

REGULAR CALENDAR

April 26, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on Executive Departments and Administration to which was referred SB 450,

AN ACT relative to the prescription drug affordability board. Having considered the same, report the same with the recommendation that the bill be REFERRED FOR INTERIM STUDY.

Rep. Tony Lekas

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee:	Executive Departments and Administration
Bill Number:	SB 450
Title:	relative to the prescription drug affordability board.
Date:	April 26, 2022
Consent Calendar:	REGULAR
Recommendation:	REFER FOR INTERIM STUDY

STATEMENT OF INTENT

Earlier this year this House dealt with a House bill on a related topic and decided to send it to interim study. The majority recommends the same for this bill. In addition to making some minor changes this bill attempts to resolve a couple of the many issues the committee had regarding the prescription drug affordability board. Two of those changes are incompatible with each other. In addition the prescription drug affordability board was created by a Senate amendment to a 2020 House bill that the Senate turned into an omnibus bill that included at least 7 different topics. While the House concurred with the Senate version, this section of the bill had no public hearing in the House and was not considered by any House committee so the House did not have an opportunity to give this complicated bill proper consideration. It is also a concern that not only did the bill creating the prescription drug affordability board not get a hearing before the House finance committee even though it has significant financial implications, this bill did not contain a fiscal note and is not planned to be heard by House Fiscal or Ways and Means even though it would create a highly paid position of Executive Director, make significant changes to fees, and would established a non lapsing fund. For these and other reasons the majority of the committee believes that this very complicated issue requires study by the House and any bill on this should be carefully reviewed through the entire legislative process.

Vote 10-9.

Rep. Tony Lekas
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Executive Departments and Administration

SB 450, relative to the prescription drug affordability board. **MAJORITY: REFER FOR INTERIM STUDY. MINORITY: OUGHT TO PASS.**

Rep. Tony Lekas for the **Majority** of Executive Departments and Administration. Earlier this year this House dealt with a House bill on a related topic and decided to send it to interim study. The majority recommends the same for this bill. In addition to making some minor changes this bill attempts to resolve a couple of the many issues the committee had regarding the prescription drug affordability board. Two of those changes are incompatible with each other. In addition the prescription drug affordability board was created by a Senate amendment to a 2020 House bill that the Senate turned into an omnibus bill that included at least 7 different topics. While the House concurred with the Senate version, this section of the bill had no public hearing in the House and was not considered by any House committee so the House did not have an opportunity to give this complicated bill proper consideration. It is also a concern that not only did the bill creating the prescription drug affordability board not get a hearing before the House finance committee even though it has significant financial implications, this bill did not contain a fiscal note and is not planned to be heard by House Fiscal or Ways and Means even though it would create a highly paid position of Executive Director, make significant changes to fees, and would established a non lapsing fund. For these and other reasons the majority of the committee believes that this very complicated issue requires study by the House and any bill on this should be carefully reviewed through the entire legislative process. **Vote 10-9.**

Original: House Clerk

Cc: Committee Bill File

REGULAR CALENDAR

April 26, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on Executive Departments and Administration to which was referred SB 450,

AN ACT relative to the prescription drug affordability board. Having considered the same, and being unable to agree with the Majority, report with the recommendation that the bill OUGHT TO PASS.

Rep. William Marsh

FOR THE MINORITY OF THE COMMITTEE

**MINORITY
COMMITTEE REPORT**

Committee:	Executive Departments and Administration
Bill Number:	SB 450
Title:	relative to the prescription drug affordability board.
Date:	April 26, 2022
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

This bill makes necessary changes to current law requested by the Prescription Drug Affordability Board. Most important, it creates a non lapsing fund to collect the fees to pay the expenses of the Board. It also modifies the alternates to make quorum achievable. It changes the executive director to an unclassified position. It establishes an appeals process for decisions made by the Board. The majority concern about excessive fees being collected is already addressed in existing law.

Rep. William Marsh
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Executive Departments and Administration

SB 450, relative to the prescription drug affordability board. **OUGHT TO PASS.**

Rep. William Marsh for the **Minority** of Executive Departments and Administration. This bill makes necessary changes to current law requested by the Prescription Drug Affordability Board. Most important, it creates a non lapsing fund to collect the fees to pay the expenses of the Board. It also modifies the alternates to make quorum achievable. It changes the executive director to an unclassified position. It establishes an appeals process for decisions made by the Board. The majority concern about excessive fees being collected is already addressed in existing law.

