SENATE HEALTH, HUMAN SERVICES AND SENIOR CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 977

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 24, 2018

The Senate Health, Human Services and Senior Citizens Committee reports favorably Senate Bill No. 977, as amended.

This bill prohibits any person from charging excessive prices for drugs developed by publicly funded research.

Under the bill, 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 is 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 a benchmark unit price or that constitutes discriminatory pricing.

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.

The bill provides that a cost-based reasonable pricing formula constitutes 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, biologic, 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).

As amended, the Commissioner of Health is required, pursuant to the "Administrative Procedure Act," to 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 effectuate the pricing review necessary to enforce the provisions the bill. If the Commissioner of Health finds that it is in the public interest to waive the price requirements established under the bill for a specific drug,

biologic, or other health care technology, the commissioner may, pursuant to the "Administrative Procedure Act," issue a waiver of the price requirements for the specific drug, biologic, or technology.

The committee amended the bill to: 1) require the Commissioner of Health to develop rules and procedures to enforce the provisions of the bill and 2) clarify that the bill does not 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 the bill.