**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 2005**

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**HOUSE DRH60736-LN-322A (5/16)**

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| Short Title: | Funds/State Audit of Generic Rebates. | (Public) |
| Sponsors: | Representative Wright. | |
| Referred to: | | |

A BILL TO BE ENTITLED

AN ACT PROVIDING FOR AN AUDIT OF GENERIC REBATE PAYMENTS TO THE MEDICAID PROGRAM.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** The State Auditor shall conduct an audit of rebate payments owed to the State as a result of the sale of generic medications under the Medicaid program to ensure timely and accurate payments of rebates by all generic drug manufacturers.

**SECTION 1.(b)** As a condition of participation in the Medicaid program, manufacturers of generic drugs shall cooperate fully with the State Auditor. The State Auditor shall work closely with the Division of Medical Assistance during the course of the audit. At any time during the course of the audit, the Division of Medical Assistance may create a supplemental rebate program and preferred drug list that would target a rebate level for generic drugs to meet fifteen and one-tenth percent (15.1%) of the average manufacturer's price or the manufacturer's best price.

**SECTION 1.(c)** The State Auditor shall select an independent auditing firm with expertise in generic pharmaceutical claims to conduct the audit.

**SECTION 1.(d)** The State Auditor shall report the results of the audit to the 2007 General Assembly, upon its convening.

**SECTION 2.** There is appropriated from the General Fund to the Office of the State Auditor the sum of one hundred thousand dollars ($100,000) for the 2006-2007 fiscal year. These funds shall be used to conduct the audit required under Section 1 of this act.

**SECTION 3.** As used in this act:

(1) "Average Manufacturer Price" means the same as that set forth in section 1927(k)(1) of the Social Security Act.

(2) "Best Price" means the same as that set forth in section 1927(k)(1) of the Social Security Act,

(3) "Generic Drug" means a noninnovator drug product that has secured approval by the Food and Drug Administration and is comparable to an innovator drug product identified in the Food and Drug Administration's list of Approved Drug Products with Therapeutic Equivalence Evaluations in dosage form, strength, route of administration, quality, performance characteristics, and intended use.

(4) "Medicaid Drug Rebate" means the rebate paid by manufacturers to the State pursuant to section 1927(c) of the Social Security Act and the rebate agreement between the manufacturer and the U.S. Secretary for Health and Human Services as set forth in the Omnibus Budget Reconciliation Act of 1990.

(5) "Rebate Payment" means, with respect to the Manufacturer's Covered Outpatient Drugs, the quarterly payment by the manufacturer to the Division of Medical Assistance, calculated in accordance with section 1927 of the Social Security Act and the provisions of this agreement. The terms "Base CIP-U" and "Base Date AMP" are applicable to the calculations under section 1927(c) of the Social Security Act.

**SECTION 4.** This act becomes effective July 1, 2006.