

SENATE MINORITY REPORT AMENDMENTS TO SENATE BILL 1535

By Nonconcurring Members of COMMITTEE ON HEALTH CARE

February 17

- 1 On page 1 of the printed bill, line 2, after “drugs;” delete the rest of the line.
2 In line 3, delete “and 646A.692 and” and insert “amending”.
3 After line 3 insert:
4 “Whereas price controls raise constitutional concerns because they restrict the goal of federal
5 patent law, which is to provide pharmaceutical patent holders with the economic value of exclusivity
6 during the life of a patent; and
7 “Whereas in the case of Biotechnology Industry Organization v. District of Columbia, 496 F.3d
8 1362 (Fed. Cir. 2007), the court overturned a District of Columbia law imposing price controls on
9 branded drugs, reasoning that the District of Columbia law at issue conflicted with the underlying
10 objectives of the federal patent framework by undercutting a company’s ability to set prices for its
11 patented products; and
12 “Whereas current efforts to look at pharmaceutical drug costs are narrowly focused on drug
13 manufacturers and do not take into consideration the cost contributions of other components of the
14 drug supply chain such as distributors, pharmacy benefit managers and insurers; and
15 “Whereas pharmaceutical manufacturers give rebates and discounts to pharmacy benefit man-
16 agers and insurers that can lower the cost of medicines by up to 70 percent, yet these rebates and
17 discounts are not often passed through to patients at the pharmacy counter; and
18 “Whereas nationally three pharmacy benefit managers manage health plans for millions of
19 Americans and control more than 70 percent of the pharmacy benefit manager market nationwide;
20 and
21 “Whereas nationally more than half of commercially insured patients’ out-of-pocket spending for
22 brand medicines is based on list price due to requirements to fulfill health plan deductibles and the
23 absence of rebate pass-throughs that could help lower costs at the pharmacy counter; and
24 “Whereas nationally trends in insurer health plan design including higher deductibles and
25 coinsurance have shifted costs to patients such that growth in out-of-pocket spending has outpaced
26 increases in overall health plan costs; and
27 “Whereas on average patients pay only four percent of costs for hospital stays yet pay 12 per-
28 cent of costs for prescription drugs; and
29 “Whereas nationally in the last five years the percentage of commercial health plans that sub-
30 ject prescription drugs to a deductible have doubled; and
31 “Whereas nationally patients’ out-of-pocket spending on prescription drugs due to health insur-
32 ance deductibles grew 229 percent between 2005 and 2015; and
33 “Whereas the Legislative Assembly finds it is in the best interest of the residents of Oregon to
34 ensure drug rebates and discounts are utilized to lower patient out-of-pocket costs at the pharmacy

1 counter; and
2 “Whereas the Legislative Assembly directs the Task Force on the Fair Pricing of Prescription
3 Drugs to identify and evaluate strategies that will ensure drug rebates and discounts are passed
4 through to patients in the form of lower out-of-pocket costs at the pharmacy counter; now,
5 therefore,”.

6 Delete lines 5 through 23 and delete pages 2 through 6.

7 On page 7, delete lines 1 through 30.

8 In line 31, delete “5” and insert “1”.

9 In line 33, delete “22” and insert “23”.

10 On page 8, after line 9, insert:

11 “(x) Generic drug manufacturers;”.

12 In line 10, delete “(x)” and insert “(xi)”.

13 In line 11, delete “(xi)” and insert “(xii)”.

14 In line 12, delete “(xii)” and insert “(xiii)”.

15 In line 13, delete “(xiii)” and insert “(xiv)”.

16 In line 17, after “explore” delete the rest of the line and lines 18 through 20 and insert “initi-
17 atives that will ensure that drug rebates and discounts are passed through to patients at the point
18 of sale to lower patients’ out-of-pocket costs.”.

19 In line 34, delete “exposes the”.

20 In line 35, delete “cost factors that negatively impact prices paid by Oregonians for pharma-
21 ceutical products” and insert “ensures that drug rebates and discounts are passed through to pa-
22 tients to lower patients’ point of sale costs and overall out-of-pocket costs”.

23 On page 9, line 1, delete “6” and insert “2”.

24 In line 4, delete “7” and insert “3”.

25 /s/ Tim Knopp
26 Senator

27 /s/ Dennis Linthicum
28 Senator

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