Original: House Clerk

Cc: Committee Bill File

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on SB 450

BILL TITLE: relative to the prescription drug affordability board.

DATE: April 25, 2022

LOB ROOM: 302 - 304

MOTIONS: REFER FOR INTERIM STUDY

Moved by Rep. T. Lekas

Seconded by Rep. Alliegro

Vote: 10-9

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep John Sytek, Clerk



2022 SESSION

Executive Departments and Administration

Bill #: SB 450 Motion: 15 AM #: _____ Exec Session Date: 4/29

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
McGuire, Carol M. Chairman	✓		
Rhodes, Jennifer M. Vice Chairman	✓		
Sytek, John Clerk	✓		
Pearson, Stephen C.	✓		
Yakubovich, Michael	✓		
Lekas, Tony	✓		
Alliegro, Mark C.	✓		
Bailey, Glenn	✓		
Lanzara, Tom E.	✓		
Santonastaso, Matthew	✓		
Goley, Jeffrey P.		✓	
Schuett, Dianne E.		✓	
Judy, Jean L.		✓	
Schmidt, Peter B.		✓	
Marsh, William M.		✓	
Fellows, Sallie D.		✓	
Fontneau, Timothy J.		✓	
Grote, Jaci L.		✓	
O'Brien, Michael B.		✓	
TOTAL VOTE:	10	9	

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HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON SB 450

BILL TITLE: relative to the prescription drug affordability board.

DATE: April 25, 2022

LOB ROOM: 302 -304 **Time Public Hearing Called to Order:** 11:15am

Time Adjourned: 11:53am

Committee Members: Reps. McGuire, Rhodes, Sytek, S. Pearson, Yakubovich, T. Lekas, Alliegro, Bailey, Lanzara, Santonastaso, Goley, Schuett, Jeudy, P. Schmidt, Marsh, Fellows, Fontneau, Grote and O'Brien

Bill Sponsors:

Sen. Sherman
Sen. Carson
Sen. Prentiss
Rep. Murphy

Sen. Rosenwald
Sen. Gannon
Rep. Merchant

Sen. Watters
Sen. Perkins Kwoka
Rep. Marsh

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

***Rep. Gary Merchant - Sullivan District 4**

- Introduced - helps correct and clarify current statute role of PDSB - stewardship of taxpayers dollars in cost of drugs.
- Very little transparency - less than 50% from 67% for drug reimbursement
- Walks committee through the bill - addresses issues brought forth by committee in recent process hearings regarding HS.

Rep. J. Jeudy

- Question: Asked about requirement?
- Rep. Schmidt Answered: Board hoped (to) write Amendment but did not. Toke a formal vote - board inform??

Rep. Carol McGuire

- Refers to 25% - line 23 - aggregate more than or equal to 125% costs
- Refund to go back? via rules - rules need to refer to this

Rep. Stephen Pearson

- Fees can be determined by budget - possible amendment.

Rep. Merchant

- Intent is not to make PDAB revenue generator.

Rep. Peter Schmidt

- Reads rules regarding fee waiver

Sen. Tom Sherman - District 24

- Prime Sponsor
- Non issue if you remove "of not less than or equal to 125% assessed"
- Goal is not to follow OPLC and the language is in other boards - medicine e.g. supported by board
- Concerns raised by ED &A and fiscal committees: 1. fee assessment 2. Appeals process

- Goal is to clarify for state cost and optimize our costs e.g. 8K state employees and legislators on health plan - cost saving without decreasing quality.

