

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

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**HOUSE BILL 2758**

Short Title: Funds/State Audit of Generic Rebates. (Public)

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Sponsors: Representatives Wright; Faison and Lucas.

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Referred to: Health, if favorable, Appropriations.

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May 30, 2006

A BILL TO BE ENTITLED

1 AN ACT PROVIDING FOR AN AUDIT OF GENERIC REBATE PAYMENTS TO  
2 THE MEDICAID PROGRAM.  
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4 The General Assembly of North Carolina enacts:

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

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

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

18 **SECTION 1.(d)** The State Auditor shall report the results of the audit to the  
19 2007 General Assembly, upon its convening.

20 **SECTION 2.** There is appropriated from the General Fund to the Office of  
21 the State Auditor the sum of one hundred thousand dollars (\$100,000) for the  
22 2006-2007 fiscal year. These funds shall be used to conduct the audit required under  
23 Section 1 of this act.

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

- 25 (1) "Average Manufacturer Price" means the same as that set forth in  
26 section 1927(k)(1) of the Social Security Act.  
27 (2) "Best Price" means the same as that set forth in section 1927(k)(1) of  
28 the Social Security Act,

- 1           (3) "Generic Drug" means a noninnovator drug product that has secured  
2 approval by the Food and Drug Administration and is comparable to  
3 an innovator drug product identified in the Food and Drug  
4 Administration's list of Approved Drug Products with Therapeutic  
5 Equivalence Evaluations in dosage form, strength, route of  
6 administration, quality, performance characteristics, and intended use.
- 7           (4) "Medicaid Drug Rebate" means the rebate paid by manufacturers to  
8 the State pursuant to section 1927(c) of the Social Security Act and the  
9 rebate agreement between the manufacturer and the U.S. Secretary for  
10 Health and Human Services as set forth in the Omnibus Budget  
11 Reconciliation Act of 1990.
- 12          (5) "Rebate Payment" means, with respect to the Manufacturer's Covered  
13 Outpatient Drugs, the quarterly payment by the manufacturer to the  
14 Division of Medical Assistance, calculated in accordance with section  
15 1927 of the Social Security Act and the provisions of this agreement.  
16 The terms "Base CIP-U" and "Base Date AMP" are applicable to the  
17 calculations under section 1927(c) of the Social Security Act.

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