

Requested by Senator KNOPP

**PROPOSED MINORITY REPORT AMENDMENTS TO
SENATE BILL 1535**

1 On page 1 of the printed bill, line 2, after “drugs;” delete the rest of the
2 line.

3 In line 3, delete “and 646A.692 and” and insert “amending”.

4 After line 3 insert:

5 “Whereas price controls raise constitutional concerns because they re-
6 strict the goal of federal patent law, which is to provide pharmaceutical
7 patent holders with the economic value of exclusivity during the life of a
8 patent; and

9 “Whereas in the case of Biotechnology Industry Organization v. District
10 of Columbia, 496 F.3d 1362 (Fed. Cir. 2007), the court overturned a District
11 of Columbia law imposing price controls on branded drugs, reasoning that
12 the District of Columbia law at issue conflicted with the underlying objec-
13 tives of the federal patent framework by undercutting a company’s ability to
14 set prices for its patented products; and

15 “Whereas current efforts to look at pharmaceutical drug costs are nar-
16 rowly focused on drug manufacturers and do not take into consideration the
17 cost contributions of other components of the drug supply chain such as
18 distributors, pharmacy benefit managers and insurers; and

19 “Whereas pharmaceutical manufacturers give rebates and discounts to
20 pharmacy benefit managers and insurers that can lower the cost of medicines
21 by up to 70 percent, yet these rebates and discounts are not often passed

1 through to patients at the pharmacy counter; and

2 “Whereas nationally three pharmacy benefit managers manage health
3 plans for millions of Americans and control more than 70 percent of the
4 pharmacy benefit manager market nationwide; and

5 “Whereas nationally more than half of commercially insured patients’
6 out-of-pocket spending for brand medicines is based on list price due to re-
7 quirements to fulfill health plan deductibles and the absence of rebate pass-
8 throughs that could help lower costs at the pharmacy counter; and

9 “Whereas nationally trends in insurer health plan design including higher
10 deductibles and coinsurance have shifted costs to patients such that growth
11 in out-of-pocket spending has outpaced increases in overall health plan costs;
12 and

13 “Whereas on average patients pay only four percent of costs for hospital
14 stays yet pay 12 percent of costs for prescription drugs; and

15 “Whereas nationally in the last five years the percentage of commercial
16 health plans that subject prescription drugs to a deductible have doubled;
17 and

18 “Whereas nationally patients’ out-of-pocket spending on prescription
19 drugs due to health insurance deductibles grew 229 percent between 2005 and
20 2015; and

21 “Whereas the Legislative Assembly finds it is in the best interest of the
22 residents of Oregon to ensure drug rebates and discounts are utilized to
23 lower patient out-of-pocket costs at the pharmacy counter; and

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

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

29 On page 7, delete lines 1 through 30.

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

1 In line 33, delete “22” and insert “23”.
2 On page 8, after line 9, insert:
3 “(x) Generic drug manufacturers;”.
4 In line 10, delete “(x)” and insert “(xi)”.
5 In line 11, delete “(xi)” and insert “(xii)”.
6 In line 12, delete “(xii)” and insert “(xiii)”.
7 In line 13, delete “(xiii)” and insert “(xiv)”.
8 In line 17, after “explore” delete the rest of the line and lines 18 through
9 20 and insert “initiatives that will ensure that drug rebates and discounts
10 are passed through to patients at the point of sale to lower patients’ out-of-
11 pocket costs.”.
12 In line 34, delete “exposes the”.
13 In line 35, delete “cost factors that negatively impact prices paid by
14 Oregonians for pharmaceutical products” and insert “ensures that drug re-
15 bates and discounts are passed through to patients to lower patients’ point
16 of sale costs and overall out-of-pocket costs”.
17 On page 9, line 1, delete “6” and insert “2”.
18 In line 4, delete “7” and insert “3”.
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