prescribed. Additionally the Committee of the Whole added data entered into the database under the definition of medical record, and clarified that information on the Prescription Drug Monitoring website falls under the medical records confidentiality statute.

The House Health and Environment Committee added a requirement that the dispensing pharmacy disclose to the patient that their information will be entered into the database.

JBC Staff Concurrence with Legislative Council Staff Fiscal Note

Concurs

Does Not Concur

XXX

Updated Analysis

Reason for the Update

Pursuant to current law, the fee for the Prescription Drug Monitoring Program that sunsets June 30, 2011 is capped at \$7.50 per year pursuant to Section 12-22-706 (5), C.R.S. If the Program was reauthorized with a fee cap at \$7.50 per year the Program would not have sufficient funding for a continuation level appropriation, as illustrated in the table below.

Fund Balance of the Prescription Drug Monitoring Fund With Current Fee Cap of \$7.50					
	FY 2011-12 Projected	FY 2012-13 Projected	FY 2013-14 Projected	FY 2014-15 Projected	FY 2015-16 Projected
Beginning Balance	\$130,536	(\$83,191)	(\$73,345)	(\$285,949)	(\$276,103)
Revenue					
Number of Fee Payers	7,250	22,461	7,631	22,461	7,631
Fee	\$7.50	\$7.50	\$7.50	\$7.50	\$7.50
Gifts, Grants, and Donations	0	0	0	0	0
Total Revenue	108,750	336,915	114,465	336,915	114,465
Continuation Level of Expenditures (excludes increased expenditures for S.B. 11-192)	<u>(322,477)</u>	<u>(327,069)</u>	<u>(327,069)</u>	<u>(327,069)</u>	<u>(327,069)</u>
Ending Balance	(\$83,191)	(\$73,345)	(\$285,949)	(\$276,103)	(\$488,707)

As amended by the Senate Health and Human Services Committee, the bill increases the fee cap to \$12 per year. Based on revised information from the Department the fee cap of \$12 per licensee will not provide sufficient revenue to fund the expenditures of the Prescription Drug Monitoring Program.

The Department has identified a grant in the amount of \$60,000 for the Prescription Drug Monitoring Program for FY 2011-12. Pursuant to Section 12-22-706 (1), C.R.S., the Program is authorized to accept and expend gifts, grants, and donations. Based on this updated information staff has prepared an amendment to cover the projected shortfall with the \$12 fee cap and the grant of \$60,000. The following table illustrates the impact of the \$60,000 grant on the Prescription Drug Monitoring Fund.

Fund Balance of the Prescription Drug Monitoring Fund With \$12 Fee Cap and \$60,000 Grant					
	FY 2011-12 Projected	FY 2012-13 Projected	FY 2013-14 Projected	FY 2014-15 Projected	FY 2015-16 Projected
Beginning Balance	\$130,536	(\$8,267)	\$153,402	(\$40,849)	\$120,820
Revenue					
Number of Fee Payers	7,250	22,461	7,631	22,461	7,631
Fee	\$12.00	\$12.00	\$12.00	\$12.00	\$12.00
Gifts, Grants, and Donations	60,000	0	0	0	0
Total Maximum Possible Revenue	234,000	539,064	183,144	539,064	183,144
Expenditures including S.B. 11-192	<u>(372,803)</u>	<u>(377,395)</u>	<u>(377,395)</u>	<u>(377,395)</u>	<u>(377,395)</u>
Ending Balance	(\$8,267)	\$153,402	(\$40,849)	\$120,820	(\$73,431)

See the amendments/appropriation status section below for the appropriations amendment that incorporates the \$60,000 grant.

Amendments/Appropriation Status

The bill includes an appropriation clause that provides \$50,326 cash funds from the Prescription Drug Monitoring Fund and 1.0 FTE to the Department of Regulatory Agencies, Division of Registrations for FY 2011-12. This appropriation needs to be supplemented by an appropriation of General Fund dollars to prevent the Prescription Drug Monitoring Fund from going insolvent in FY 2011-12.

Staff has prepared amendment **J.005** (attached) to change the existing clause to appropriate \$8,267 General Fund and \$50,326 cash funds from the Prescription Drug Monitoring Fund and 1.0 FTE to the Department of Regulatory Agencies, Division of Registrations for FY 2011-12.

Bill Sponsor Amendments

Amendment L.012 - No fee cap

Sponsor amendment **L.012** (attached) eliminates the \$12 fee cap. This amendment will eliminate the need for a General Fund appropriation.

If amendment L.012 passes, J.005 should not be adopted.

