

# Bill as Introduced

HB 670-FN - AS AMENDED BY THE HOUSE

19Mar2019... 0893h

2019 SESSION

19-0804

01/06

HOUSE BILL

**670-FN**

AN ACT

relative to the cost of prescription drugs.

SPONSORS:

Rep. Butler, Carr. 7; Rep. Marsh, Carr. 8; Rep. Knirk, Carr. 3; Sen. Sherman, Dist  
24

COMMITTEE:

Commerce and Consumer Affairs

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ANALYSIS

This bill requires health insurance carriers to maintain certain information relative to prescription drug costs within their data systems for purposes of the managed care law.

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Explanation:

Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struck through~~].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nineteen*

AN ACT                   relative to the cost of prescription drugs.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           1 New Paragraph; Managed Care Law: Prescription Drugs. Amend RSA 420-J:7-b by inserting  
2 after paragraph X the following new paragraph:

3           XI. Health carriers shall have access to or maintain within their data systems amounts paid  
4 to pharmacies and other health care providers for all prescription drugs on behalf of their covered  
5 members. Carriers shall have access to or maintain a record of any amounts due to the pharmacy  
6 from the covered member in the form of cost sharing, such as copayments, deductibles, or  
7 coinsurance. The health carrier shall be responsible for assuring timely access to this information  
8 even when the prescription drug benefit is administered by a pharmacy benefit manager or similar  
9 entity.

10          2 Effective Date. This act shall take effect 60 days after its passage.

**HB 670-FN- FISCAL NOTE**  
 AS AMENDED BY THE HOUSE (AMENDMENT #2019-0893h)

AN ACT relative to the cost of prescription drugs.

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	Indeterminable	Indeterminable	Indeterminable	Indeterminable
<b>Expenditures</b>	Indeterminable	Indeterminable	Indeterminable	Indeterminable
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

This bill requires insurers writing managed care coverage to have access to or maintain data relative to prescription drug benefits even if such coverage is managed by a pharmacy benefit manager (PBM). The Insurance Department states the bill's impact on insurers' administrative costs is unclear, as is the impact on the contracts insurers maintain with PBMs. As such, the bill will have an indeterminable impact on state insurance premium tax revenue.

The Department of Health and Human Services states that although the bill will have no direct impact on expenditures, Medicaid managed care organizations may seek to pass along any resulting cost increases to the Department through the contracting process. The extent of any such costs is indeterminable.

The Department of Administrative Services states the bill will have no fiscal impact.

**AGENCIES CONTACTED:**

Insurance Department, and Departments of Health and Human Services and Administrative Services

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CHAPTER 137  
HB 670-FN - FINAL VERSION

19Mar2019... 0893h

2019 SESSION

19-0804  
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HOUSE BILL            **670-FN**

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CHAPTER 137  
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8 even when the prescription drug benefit is administered by a pharmacy benefit manager or similar  
9 entity.

10 137:2 Effective Date. This act shall take effect 60 days after its passage.

Approved: June 25, 2019  
Effective Date: August 24, 2019

# Committee Minutes

**AMENDED**  
**SENATE CALENDAR NOTICE**  
**Commerce**

Sen Kevin Cavanaugh, Chair  
Sen Jon Morgan, Vice Chair  
Sen Donna Soucy, Member  
Sen Chuck Morse, Member  
Sen Harold French, Member

Date: April 17, 2019

**HEARINGS**

Tuesday			04/23/2019
(Day)			(Date)
Commerce	SH 100	1:00 p.m.	
(Name of Committee)	(Place)	(Time)	
1:00 p.m.	<b>HB 664-FN</b>	relative to vehicle repair standards.	
1:15 p.m.	<b>HB 670-FN</b>	relative to the cost of prescription drugs.	
1:30 p.m.	<b>HB 450</b>	relative to examinations conducted by the banking department.	
1:45 p.m.	<b>HB 620-FN</b>	relative to the penalty fee structure for late premium tax payments.	
2:00 p.m.	<b>HB 598</b>	establishing a commission to study beer, wine, and liquor tourism.	
2:15 p.m.	<b>HB 348</b>	relative to procedures for condominiums with 25 or fewer residential units.	

**EXECUTIVE SESSION MAY FOLLOW**

**Sponsors:**

**HB 664-FN**

Rep. Williams

Rep. Packard

**HB 670-FN**

Rep. Butler

**HB 450**

Rep. Luneau

**HB 620-FN**

Rep. Hunt

**HB 598**

Rep. Williams

**HB 348**

Rep. Almy

Rep. McBeath

Sen. Bradley

Rep. Marsh

Sen. Birdsell

Rep. Goley

Sen. Birdsell

Rep. Knirk

Rep. Green

Sen. Watters

Sen. Sherman

Laura Bryant 271-1403

Kevin Cavanaugh  
Chairman

**Senate Commerce Committee**  
*Laura Bryant 271-1403*

**HB 670-FN**, relative to the cost of prescription drugs.

**Hearing Date:** April 23, 2019

**Time Opened:** 2:29 p.m.

**Time Closed:** 2:35 p.m.

**Members of the Committee Present:** Senators Cavanaugh, Morgan, Soucy, Morse and French

**Members of the Committee Absent :** None

**Bill Analysis:** This bill requires health insurance carriers to maintain certain information relative to prescription drug costs within their data systems for purposes of the managed care law.