Rep. Sallie Fellows

- Any bill that amendment - (one HB in subcommittee)

Rep. Schmidt

- Question: Does board function today - aside from fiscal structure?
- Answer: Yes - NH is one of (the) states in experience in this area but needs this to function as intended.
- Follow up 7/22 vs upon passage - July (is) not faraway - possible amendment

***Karen Ulmer-Dorsch -Capital City Tax Force**

- Supports
- Multiple scoliosis victim - high cost of medications is a concern for physical setup - viability in costs and PDAB will bring transparency to this situation

***Mery Rebeige - AARP Volunteer - Capital City Tax Force**

- Elderly person who pays medication that costs 1/2 of medicare coverage

Roger Desrosiers - AARP and CCTF

- In Support
- Colon Cancer medication - parents took out second mortgage on their house

***Jennifer Delaney - Lobbyist - NH AARP**

- In Support

***Jake Berry - VP Policy of New Futures**

- In Support

***Holly Stevens - NH NAMI**

- In Support

Respectfully submitted,

Rep. John Sytek, Clerk

House Remote Testify

Executive Departments and Administration Committee Testify List for Bill SB450 on 2022-04-25

Support: 23 Oppose: 1 Neutral: 0 Total to Testify: 0

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Carson, Senator Sharon	SD 14, NH sharon.carson@leg.state.nh.us	An Elected Official	Myself	Support	No	No	4/6/2022 3:33 PM
Butler, Ed	Harts Location, NH EdoftheNotch@gmail.com	A Member of the Public	Myself	Support	No	No	4/7/2022 8:29 PM
Perkins Kwoka, Senator Rebecca	Portsmouth, NH Rebecca.PerkinsKwoka@leg.state.nh.us	An Elected Official	Myself	Support	No	No	4/12/2022 8:46 AM
Watters, Senator David	Dover, NH david.watters@leg.state.nh.us	An Elected Official	Myself	Support	No	No	4/12/2022 8:59 AM
Rosenwald, Cindy	Nashua, NH cindy.rosenwald@leg.state.nh.us	An Elected Official	SD 13	Support	No	No	4/15/2022 11:04 AM
Dorner, Nancy	Bristol, NH nedorner@yahoo.com	A Member of the Public	Myself	Support	No	No	4/16/2022 10:32 AM
DeMaio, Christina	Dover, NH chdemaio@gmail.com	A Member of the Public	Myself	Support	No	No	4/19/2022 7:22 AM
Farr, Rick	Weare, NH rickbfarr@gmail.com	A Member of the Public	Myself	Support	No	No	4/20/2022 3:49 PM
Ulmer Dorsch, Karen	Sanbornton, NH karenbobd@gmail.com	A Member of the Public	Myself	Support	No	No	4/21/2022 7:19 AM
Perrotta, Delores	Raymond, NH dperrotta15@comcast.net	A Member of the Public	Myself	Support	No	No	4/21/2022 10:53 AM
LAFleur, Martha	Greenlanf, NH mlafleur45@gmail.com	A Member of the Public	Myself	Support	No	No	4/21/2022 12:27 PM
Mercier, Jody	Goffstown, NH jodymercier53@gmail.com	A Member of the Public	Myself	Support	No	No	4/21/2022 2:33 PM
Hodgdon, Linda	Epsom, NH nhhodgi@aol.com	A Member of the Public	Myself	Support	No	No	4/22/2022 9:29 AM

Martin, Jill	Dover, NH jillwmar@gmail.com	A Member of the Public	Myself	Support	No	No	4/22/2022 3:21 PM
McNutt, Douglas	Concord, NH mcnuttdoug8@gmail.com	A Member of the Public	Myself	Support	No	No	4/23/2022 1:52 PM
Boutin, Carole	Amherst, NH ctbcne@gmail.com	A Member of the Public	Myself	Support	No	No	4/24/2022 1:45 PM
Moore, Richard	Chichester, NH Richardmoore748@gmail.com	A Member of the Public	Myself	Support	No	No	4/24/2022 3:18 PM
Widger, Barbara	Manch, NH b.uuidger@gmail.com	A Member of the Public	Myself	Support	No	No	4/24/2022 3:41 PM
Fortier, Merry	Canterbury, NH mfortier28@gmail.com	A Member of the Public	Myself	Support	No	No	4/24/2022 5:15 PM
Trudel, Karen	Penacook, NH tktrudel1@gmail.com	A Member of the Public	Myself	Support	No	No	4/24/2022 6:45 PM
Manseau, Joline	Hollis, NH Joline.manseau@gmail.com	A Member of the Public	Myself	Support	No	No	4/24/2022 8:25 PM
Donohue, Frances	MERRIMACK, NH bamagirlinnh@gmail.com	A Member of the Public	Myself	Support	No	No	4/24/2022 8:40 PM
Cauble, Michael	Bedford, NH mca4941@aol.com	A Member of the Public	Myself	Oppose	No	No	4/25/2022 9:27 AM
Padmore, Michael	Manchester, NH michael.padmore@nhms.org	A Lobbyist	NH Medical Society	Support	No	No	4/25/2022 9:34 AM

