

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 18-0504.01 Kip Kolkmeier x4510

HOUSE BILL 18-1009

HOUSE SPONSORSHIP

Roberts,

SENATE SPONSORSHIP

Donovan,

House Committees

Health, Insurance, & Environment
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING TRANSPARENCY IN DIABETES PRESCRIPTION DRUGS**
102 **PRICING.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates the "Diabetes Drug Pricing Transparency Act of 2018". The state board of health is responsible for implementing the act. Drug manufacturers and pharmacy benefit managers must submit annual reports to the state board regarding drugs used to treat diabetes that are subject to price increases of certain percentages. The state board analyzes the submitted information and publishes a report. The state board may

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

impose penalties on drug manufacturers or pharmacy benefit managers who do not comply with reporting requirements. Nonprofit organizations advocating for patients with diabetes or funding diabetes medical research that receive contributions from certain diabetes drug manufacturers must annually report those contributions.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 51 to title
3 25 as follows:

4 **ARTICLE 51**

5 **Diabetes Drug Pricing Transparency**

6 **25-51-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 51 IS
7 THE "DIABETES DRUG PRICING TRANSPARENCY ACT OF 2018".

8 **25-51-102. Legislative declaration.** (1) THE GENERAL ASSEMBLY
9 FINDS AND DECLARES THAT:

10 (a) ALMOST TWENTY THOUSAND COLORADANS ARE DIAGNOSED
11 WITH DIABETES EACH YEAR. AS OF JANUARY 1, 2018, NEARLY THREE
12 HUNDRED THOUSAND COLORADO ADULTS HAVE BEEN DIAGNOSED WITH
13 **DIABETES** AND ANOTHER ONE HUNDRED TEN THOUSAND ARE
14 UNDIAGNOSED BUT LIVING WITH THE DISEASE.

15 (b) EVERY COLORADAN WITH TYPE 1 DIABETES AND MANY WITH
16 TYPE 2 DIABETES RELY ON DAILY DOSES OF INSULIN TO SURVIVE;

17 (c) THE ANNUAL MEDICAL COST RELATED TO DIABETES IN
18 COLORADO IS ALMOST FOUR BILLION DOLLARS. APPROXIMATELY
19 EIGHTEEN PERCENT OF THAT AMOUNT, OR SEVEN HUNDRED MILLION
20 DOLLARS, IS FOR PRESCRIPTION DRUGS TO TREAT DIABETES.

21 (d) INSULIN PRICES ROSE BY FORTY-FIVE PERCENT BETWEEN 2014
22 AND 2017; AND

23 (e) THE INTENT OF THIS ARTICLE 51 IS TO MAKE INFORMATION

1 AVAILABLE TO THE PUBLIC ABOUT THE COST OF DIABETES PRESCRIPTION
2 DRUGS IN ORDER TO MAKE DRUG PRICING AS TRANSPARENT AS POSSIBLE.

3 **25-51-103. Definitions.** AS USED IN THIS ARTICLE 51, UNLESS THE
4 CONTEXT OTHERWISE REQUIRES:

5 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
6 AND ENVIRONMENT CREATED IN SECTION 25-1-102.

7 (2) "DRUG MANUFACTURER" MEANS A MANUFACTURER OF
8 PRESCRIPTION INSULIN DRUGS THAT ARE MADE AVAILABLE IN COLORADO
9 AND THAT ARE USED FOR THE TREATMENT OF DIABETES.

10 (3) "HEALTH COVERAGE PLAN" HAS THE SAME MEANING AS SET
11 FORTH IN SECTION 10-16-102 (34).

12 (4) "INSURER" HAS THE SAME MEANING AS SET FORTH IN SECTION
13 10-1-102 (13).

14 (5) "PHARMACY BENEFIT MANAGER" HAS THE SAME MEANING AS
15 SET FORTH IN SECTION 25-37-102 (13).

16 (6) "STATE BOARD" MEANS THE STATE BOARD OF HEALTH
17 CREATED IN SECTION 25-1-103.