**Sponsors:**

Rep. Butler

Rep. Marsh

Rep. Knirk

Sen. Sherman

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**Who supports the bill:** Senator Sherman, Fran Wendelbe with NHIPA, Rep. Butler, Rep. Potucek, Holly Stevens with New Futures

**Who opposes the bill:** None

**Who is neutral on the bill:** None

**Summary of testimony presented:**

**Representative Ed Butler, Carr. 7:**

- He stated that this bill makes it easier to find ways to provide access to information relative to prescription drug costs.
- He said this bill mandates that all the carriers will be able to find ways to access the details of the costs of drugs as well as the price of copays.

**Holly Stevens with New Futures:**

- She noted that this bill will better help the department accurately gauge the cost drivers of prescription drugs for their annual report.
- She added that by clarifying this language it will be easier to understand what is causing prescription drug prices to be so high.

**Tyler Brannen with the NH Insurance Department:**

- Brannen stated that there are lots of existing insurance laws to protect consumers and sometimes the providers don't understand that they aren't in compliance with the law, but this bill will clarify that.

LHB

Date Hearing Report completed: April 24, 2019

# Speakers







# Testimony

April 23, 2019

The Honorable Kevin Cavanaugh, Chair  
Senate Commerce Committee  
State House Room 100  
Concord, NH 03301

Re: New Futures' support of HB 670-FN

Dear Chairman Cavanaugh and Members of the Committee:

New Futures appreciates the opportunity to testify in support of HB 670-FN as amended by the House, which would require insurance carriers to have access to or maintain records relating to cost sharing and amounts paid to pharmacies and other health care providers for all prescription drugs on behalf of their members. New Futures is a nonpartisan, nonprofit organization that advocates, educates and collaborates to improve the health and wellness of all New Hampshire residents. In this role, we work extensively with policy makers, health care providers and families to increase access to quality, affordable health care throughout the Granite State. In recent years, with the increasing cost of pharmaceutical drug prices, including generics that have been on the market for decades, transparency in the pharmaceutical industry is of concern to New Futures.

Last summer, I participated in the HB 1418 Commission to Study Greater Transparency in Pharmaceutical Costs and Drug Rebate Programs (Commission). Although the Commission heard testimony from many stakeholders, it did not have enough time to complete its study. The Commission was not able to come to a consensus around any legislative recommendations; however, individual Commission members did make suggestions for legislative change. One thing that was clear from the testimony is that increasing drug prices are not the result of any one entity type (i.e. manufacturers, PBM, insurers, etc.), but due to what is going on in the entire system. The problem is, the system is very opaque, and no one can see what is truly causing the skyrocketing prices.

One of the legislative suggestions that resulted from the Commission was to gather information on amounts paid for prescription drugs by insurers and the out of pocket costs incurred by their members, which HB 670-FN would do. PBM state that they save money for the insurers, which keeps premiums down. However, it is unclear if this really is the case. If the New Hampshire Insurance Department (NHID) had access to data regarding amounts paid by insurers for drugs and the amount of out of pocket costs members incur, it could assess whether PBM save money or end up costing insurers and their members more, thus leading to higher premiums and out of pocket costs for consumers. It could also assess compliance with NH law that a consumer must be charged the lesser of the applicable co-payment, the contracted price, or the cash price.<sup>1</sup>

Until a governmental agency, such as the NHID, can begin looking at the business practices of manufactures, PBMs, insurers, wholesalers, and pharmacies to see what is driving the high cost of drugs, it will be unclear what legislative fixes are appropriate. Greater transparency into the entire system is necessary so that policy makers know how to remedy the problem, thus making

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<sup>1</sup> Ins 7204.02(d)

pharmaceutical drugs more affordable to those who need them. HB 670-FN is one step and one bill among many this session that will lead to greater transparency. For those reasons, New Futures urges the Committee vote HB 670-FN ought to pass.

Please do not hesitate to contact me if you have any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Holly A. Stevens", with a long horizontal flourish extending to the right.