Amendment L.013 - \$35 fee cap

Sponsor amendment **L.013** (attached) sets the fee cap at \$35. The following table outlines the impact of increasing the fee cap to \$35.

Fund Balance of the Prescription Drug Monitoring Fund With \$35 Fee Cap					
	FY 2011-12 Projected	FY 2012-13 Projected	FY 2013-14 Projected	FY 2014-15 Projected	FY 2015-16 Projected
Beginning Balance	\$130,536	\$325,233	\$1,474,608	\$1,631,383	\$2,780,758
Revenue					
Number of Fee Payers	7,250	21,811	7,631	21,811	7,631
Fee	\$35.00	\$35.00	\$35.00	\$35.00	\$35.00
Gifts, Grants, and Donations	60,000	0	0	0	0
Total Maximum Possible Revenue	567,500	1,526,770	534,170	1,526,770	534,170
Expenditures including S.B. 11-192	<u>(372,803)</u>	<u>(377,395)</u>	<u>(377,395)</u>	<u>(377,395)</u>	<u>(377,395)</u>
Ending Balance	\$325,233	\$1,474,608	\$1,631,383	\$2,780,758	\$2,937,533

If amendment L.013 passes, J.005 should not be adopted.

Amendment L.015 - Fee cap through FY 2014-15

Sponsor amendment **L.015** (attached) sets the fee cap at \$20 for FY 2011-12 thru FY 2014-15, and sets the fee at a level to cover program expenditures for FY 2015-16 and all years thereafter. The following table outlines the impact of the graduated fee cap. Note the fee in FY 2015-16 will be set based on program expenditures and remaining fund balance from FY 2014-15 and is an estimation in the table.

Fund Balance of the Prescription Drug Monitoring Fund With A \$20 Fee Cap through FY 2014-15					
	FY 2011-12 Projected	FY 2012-13 Projected	FY 2013-14 Projected	FY 2014-15 Projected	FY 2015-16 Projected
Beginning Balance	\$130,536	\$107,733	\$602,778	\$530,623	\$1,025,668
Revenue					
Number of Fee Payers	7,250	21,811	7,631	21,811	7,631
Fee	\$20.00	\$20.00	\$20.00	\$20.00	\$5.00

Fund Balance of the Prescription Drug Monitoring Fund With A \$20 Fee Cap through FY 2014-15					
Gifts, Grants, and Donations	60,000	0	0	0	0
Total Maximum Possible Revenue	350,000	872,440	305,240	872,440	76,310
Expenditures including S.B. 11-192	<u>(372,803)</u>	<u>(377,395)</u>	<u>(377,395)</u>	<u>(377,395)</u>	<u>(377,395)</u>
Ending Balance	\$107,733	\$602,778	\$530,623	\$1,025,668	\$724,583

If amendment L.015 passes, J.004 should not be adopted, and J.005 should not be adopted.

Amendment L.016 - Graduated Fee Cap

Sponsor amendment L.016 (attached) sets the fee cap at \$17.50 for FY 2011-12 and FY 2012-13, at \$20 for FY 2013-14 and FY 2014-15, and \$25 for FY 2015-16 and all years thereafter. The following table outlines the impact of the graduated fee cap.

Fund Balance of the Prescription Drug Monitoring Fund With A Graduated Fee Cap					
	FY 2011-12 Projected	FY 2012-13 Projected	FY 2013-14 Projected	FY 2014-15 Projected	FY 2015-16 Projected
Beginning Balance	\$130,536	\$71,483	\$457,473	\$385,318	\$880,363
Revenue					
Number of Fee Payers	7,250	21,811	7,631	21,811	7,631
Fee	\$17.50	\$17.50	\$20.00	\$20.00	\$25.00
Gifts, Grants, and Donations	60,000	0	0	0	0
Total Maximum Possible Revenue	313,750	763,385	305,240	872,440	381,550
Expenditures including S.B. 11-192	<u>(372,803)</u>	<u>(377,395)</u>	<u>(377,395)</u>	<u>(377,395)</u>	<u>(377,395)</u>
Ending Balance	\$71,483	\$457,473	\$385,318	\$880,363	\$884,518

If amendment L.016 passes, J.005 should not be adopted.

Points to Consider

The Joint Budget Committee has introduced a balanced budget package for FY 2011-12 based on the March 2011 Office of State Planning and Budgeting forecast. The budget package appropriates all General Fund revenues projected to be available, less a statutorily required four percent General Fund reserve. This bill, without any of the sponsor amendments, requires a General Fund appropriation of \$8,267 for FY 2011-12. If this bill is enacted, other General Fund appropriations for existing programs will need to be reduced by \$8,267 in order to maintain the statutorily required General Fund reserve.