18 (7) "WHOLESALE ACQUISITION COST" MEANS A DRUG
19 MANUFACTURER'S LIST PRICE FOR A PRESCRIPTION DRUG OFFERED FOR
20 SALE TO WHOLESALERS OR DIRECT PURCHASERS IN THE UNITED STATES,
21 NOT INCLUDING ANY DISCOUNTS, REBATES, OR REDUCTIONS IN PRICE, AS
22 REPORTED IN WHOLESALE PRICE GUIDES OR OTHER PUBLICATIONS OF DRUG
23 PRICING DATA.

24 **25-51-104. State board list of diabetes prescription drugs.**

25 (1) ON OR BEFORE FEBRUARY 1, 2019, AND BY FEBRUARY 1 EACH YEAR
26 THEREAFTER, THE STATE BOARD SHALL COMPILE:

27 (a) A LIST OF PRESCRIPTION INSULIN DRUGS THAT THE STATE

1 BOARD DETERMINES TO BE ESSENTIAL FOR TREATING DIABETES IN THIS
2 STATE AND THAT ARE MADE AVAILABLE IN COLORADO, TOGETHER WITH
3 THE WHOLESALE ACQUISITION COST OF EACH DRUG ON THE LIST; AND

4 (b) A LIST OF PRESCRIPTION DRUGS DESCRIBED IN SUBSECTION
5 (1)(a) OF THIS SECTION THAT WERE SUBJECT TO AN INCREASE IN THE
6 WHOLESALE ACQUISITION COST BY A PERCENTAGE GREATER THAN:

7 (I) THE PERCENTAGE INCREASE IN THE MEDICAL CARE
8 COMPONENTS OF THE CONSUMER PRICE INDEX FOR
9 DENVER-AURORA-LAKEWOOD FOR THE IMMEDIATELY PRECEDING
10 CALENDAR YEAR; OR

11 (II) TWICE THE SUM OF THE PERCENTAGE INCREASES IN THE
12 MEDICAL CARE COMPONENTS OF THE CONSUMER PRICE INDEX FOR THE
13 TWO IMMEDIATELY PRECEDING CALENDAR YEARS. FOR PURPOSES OF THE
14 CALCULATION REQUIRED BY THIS SUBSECTION (1)(b)(II), FOR YEARS PRIOR
15 TO 2018, THE MEDICAL CARE COMPONENTS OF THE CONSUMER PRICE
16 INDEX FOR DENVER-BOULDER-GREELEY APPLY TO THIS SUBSECTION
17 (1)(b)(II) AND FOR 2018 AND SUCCEEDING YEARS, THE MEDICAL CARE
18 COMPONENTS OF THE CONSUMER PRICE INDEX FOR
19 DENVER-AURORA-LAKEWOOD APPLY.

20 (2) THE DEPARTMENT SHALL, BY FEBRUARY 1, 2019, AND BY EACH
21 FEBRUARY 1 THEREAFTER, POST THE LISTS REQUIRED TO BE COMPILED BY
22 SUBSECTION (1) OF THIS SECTION ON THE DEPARTMENT'S WEBSITE.

23 **25-51-105. Drug manufacturer drug pricing reports.** (1) THE
24 STATE BOARD SHALL PREPARE A REPORT FORM TO BE COMPLETED BY DRUG
25 MANUFACTURERS OF PRESCRIPTION DRUGS APPEARING ON THE LIST
26 COMPILED BY THE STATE BOARD IN ACCORDANCE WITH SECTION 25-51-104
27 (1)(a). THE REPORT FORM SHALL SPECIFY THE APPLICABLE TIME PERIODS

1 FOR THE INFORMATION REQUIRED TO BE REPORTED.

2 (2) ON OR BEFORE MAY 1, 2019, AND BY EACH MAY 1
3 THEREAFTER, EACH DRUG MANUFACTURER OF A PRESCRIPTION DRUG
4 APPEARING ON THE MOST CURRENT LIST COMPILED BY THE STATE BOARD
5 IN ACCORDANCE WITH SECTION 25-51-104 (1)(a) SHALL PREPARE AND
6 SUBMIT TO THE STATE BOARD A COMPLETED REPORT FORM FOR EACH
7 LISTED DRUG, WHICH FORM INCLUDES:

8 (a) THE TOTAL COST TO PRODUCE THE DRUG;

9 (b) THE TOTAL ADMINISTRATIVE EXPENDITURES DIRECTLY
10 RELATED TO THE DRUG, INCLUDING EXPENDITURES TO MARKET OR
11 ADVERTISE THE DRUG TO COLORADO RESIDENTS;

12 (c) THE TOTAL ANNUAL PROFIT THE DRUG MANUFACTURER
13 EARNED FROM THE DRUG, IDENTIFIED BY YEAR;

14 (d) THE PERCENTAGE OF THE DRUG MANUFACTURER'S TOTAL
15 PROFIT ATTRIBUTABLE TO THE PROFIT FROM THE DRUG, IDENTIFIED BY
16 YEAR;

17 (e) THE TOTAL AMOUNT OF FINANCIAL ASSISTANCE THAT THE
18 DRUG MANUFACTURER PROVIDED THROUGH ANY PATIENT PRESCRIPTION
19 ASSISTANCE PROGRAM FOR THE DRUG;

20 (f) THE TOTAL COST ASSOCIATED WITH COUPONS OR REBATES
21 PROVIDED DIRECTLY TO CONSUMERS AND THE TOTAL COST OF PROGRAMS
22 ASSISTING CONSUMERS IN PAYING COPAYMENTS ATTRIBUTABLE TO THE
23 DRUG;

24 (g) THE WHOLESALE ACQUISITION COST OF THE DRUG;

25 (h) A RECORD OF EACH INCREASE IN THE WHOLESALE ACQUISITION
26 COST OF THE DRUG OVER THE FIVE YEARS IMMEDIATELY PRECEDING THE
27 DATE ON WHICH THE REPORT IS SUBMITTED, INCLUDING:

1 (I) THE AMOUNT OF EACH INCREASE, EXPRESSED AS A PERCENTAGE
2 OF THE TOTAL WHOLESALE ACQUISITION COST OF THE DRUG;

3 (II) THE MONTH AND YEAR IN WHICH EACH INCREASE BECAME
4 EFFECTIVE; AND

5 (III) A SPECIFIC EXPLANATION FOR THE INCREASE, LISTING EACH
6 FACTOR THAT CONTRIBUTED TO THE INCREASE, THE PERCENTAGE OF THE
7 TOTAL INCREASE THAT IS ATTRIBUTABLE TO EACH FACTOR, AND AN
8 EXPLANATION OF HOW EACH FACTOR AFFECTED THE INCREASE;

9 (i) THE AGGREGATE AMOUNT OF ALL REBATES AND, SEPARATELY,
10 THE AGGREGATE AMOUNT OF ALL ADMINISTRATIVE FEES THAT THE DRUG
11 MANUFACTURER PROVIDED TO PHARMACY BENEFIT MANAGERS FOR SALES
12 OF THE DRUG WITHIN THE STATE, IDENTIFIED BY YEAR;

13 (j) THE AGGREGATE AMOUNT OF ALL RESEARCH AND
14 DEVELOPMENT COSTS ATTRIBUTABLE TO DIABETES PRESCRIPTION DRUGS,
15 IDENTIFIED BY YEAR; AND

16 (k) ANY ADDITIONAL INFORMATION REQUIRED BY THE STATE
17 BOARD TO ANALYZE THE COST OF PRESCRIPTION DRUGS THAT APPEAR ON
18 THE LIST COMPILED IN ACCORDANCE WITH SECTION 25-51-104 (1)(a).

19 **25-51-106. Pharmacy benefit manager pricing reports.**

20 (1) THE STATE BOARD SHALL PREPARE A REPORT FORM TO BE COMPLETED
21 BY PHARMACY BENEFIT MANAGERS. THE REPORT FORM SHALL SPECIFY THE
22 APPLICABLE TIME PERIODS FOR THE INFORMATION REQUIRED TO BE
23 REPORTED.