Karen Ulmer Dorsch

No one should have to choose between lifesaving medication or food. Many do, each day. This Board was established, in a bi-partisan way, in 2020 to bring transparency and accountability to drug pricing in NH.

SB 450 - AS AMENDED BY THE SENATE

03/31/2022 1202s

03/31/2022 1254s

2022 SESSION

22-3071

05/11

SENATE BILL

450

AN ACT

relative to the prescription drug affordability board.

SPONSORS:

Sen. Sherman, Dist 24; Sen. Rosenwald, Dist 13; Sen. Watters, Dist 4; Sen. Carson, Dist 14; Sen. Gannon, Dist 23; Sen. Perkins Kwoka, Dist 21; Sen. Prentiss, Dist 5; Rep. Merchant, Sull. 4; Rep. Marsh, Carr. 8; Rep. Murphy, Graf. 12

COMMITTEE:

Health and Human Services

AMENDED ANALYSIS

This bill clarifies the definition of manufacturer and pricing unit for purposes of the prescription drug affordability board; expands the ability of alternates to sit on the prescription drug affordability board; changes the executive director position from a classified to unclassified position; clarifies the board's authority to assess fees; establishes a dedicated fund to support the board; and establishes a criminal penalty for violation of confidentiality requirements.

.....
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.

SB 450 - AS AMENDED BY THE SENATE

03/31/2022 1202s
03/31/2022 1254s

22-3071
05/11

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the prescription drug affordability board.

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

1 1 New Hampshire Prescription Drug Affordability Board; Definition of Manufacturer and
2 Pricing Unit. Amend RSA 126-BB:1, IV and V to read as follows:

3 IV. "Manufacturer" means a manufacturer of prescription drugs that are distributed in the
4 state. A manufacturer excludes a packager, repackager, labeler, and relabeler *unless the*
5 *packager, repackager, labeler, or relabeler sets the price or controls the price of a*
6 *prescription drug.*

7 V. "Pricing unit" means the smallest [~~dispensable amount of a prescription drug that could~~
8 ~~be dispensed~~] *available package that can be used to dispense the smallest amount of a*
9 *prescription drug.*

10 2 New Hampshire Prescription Drug Affordability Board; Alternates. Amend RSA 126-BB:2, I
11 to read as follows:

12 I. The board shall consist of 5 members with expertise in health care economics or clinical
13 medicine, who shall not be, or be directly related to, anyone affiliated with, employed by, or
14 representing the interests of a public payor, pharmaceutical or pharmacy company, pharmacy
15 benefits management company, or health insurance provider and who have completed a conflict of
16 interest statement. *A member may be a legislator but is not required to be a legislator.* They
17 shall be appointed as follows:

18 (a) Two members by the president of the senate. The president of the senate shall also
19 appoint [~~one~~] 2 alternate board [~~member~~] *members* who will participate in deliberations of the board
20 in the event a member appointed by the president of the senate elects to be recused as provided in
21 RSA 126-BB:3 *or is absent.*

22 (b) Two members by the speaker of the house of representatives. The speaker of the
23 house of representatives shall also appoint [~~one~~] 2 alternate board [~~member~~] *members* who will
24 participate in deliberations of the board in the event a member appointed by the speaker of the
25 house of representatives elects to be recused as provided in RSA 126-BB:3 *or is absent.*

26 (c) One member by the governor. The governor shall also appoint [~~one~~] 2 alternate
27 board [~~member~~] *members* who shall participate in deliberations of the board in the event the
28 member appointed by the governor elects to be recused as provided in RSA 126-BB:3 *or is absent.*

29 3 New Hampshire Prescription Drug Affordability Board; Executive Director. Amend RSA 126-
30 BB:2, VI to read as follows:

