SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 88 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 27-1-24.6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]:

Chapter 24.6. Disclosure of Prescription Drug Pricing Information

Sec. 1. As used in this chapter, "manufacturer" means a person who is engaged in manufacturing, preparing, propagating, compounding, or processing a prescription drug.

Sec. 2. As used in this chapter, "prescription drug" means a controlled substance or a legend drug (as defined in IC 16-18-2-199).

Sec. 3. As used in this chapter, "wholesale acquisition cost" means a manufacturer's list price for a prescription drug when sold to a wholesaler or a direct purchaser in the United States, not including any discounts, rebates, or other reductions in price.

Sec. 4. (a) Beginning January 1, 2023, a manufacturer shall submit a report to the commissioner not later than the fifteenth day of January, April, July, and October of each year. The report must provide the current wholesale acquisition cost for each of the manufacturer's prescription drugs that is:

(1) approved by the federal Food and Drug Administration; and

(2) sold in or into the state by that manufacturer.

(b) The commissioner shall publish on the department's Internet web site the information submitted in the reports required by subsection (a). The web site must be accessible by a dedicated link

on the home page of the department's Internet web site or by a separate easily identifiable Internet web site address.

Sec. 5. (a) If the wholesale acquisition cost of a prescription drug increases:

(1) sixty percent (60%) or more over the preceding five (5) calendar years; or

(2) for a prescription drug with a wholesale acquisition cost of seventy dollars ($70) or more for a thirty (30) day supply, fifteen percent (15%) or more over the preceding twelve (12) months;

the manufacturer shall submit a report to the commissioner not later than thirty (30) days after the increase.

(b) The report required in subsection (a) must contain the following information:

(1) The name of the prescription drug.

(2) Whether the prescription drug is a brand name or a generic drug.

(3) The effective date of the change in the wholesale acquisition cost.

(4) The aggregate, company-level research and development costs for the prior calendar year.

(5) The name of each of the manufacturer's prescription drugs that were approved by the federal Food and Drug Administration in the previous five (5) calendar years.

(6) The name of each of the manufacturer's prescription drugs that lost patent exclusivity in the United States in the previous five (5) calendar years.

(7) A statement of rationale describing the factors that caused the increase in the wholesale acquisition cost.

(c) The quality and types of information provided by a manufacturer under this section must be consistent with the quality and types of information the manufacturer provides in its annual consolidated report to the federal Securities and Exchange Commission or any other public disclosure.

(d) Not later than sixty (60) days after the commissioner receives a report under subsection (a), the commissioner shall publish the information contained in the report on the Internet web site created under section 4(b) of this chapter.

Sec. 6. A manufacturer shall notify the commissioner in writing if it is introducing a new prescription drug to market at a wholesale acquisition cost that exceeds the threshold for a specialty drug under the Medicare Part D program. The manufacturer shall provide the written notice not later than three (3) calendar days following the release of the prescription drug in the commercial market. A manufacturer may make the notification pending approval of the federal Food and Drug Administration if commercial availability is expected within three (3) calendar days

following the approval.

Sec. 7. The commissioner may adopt rules under IC 4-22-2 to implement this chapter.".

Renumber all SECTIONS consecutively.

(Reference is to SB 88 as printed January 21, 2022.)

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Senator BROWN L