24 (2) ON OR BEFORE MAY 1, 2019, AND BY EACH MAY 1
25 THEREAFTER, A PHARMACY BENEFIT MANAGER SHALL SUBMIT TO THE
26 STATE BOARD A REPORT THAT INCLUDES:

27 (a) THE TOTAL AMOUNT OF ALL REBATES THE PHARMACY BENEFIT

1 MANAGER RECEIVED FROM DRUG MANUFACTURERS DURING THE
2 IMMEDIATELY PRECEDING CALENDAR YEAR FOR PRESCRIPTION DRUGS
3 INCLUDED ON THE LIST COMPILED BY THE DEPARTMENT IN ACCORDANCE
4 WITH SECTION 25-51-104 (1)(a);

5 (b) THE TOTAL AMOUNT OF ALL REBATES DESCRIBED IN
6 SUBSECTION (2)(a) OF THIS SECTION RETAINED BY THE PHARMACY BENEFIT
7 MANAGER; ■

8 (c) THE TOTAL AMOUNT OF ADMINISTRATIVE FEES RECEIVED FROM
9 DRUG MANUFACTURERS AND INSURERS FOR PRESCRIPTION DRUGS LISTED
10 IN SECTION 25-51-104 (1)(a), INCLUDING ALL FEES RECEIVED TO PROCESS
11 UTILIZATION MANAGEMENT REQUESTS;

12 (d) THE TOTAL AMOUNT OF ALL REBATES DESCRIBED IN
13 SUBSECTION (2)(a) OF THIS SECTION NEGOTIATED FOR PURCHASES OF
14 DRUGS FOR USE BY:

15 (I) COLORADO MEDICARE RECIPIENTS IN ACCORDANCE WITH 42
16 U.S.C. SEC. 1395 ET SEQ.;

17 (II) COLORADO MEDICAID RECIPIENTS IN ACCORDANCE WITH 42
18 U.S.C. SEC. 1396 ET SEQ.;

19 (III) PERSONS ENROLLED IN PRIVATE HEALTH INSURANCE PLANS,
20 THE PREMIUMS FOR WHICH ARE PAID AT LEAST IN PART BY A GOVERNMENT
21 ENTITY; AND

22 (IV) COLORADO RESIDENTS ENROLLED IN PRIVATE HEALTH
23 INSURANCE PLANS OTHER THAN PLANS INCLUDED IN SUBSECTION
24 (2)(c)(III) OF THIS SECTION;

25 (e) THE TOTAL ANNUAL PAYMENTS, INCLUDING REIMBURSEMENTS
26 AND FEES, PAID TO COLORADO PHARMACIES FOR DISPENSING
27 PRESCRIPTION DRUGS ON THE LIST COMPILED IN ACCORDANCE WITH

1 SECTION 25-51-104 (1)(a). THIS INFORMATION MUST SEPARATELY
2 IDENTIFY:

3 (I) THE AMOUNT ATTRIBUTABLE TO DISPENSING FEES; AND

4 (II) THE AMOUNT ATTRIBUTABLE TO SERVICE OR ADMINISTRATIVE
5 FEES;

6 (f) THE TOTAL ANNUAL PAYMENTS RECEIVED FROM COLORADO
7 PHARMACIES FOR PRESCRIPTION DRUGS ON THE LIST COMPILED IN
8 ACCORDANCE WITH SECTION 25-51-104 (1)(a); AND

9 (g) THE TOTAL ANNUAL PAYMENTS RECEIVED FROM COLORADO
10 INSURERS AND EMPLOYERS FOR PRESCRIPTION DRUGS ON THE LIST
11 COMPILED IN ACCORDANCE WITH SECTION 25-51-104 (1)(a).

