

**Senate Bill No. 555**

(By Senator K. Facemyer)

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[Introduced February 18, 2011; referred to the Committee on  
Health and Human Resources; and then to the Committee on  
Finance.]  
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11 A BILL to amend the Code of West Virginia, 1931, as amended, by  
12 adding thereto a new section, designated §9-5-15a, relating to  
13 requiring the Secretary of the Department of Health and Human  
14 Resources to establish a competitive bid process for generic  
15 drug manufacturers to assure that generic drugs are furnished  
16 to Medicaid recipients at a competitively bid low cost.

17 *Be it enacted by the Legislature of West Virginia:*

18 That the Code of West Virginia, 1931, as amended, be amended  
19 by adding thereto a new section, designated §9-5-15a, to read as  
20 follows:

21 **ARTICLE 5. MISCELLANEOUS PROVISIONS.**

22 **§9-5-15a. Medicaid program; competitive bid process for generic**  
23 **drug manufacturers.**

24 (a) This section shall be known as "The Medicaid Generic Drug  
25 Competition and Savings Act."

26 (b) For the purposes of this section:

1 (1) "Competitive bid process" means a transparent procurement  
2 method in which bids from generic manufacturers are invited by  
3 openly advertising the scope, specifications, and terms and  
4 conditions of proposed contracts as well as the criteria by which  
5 the bids will be evaluated. The objective of competitive bidding  
6 is to establish the lowest price at which generic drugs may be  
7 procured by stimulating competition and by preventing favoritism.

8 (2) "Generic drugs" means copies of brand name drugs that are  
9 no longer protected by patents. Generics are drugs that contain the  
10 same active ingredients, are identical in strength, dosage form,  
11 and route of administration as the brand name innovator drug and  
12 has the same indications, dosing, and labeling and provides the  
13 same efficacy and safety profile to patients as the brand name  
14 innovator drug.

15 (3) "Generic manufacturers" means those manufacturers that  
16 manufacture generic drugs and distribute those generic drugs in  
17 this state.

18 (4) "Medicaid" means the Medicaid program, established in  
19 Title XIX of the Social Security Act, which provides medical  
20 benefits to groups of low-income people.

21 (5) "Secretary" means the Secretary of the Department of  
22 Health and Human Resources.

23 (c) Notwithstanding any provision of this code to the  
24 contrary, the secretary shall require all generic drug  
25 manufacturers whose products are to be provided to Medicaid  
26 recipients to compete in a competitive bid process created by the

1 secretary to ensure that the Department of Health and Human  
2 Resources is providing Medicaid recipients with quality generic  
3 products at a competitively bid low cost.

NOTE: The purpose of this bill is to require the Secretary of the Department of Health and Human Resources to establish a competitive bid process for generic drug manufacturers to assure that generic drugs are furnished to Medicaid recipients at a competitively bid low cost.

This section is new; therefore, strike-throughs and underscoring have been omitted.