1 VI. The board shall be administratively attached to the department of health and human
2 services. The board may employ *staff, including but not limited to*, an executive director who
3 shall be [~~a-classified~~] *an unclassified* employee. *The executive director shall be appointed by*
4 *and serve at the pleasure of the board.*

5 4 Salary; Executive Director of the New Hampshire Prescription Drug Affordability Board. The
6 salary for the executive director of the New Hampshire prescription drug affordability board shall be
7 determined after assessment and review of the appropriate temporary letter grade allocation in RSA
8 94:1-a, I(b) for the position which shall be conducted pursuant to RSA 94:1-d and RSA 14:14-c.

9 5 New Subparagraph; New Hampshire Prescription Drug Affordability Board; Conflicts of
10 Interest. Amend RSA 126-BB:3, II by inserting after subparagraph (f) the following new
11 subparagraph:

12 (g) Notwithstanding the prohibition in RSA 21-G:25, I, any person whose employer
13 cannot and will not directly benefit from action taken or not taken by the board may be appointed to,
14 and serve as a member of, the board.

15 6 Funding; Assessment of Fees. Amend RSA 126-BB:8, I(e) to read as follows:

16 (e) Annual assessments of not less than \$500 assessed by the board against prescription
17 drug manufacturers, wholesale drug distributors, and pharmacy benefits managers, *including*
18 *those that process and pay claims on the basis of claims processed or paid for each plan*
19 *sponsor.*

20 7 New Hampshire Prescription Drug Affordability Board; Assessments. Amend RSA 126-BB:8,
21 II to read as follows:

22 II. The aggregate level of annual assessments under subparagraphs (c) and (e) shall be an
23 amount sufficient to meet the board's expenditures authorized; *provided that such amount shall*
24 *not exceed 125 percent of the board's annual operating costs.* The board may waive
25 assessments otherwise due under subparagraphs (c) and (e) when a waiver is determined to be in the
26 interests of the board and the parties to be assessed.

27 *II-a. Any entity assessed a fee or other assessment under this section may appeal*
28 *such action in accordance with RSA 541.*

29 8 New Hampshire Prescription Drug Affordability Board; Rulemaking; Appeal. Amend RSA
30 126-BB:6, IV to read as follows:

31 IV. *The appeals process for assessments issued by the board under RSA 126-BB:8.*

32 V. Any other matter required to implement this chapter.

33 9 New Paragraph; New Hampshire Prescription Drug Affordability Board; Dedicated Fund.
34 Amend RSA 126-BB:8 by inserting after paragraph II the following new paragraph:

35 III. There is established a nonlapsing fund to be known as the New Hampshire prescription
36 drug affordability board administration fund, which shall be kept distinct and separate from all
37 other funds. The fund shall be continually appropriated to and administered by the board. All fees

SB 450 - AS AMENDED BY THE SENATE

- Page 3 -

1 and assessments collected under this section shall be deposited in the fund. The board shall use the
2 fund, consistent with the provisions of this chapter, to receive funds and to reimburse costs incurred
3 by the board. The fund may be used to pay administrative, technical, legal support, or other costs
4 incurred by the board under this chapter. The state treasurer may invest moneys in the fund as
5 provided by law, and all interest received on such investment shall be credited to the fund.

6 10 New Section; Criminal Penalty. Amend RSA 126-BB by inserting after section 9 the
7 following new section:

8 126-BB:9-a Criminal Penalty. Any person who knowingly uses confidential information
9 obtained pursuant to this chapter or knowingly discloses confidential information obtained pursuant
10 to this chapter to any person not authorized to review such information shall be guilty of a
11 misdemeanor.

12 11 New Subparagraph; Dedicated Fund. Amend RSA 6:12, I(b) by inserting after subparagraph
13 (382) the following new subparagraph:

14 (383) Moneys deposited in the New Hampshire prescription drug affordability board
15 administration fund, established in RSA 126-BB:8, III.

16 12 Repeal. RSA 126-BB:8, I(c)(4), relative to annual assessment of pharmacy benefits
17 managers, is repealed.

18 13 Effective Date. This act shall take effect July 1, 2022.