12 **25-51-107. Insurer pricing reports.** (1) INSURERS ISSUING
13 HEALTH COVERAGE PLANS TO COLORADO RESIDENTS SHALL ANNUALLY
14 REPORT TO THE STATE BOARD THE FOLLOWING:

15 (a) THE PERCENTAGE OF TOTAL PREMIUMS CHARGED TO
16 COLORADO RESIDENTS IN THE PRIOR CALENDAR YEAR THAT ARE DIRECTLY
17 ATTRIBUTABLE TO THE COST OF COVERED PRESCRIPTION DRUGS ON THE
18 LIST COMPILED IN ACCORDANCE WITH SECTION 25-51-104 (1)(a);

19 (b) THE ESTIMATED PERCENTAGE OF TOTAL PREMIUMS TO BE
20 CHARGED TO COLORADO RESIDENTS FOR THE NEXT CALENDAR YEAR
21 DIRECTLY ATTRIBUTABLE TO THE COST OF COVERED PRESCRIPTION DRUGS
22 ON THE LIST COMPILED IN ACCORDANCE WITH SECTION 25-51-104 (1)(a);

23 (c) THE ANNUAL PERCENTAGE INCREASE OR DECREASE IN TOTAL
24 COSTS FROM THE PRIOR CALENDAR YEAR PAID BY THE INSURER FOR
25 PRESCRIPTION DRUGS ON THE LIST COMPILED IN ACCORDANCE WITH
26 SECTION 25-51-104 (1)(a);

27 (d) THE AVERAGE MONTHLY COST PER ENROLLEE FOR THE PRIOR

1 CALENDAR YEAR INCURRED BY THE INSURER FOR PRESCRIPTION DRUGS ON
2 THE LIST COMPILED IN ACCORDANCE WITH SECTION 25-51-104 (1)(a)
3 DIVIDED BY THE NUMBER OF PERSONS ENROLLED IN THE HEALTH
4 COVERAGE PLAN;

5 (e) THE AVERAGE ANNUAL COST FOR THE PRIOR CALENDAR YEAR
6 TO AN ENROLLEE IN A HEALTH COVERAGE PLAN FOR PRESCRIPTION DRUGS
7 ON THE LIST COMPILED IN ACCORDANCE WITH SECTION 25-51-104 (1)(a).

8 (f) A STATEMENT DESCRIBING THE INSURER'S USE OF PHARMACY
9 BENEFIT MANAGERS IN MANAGING COSTS UNDER HEALTH COVERAGE
10 PLANS;

11 (g) THE AMOUNT OF REBATES AND DISCOUNTS RECEIVED FROM
12 PHARMACY BENEFIT MANAGERS IN THE PRIOR CALENDAR YEAR
13 ATTRIBUTABLE TO PRESCRIPTION DRUGS ON THE LIST COMPILED IN
14 ACCORDANCE WITH SECTION 25-51-104 (1)(a);

15 (h) A STATEMENT DESCRIBING HOW THE INSURER ADJUSTS
16 ENROLLEE COST SHARING IN HEALTH COVERAGE PLANS AS A RESULT OF
17 PHARMACY BENEFIT MANAGER REBATES AND DISCOUNTS;

18 (i) THE ADMINISTRATIVE FEES PAID IN THE PRIOR CALENDAR YEAR
19 TO PHARMACY BENEFIT MANAGERS AND THE PERCENTAGE OF THOSE
20 ADMINISTRATIVE FEES ATTRIBUTABLE TO PRESCRIPTION DRUGS ON THE
21 LIST COMPILED IN ACCORDANCE WITH SECTION 25-51-104 (1)(a); AND

22 (j) THE AVERAGE AMOUNT EACH ENROLLEE PAYS FOR
23 PRESCRIPTION DRUGS ON THE LIST COMPILED IN ACCORDANCE WITH
24 SECTION 25-51-104 (1)(a).

