Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)

SYNOPSIS
Prohibits excessive charges for drugs developed by publicly funded research.

CURRENT VERSION OF TEXT
As reported by the Senate Health, Human Services and Senior Citizens Committee on September 24, 2018, with amendments.
AN ACT requiring reasonable pricing of drugs developed by
publicly funded research and supplementing Title 24 of the
Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. a. If a drug, biologic, or other health care technology approved
by the federal Food and Drug Administration was developed, partially
or entirely, through research and development that is directly or
indirectly supported by the federal or State government, it shall be
unlawful for any person to sell, offer to sell, or advertise for sale the
drug, biologic, or technology to any purchaser in this State at a unit
price that is greater than the benchmark unit price established pursuant
to subsection b. of this section, or that constitutes discriminatory
pricing as set forth in subsection c. of this section.

b. The benchmark unit price for a drug, biologic, or other health
care technology is the lowest price charged to countries in the
Organization for Economic Co-Operation and Development for the
same drug, biologic, or technology, that have the largest gross
domestic product with a per capita income that is not less than half of
the per capita income of the United States.

c. For the purposes of this section, a cost-based reasonable
pricing formula that is utilized shall be considered to result in
discriminatory pricing if the contract for sale of the drug, biologic, or
other health care technology places a limit on supply, or employs any
other measure that has the effect of providing access to such drug,
bioic, or technology on terms or conditions that are less favorable
than the terms or conditions provided to a foreign purchaser, other than
a charitable or humanitarian organization, of the drug, biologic, or
technology.

d. The Commissioner of Health shall, pursuant to the
Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.),
develop rules and procedures to access the information necessary to
determine whether a drug, biologic, or other health care technology
was developed, partially or entirely, through research and development
that was directly or indirectly supported by the federal or State
government, and to effectuate the pricing review necessary to enforce
the provisions of P.L. , c. (C. ) (pending before the Legislature as
this bill). If the Commissioner of Health finds that it is in the public
interest to waive the price requirements of this section for a specific
drug, biologic, or other health care technology, the commissioner may,
pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
(C.52:14B-1 et seq.), issue a waiver of the price requirements under
this section for the specific drug, biologic, or technology.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
Senate SHH committee amendments adopted September 24, 2018.
Nothing in this section shall be construed to impose liability on news media that accept or publish advertising for a drug, biologic, or other health care technology for which the price does not comply with the provisions of this act.¹

This act shall take effect on the first day of the 13th month next following the date of enactment.