AN ACT

RELATING TO HEALTH; ENACTING THE WHOLESALE PRESCRIPTION DRUG IMPORTATION ACT; PROVIDING POWERS AND DUTIES; CREATING A PROGRAM; CREATING A COMMITTEE; REQUIRING FEDERAL CERTIFICATION; CREATING A FUND; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. SHORT TITLE.--This act may be cited as the "Wholesale Prescription Drug Importation Act".

SECTION 2. DEFINITIONS.--As used in the Wholesale Prescription Drug Importation Act:

A. "Canadian supplier" means a manufacturer, wholesale distributor or pharmacy that is appropriately licensed or permitted under Canadian federal or provincial laws and rules to manufacture, distribute or dispense prescription drugs;

B. "committee" means the prescription drug importation advisory committee;

C. "department" means the department of health;

D. "eligible prescription drug" means a drug eligible for importation that:

(1) meets the United States federal food and drug administration's standards related to safety, effectiveness, misbranding and adulteration;

(2) does not violate federal patent laws;

(3) is expected to generate cost savings; and

(4) is not a controlled substance;

E. "program" means the wholesale prescription drug importation program; and

F. "state drug wholesaler" means a licensed wholesale drug distributor that contracts with the state to import eligible prescription drugs from a Canadian supplier.

SECTION 3. ADVISORY COMMITTEE CREATED--MEMBERSHIP--DUTIES.--

A. The "prescription drug importation advisory committee" is created as an interagency advisory committee of the department. The committee consists of:

(1) the secretary of health, who shall serve as the chair of the committee;

(2) the executive director of the board of pharmacy;

(3) the superintendent of insurance;

(4) the secretary of human services; and

(5) the secretary of general services.

B. Members may appoint designees.

C. The committee shall advise the department in developing and implementing the program. The committee shall consult with interested stakeholders and appropriate federal officials as necessary in shaping its advice to the

department. The department shall hold a public hearing on the proposed program prior to submitting the program for federal approval.

SECTION 4. WHOLESALE PRESCRIPTION DRUG IMPORTATION PROGRAM CREATED.--The department, in consultation with the committee, shall design a "wholesale prescription drug importation program" that complies with the applicable requirements of 21 U.S.C. Section 384, including the requirements regarding safety and cost savings. The department shall explore all potential mechanisms, to the extent allowable under law, for the importation of eligible prescription drugs. The program design shall:

A. contract with one or more state drug wholesalers to seek federal certification and approval to import safe, eligible prescription drugs from Canadian suppliers and provide significant prescription drug cost savings to New Mexico consumers;

B. allow the importation of eligible prescription drugs sold by Canadian suppliers;

C. ensure that only eligible prescription drugs meeting the United States food and drug administration's safety, effectiveness and other standards are imported by or on behalf of the state;

D. import only those eligible prescription drugs expected to generate substantial savings for New Mexico

consumers;

E. ensure that, with respect to eligible prescription drugs to be imported pursuant to the program, the program and the state drug wholesaler comply with the tracking, tracing, verification and identification requirements of 21 U.S.C. Sections 360eee and 360eee-1;

F. prohibit the distribution, dispensing or sale of eligible prescription drugs imported pursuant to the Wholesale Prescription Drug Importation Act outside the exterior boundaries of the state;

G. recommend a charge per prescription or another method of support to ensure that the program is funded adequately in a manner that does not jeopardize significant consumer savings; and

H. include an audit function.

SECTION 5. MONITORING FOR ANTI-COMPETITIVE BEHAVIOR.--The department shall consult with the attorney general to identify the potential, and to monitor, for anti-competitive behavior in industries that would be affected by the program.

SECTION 6. FEDERAL COMPLIANCE.--On or before December 15, 2020, the department shall submit a formal request to the secretary of the United States department of health and human services for certification of the state's program.

SECTION 7. IMPLEMENTATION.--Upon certification of approval by the secretary of the United States department of health and human services, the department shall begin implementing the program and begin operating the program within six months of that approval. As part of the implementation process, the department shall:

A. enter into contracts in accordance with the Procurement Code with one or more state drug wholesalers and New Mexico licensed drug distributors and contract with one or more approved Canadian suppliers;

B. consult with interested stakeholders, including the committee, the legislature, health insurance plans, employers, pharmacies, health care providers and consumers;

C. develop a registration process for health insurance plans, pharmacies and prescription drug administering health care providers who choose to participate in the program;

D. make a list of imported eligible prescription drugs and their prices and make that list available to all participating entities and the general public;

E. create an outreach and marketing plan to generate program awareness;

F. create and staff a helpline to answer questions and address the needs of consumers, employers, health insurance plans, pharmacies, health care providers and other

affected sectors;

G. require annual and special audits of the program; and

H. carry out other duties in accordance with the Wholesale Prescription Drug Importation Act that the department, in consultation with the board of pharmacy, determines to be necessary for successful implementation of the program.

SECTION 8. ANNUAL REPORTING.--Annually, after implementation, the department shall report to the governor and the legislature regarding the operation of the program during the previous year, including:

A. which eligible prescription drugs and Canadian suppliers are included in the program;

B. the number of participating pharmacies, health care providers and health insurance plans;

C. the number of prescriptions dispensed through the program;

D. the estimated savings to consumers, health plans, employers and the state during the previous year and to date;

E. information regarding implementation of the audit plan and the correction plans for audit findings; and

F. any other information requested by the governor or the legislature or that the secretary of health deems

relevant.

SECTION 9. WHOLESALE PRESCRIPTION DRUG IMPORTATION FUND.--The "wholesale prescription drug importation fund" is created as a nonreverting fund in the state treasury. The fund consists of money received by the state through the implementation of the program pursuant to the Wholesale Prescription Drug Importation Act and appropriations, gifts, grants, donations to the fund and income from investment of the fund. The department shall administer the fund, and money in the fund is subject to appropriation by the legislature and shall be expended only as provided in the appropriation. Expenditures shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of health or the secretary's authorized representative.

SECTION 10. COUNTRIES OTHER THAN CANADA ALLOWED BY FEDERAL LAW.--The provisions of the Wholesale Prescription Drug Importation Act may be extended to any other country allowed by federal law to import prescription drugs into the United States, at the discretion of the department.

SECTION 11. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.