25 **25-51-108. Pharmacy pricing reports.** (1) PERSONS ENGAGED IN
26 THE PRACTICE OF PHARMACY AS THAT TERM IS DEFINED IN SECTION
27 12-42.5-102 (31) SHALL ANNUALLY REPORT TO THE STATE BOARD THE

1 FOLLOWING INFORMATION FROM THE PRIOR CALENDAR YEAR:

2 (a) THE TOTAL PAYMENTS RECEIVED FROM PHARMACY BENEFIT
3 MANAGERS FOR PRESCRIPTION DRUGS ON THE LIST COMPILED IN
4 ACCORDANCE WITH SECTION 25-51-104 (1)(a);

5 (b) THE TOTAL PAYMENTS RECEIVED FROM INSURERS FOR
6 PRESCRIPTION DRUGS ON THE LIST COMPILED IN ACCORDANCE WITH
7 SECTION 25-51-104 (1)(a);

8 (c) THE TOTAL PAYMENTS TO PRESCRIPTION DRUG WHOLESALERS,
9 DISTRIBUTORS, AND MANUFACTURERS FOR PRESCRIPTION DRUGS ON THE
10 LIST COMPILED IN ACCORDANCE WITH SECTION 25-51-104 (1)(a); AND

11 (d) THE TOTAL FEES, INCLUDING ADMINISTRATIVE FEES PAID TO
12 PHARMACY BENEFIT MANAGERS, FOR DISPENSING PRESCRIPTION DRUGS ON
13 THE LIST COMPILED IN ACCORDANCE WITH SECTION 25-51-104 (1)(a).

14 **25-51-109. State board analysis of pricing reports - report to**
15 **general assembly.** (1) ON OR BEFORE AUGUST 1, 2019, AND BY EACH
16 AUGUST 1 THEREAFTER, THE STATE BOARD SHALL ANALYZE DATA IN THE
17 REPORTS SUBMITTED BY DRUG MANUFACTURERS AND PHARMACY BENEFIT
18 MANAGERS PURSUANT TO SECTIONS 25-51-105 AND 25-51-106 AND
19 PRODUCE A REPORT ON PRESCRIPTION DRUG PRICES FOR DRUGS INCLUDED
20 IN THE DRUG MANUFACTURER AND PHARMACY BENEFIT MANAGER
21 REPORTS. BASED ON THE STATE BOARD'S ANALYSIS, THE STATE BOARD
22 REPORT SHALL INCLUDE THE STATE BOARD'S CONCLUSIONS REGARDING
23 THE SPECIFIC REASONS FOR AN INCREASE IN THE PRICE OF EACH LISTED
24 DRUG. BY AUGUST 1, 2019, AND BY EACH AUGUST 1 THEREAFTER, THE
25 DEPARTMENT SHALL POST A COPY OF THE STATE BOARD'S REPORT ON THE
26 DEPARTMENT'S WEBSITE.

27 (2) BY AUGUST 1, 2019, AND BY EACH AUGUST 1 THEREAFTER,

1 NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE DEPARTMENT SHALL
2 SUBMIT THE REPORT REQUIRED BY THIS SECTION TO THE JOINT BUDGET
3 COMMITTEE OF THE GENERAL ASSEMBLY, THE HEALTH AND HUMAN
4 SERVICES COMMITTEE OF THE SENATE, AND THE PUBLIC HEALTH CARE AND
5 HUMAN SERVICES AND THE HEALTH, INSURANCE, AND ENVIRONMENT
6 COMMITTEES OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR
7 COMMITTEES.

8 **25-51-110. State board may accept gifts and grants - rules -**
9 **penalties - exemption.** (1) THE STATE BOARD MAY SEEK, ACCEPT, AND
10 EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES
11 FOR THE PURPOSES OF THIS ARTICLE 51.

12 (2) THE STATE BOARD MAY PROMULGATE RULES NECESSARY FOR
13 THE ADMINISTRATION OF THIS ARTICLE 51.

14 (3) THE STATE BOARD MAY IMPOSE A PENALTY ON A DRUG
15 MANUFACTURER OR PHARMACY BENEFIT MANAGER FOR A FAILURE TO
16 SUBMIT INFORMATION REQUIRED BY THIS ARTICLE 51. THE PENALTY MAY
17 NOT EXCEED TEN THOUSAND DOLLARS PER DAY FOR EACH DAY THE DRUG
18 MANUFACTURER OR PHARMACY BENEFIT MANAGER FAILS TO SUBMIT THE
19 INFORMATION REQUIRED BY THIS ARTICLE 51. IN ANY ADMINISTRATIVE
20 ACTION BY THE STATE BOARD TO IMPOSE A PENALTY PURSUANT TO THIS
21 SUBSECTION (3), THE PROCESS MUST BE CONSISTENT WITH SECTION
22 24-4-105.