Holly A. Stevens, Esq.  
Health Policy Coordinator

# Voting Sheets

**Senate Commerce Committee**  
**EXECUTIVE SESSION RECORD**  
*2019-2020 Session*

Bill # 670

Hearing date: \_\_\_\_\_

Executive Session date: 4/23/19

Motion of: OTP Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Cavanaugh, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morgan, V- Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morse	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: Consent Vote: \_\_\_\_\_

Committee Member	Made by	Second	Yes	No
Sen. Cavanaugh, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morgan, V- Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morse	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: \_\_\_\_\_ Vote: \_\_\_\_\_

Committee Member	Made by	Second	Yes	No
Sen. Cavanaugh, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morgan, V- Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Morse	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: CAN

# Committee Report



STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE  
FOR THE CONSENT CALENDAR

Wednesday, April 24, 2019

THE COMMITTEE ON Commerce

to which was referred **HB 670-FN**

AN ACT relative to the cost of prescription drugs.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 5-0

Senator Kevin Cavanaugh  
For the Committee

This bill requires health insurance carriers to maintain certain information relative to prescription drug costs within their data systems for purposes of the managed care law. This bill also requires health insurance carriers to have access to, as well as maintain, data systems about the costs at the counter for their consumers. The committee feels that this bill will assist the department in identifying the cost drivers of insurance, which will be detailed in their annual report.

Laura Bryant 271-1403

FOR THE CONSENT CALENDAR

**COMMERCE**

**HB 670-FN**, relative to the cost of prescription drugs.

Ought to Pass, Vote 5-0.

Senator Kevin Cavanaugh for the committee.

This bill requires health insurance carriers to maintain certain information relative to prescription drug costs within their data systems for purposes of the managed care law. This bill also requires health insurance carriers to have access to, as well as maintain, data systems about the costs at the counter for their consumers. The committee feels that this bill will assist the department in identifying the cost drivers of insurance, which will be detailed in their annual report.

## General Court of New Hampshire - Bill Status System

**Docket of HB670**

Docket Abbreviations

**Bill Title:** relative to the cost of prescription drugs.**Official Docket of HB670.:**

<b>Date</b>	<b>Body</b>	<b>Description</b>
1/16/2019	H	<b>Introduced</b> 01/03/2019 and referred to Commerce and Consumer Affairs <b>HJ 3 P. 25</b>
2/6/2019	H	Public Hearing: 02/19/2019 01:30 pm LOB 302
2/13/2019	H	Subcommittee Work Session: 02/21/2019 10:30 am LOB 302
2/13/2019	H	==RECESSED== Executive Session: 02/21/2019 02:00 pm LOB 302
2/27/2019	H	Subcommittee Work Session: 03/06/2019 02:30 pm LOB 302
3/6/2019	H	Subcommittee Work Session: 03/08/2019 09:00 am LOB 302-304
2/28/2019	H	==CONTINUED== Executive Session: 03/08/2019 01:30 pm LOB 302-304
3/14/2019	H	Committee Report: Ought to Pass with Amendment <b>#2019-0893h</b> for 03/19/2019 (Vote 20-0; CC) <b>HC 16 P. 6</b>
3/19/2019	H	Amendment <b>#2019-0893h</b> : AA VV 03/19/2019 <b>HJ 10 P. 15</b>
3/19/2019	H	<b>Ought to Pass with Amendment</b> 2019-0893h: MA VV 03/19/2019 <b>HJ 10 P. 15</b>
4/1/2019	S	Introduced 03/28/2019 and Referred to Commerce; <b>SJ 12</b>
4/17/2019	S	<b>Hearing:</b> 04/23/2019, Room 100, SH, 01:15 pm; <b>SC 19</b>
4/24/2019	S	Committee Report: Ought to Pass, 05/02/2019; Vote 5-0; CC <b>SC 20</b>
5/2/2019	S	<b>Ought to Pass:</b> MA, VV; OT3rdg; 05/02/2019; <b>SJ 15</b>
5/16/2019	S	Enrolled (In recess 05/15/2019); <b>SJ 17</b>
5/16/2019	H	Enrolled 05/08/2019 <b>HJ 15 P. 101</b>
6/27/2019	H	Signed by Governor Sununu 06/25/2019; Chapter 137; Eff: 08/24/2019

NH House

NH Senate

# Other Referrals

# Senate Inventory Checklist for Archives

Bill Number: HB670-FN

Senate Committee: Commerce

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

### Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

### Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

\_\_\_ - amendment # \_\_\_      \_\_\_ - amendment # \_\_\_

\_\_\_ - amendment # \_\_\_      \_\_\_ - amendment # \_\_\_

Executive Session Sheet

Committee Report

### Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

\_\_\_ - amendment # \_\_\_      \_\_\_ - amendment # \_\_\_

\_\_\_ - amendment # \_\_\_      \_\_\_ - amendment # \_\_\_

### Post Floor Action: (if applicable) {Clerk's Office}

\_\_\_ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

\_\_\_ Enrolled Bill Amendment(s)

\_\_\_ Governor's Veto Message

### All available versions of the bill: {Clerk's Office}

\_\_\_ as amended by the senate      \_\_\_ as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By: \_\_\_\_\_

\_\_\_\_\_  
Committee Aide

\_\_\_\_\_  
Date

Senate Clerk's Office AK