23 (4) NOTHING CONTAINED IN THIS ARTICLE 51 SHALL APPLY TO THE
24 COVERAGE OF PRESCRIPTION DRUGS UNDER A HEALTH COVERAGE PLAN
25 THAT IS SUBJECT TO THE FEDERAL "EMPLOYEE RETIREMENT INCOME
26 SECURITY ACT OF 1974".

27 **25-51-111. Nonprofit organization reports.** (1) ON OR BEFORE

1 MAY 1, 2019, AND BY EACH MAY 1 THEREAFTER, A NONPROFIT
2 ORGANIZATION THAT ADVOCATES ON BEHALF OF PATIENTS WITH DIABETES
3 OR FUNDS DIABETES MEDICAL RESEARCH IN COLORADO THAT HAS
4 RECEIVED A PAYMENT, DONATION, SUBSIDY, OR THING OF VALUE FROM A
5 DRUG MANUFACTURER OF A PRESCRIPTION DRUG APPEARING ON THE LIST
6 COMPILED BY THE STATE BOARD IN ACCORDANCE WITH SECTION 25-51-104
7 (1)(b) DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR SHALL
8 COMPILE A REPORT THAT INCLUDES:

9 (a) THE AMOUNT OF EACH PAYMENT, DONATION, SUBSIDY, OR
10 THING OF VALUE RECEIVED FROM EACH DRUG MANUFACTURER; AND

11 (b) THE PERCENTAGE OF THE NONPROFIT ORGANIZATION'S TOTAL
12 GROSS INCOME ATTRIBUTABLE TO PAYMENTS, DONATIONS, SUBSIDIES, OR
13 OTHER THINGS OF VALUE RECEIVED FROM EACH DRUG MANUFACTURER IN
14 THE PREVIOUS CALENDAR YEAR.

15 (2) BY MAY 1, 2019, AND BY EACH MAY 1 THEREAFTER,
16 NONPROFIT ORGANIZATIONS REQUIRED TO COMPILE A REPORT UNDER
17 SUBSECTION (1) OF THIS SECTION MUST POST THE REPORT ON A WEBSITE
18 THAT IS ACCESSIBLE TO THE PUBLIC AND MAINTAINED BY THE NONPROFIT
19 ORGANIZATION. IF THE NONPROFIT ORGANIZATION DOES NOT MAINTAIN A
20 WEBSITE THAT IS ACCESSIBLE TO THE PUBLIC, THE NONPROFIT
21 ORGANIZATION SHALL SUBMIT THE REPORT TO THE DEPARTMENT EACH
22 YEAR BY MAY 1. THE DEPARTMENT SHALL POST A COPY OF EACH REPORT
23 SUBMITTED ON THE DEPARTMENT'S WEBSITE.

24 **25-51-112. Information subject to public disclosure.**
25 INFORMATION REQUIRED TO BE SUBMITTED PURSUANT TO THIS ARTICLE 51
26 IS NOT EXEMPT FROM DISCLOSURE UNDER SECTION 24-72-204 (3)(a)(IV)
27 OR ANY OTHER EXEMPTION CONTAINED IN PART 2 OF ARTICLE 72 OF TITLE

1 24.

2 **SECTION 2. Act subject to petition - effective date.** This act
3 takes effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly (August
5 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
6 referendum petition is filed pursuant to section 1 (3) of article V of the
7 state constitution against this act or an item, section, or part of this act
8 within such period, then the act, item, section, or part will not take effect
9 unless approved by the people at the general election to be held in
10 November 2018 and, in such case, will take effect on the date of the
11 official declaration of the vote thereon by the governor.