

**As Introduced**

**136th General Assembly**

**Regular Session**

**2025-2026**

**H. B. No. 890**

**Representative Hall, D.**

**Cosponsors: Representatives Piccolantonio, Brennan, White, E., Upchurch,  
McNally**

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To enact sections 3901.85, 3901.851, 3901.852, 1  
3901.853, 3901.854, 3901.855, 3901.856, 2  
3901.857, and 3901.858 and to repeal section 3  
125.95 of the Revised Code to establish the 4  
Prescription Drug Affordability Board and 5  
Prescription Drug Affordability Stakeholder 6  
Council, to authorize the establishment of upper 7  
payment limits on certain prescription drug 8  
products, to repeal the law establishing the 9  
Prescription Drug Transparency and Affordability 10  
Advisory Council, and to name this act the 11  
Prescription Relief and Inflation Cost 12  
Elimination or P.R.I.C.E. Act. 13

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3901.85, 3901.851, 3901.852, 14  
3901.853, 3901.854, 3901.855, 3901.856, 3901.857, and 3901.858 15  
of the Revised Code be enacted to read as follows: 16

**Sec. 3901.85.** As used in sections 3901.85 to 3901.858 of 17  
the Revised Code: 18

(A) "340B covered entity" has the same meaning as in 19

<u>section 5167.01 of the Revised Code.</u>	20
<u>(B) "Biological product" and "biosimilar" have the same meanings as in 42 U.S.C. 262.</u>	21 22
<u>(C) "Brand name drug" means a drug that is produced or distributed in accordance with an original new drug application approved under 21 U.S.C. 355(c). "Brand name drug" does not include an authorized generic as defined by 42 C.F.R. 447.502.</u>	23 24 25 26
<u>(D) "Consumer price index" means the United States consumer price index for all urban consumers as defined and reported by the United States department of labor, bureau of labor statistics.</u>	27 28 29 30
<u>(E) "Generic drug" means:</u>	31
<u>(1) A retail drug that is marketed or distributed in accordance with an abbreviated new drug application, approved under 21 U.S.C. 355(j);</u>	32 33 34
<u>(2) An authorized generic as defined by 42 C.F.R. 447.502;</u>	35
<u>(3) A drug that entered the market before 1962 and was not originally marketed under a new drug application.</u>	36 37
<u>(F) "Health benefit plan" has the same meaning as in section 3922.01 of the Revised Code.</u>	38 39
<u>(G) "Manufacturer" means an entity that meets either of the following:</u>	40 41
<u>(1) Owns the patent to a prescription drug product or enters into a lease with another manufacturer to market and distribute a prescription drug product under the entity's own name and sets or changes the wholesale acquisition cost of the prescription drug product it manufactures or has leased the</u>	42 43 44 45 46

right to market; 47

(2) Is the labeled entity of a generic drug at the point 48  
of manufacture and sets or changes the wholesale acquisition 49  
cost of a generic drug that it manufactures. 50

(H) "Pharmacy" has the same meaning as in section 4729.01 51  
of the Revised Code. 52

(I) "Pharmacy benefit manager" has the same meaning as in 53  
section 3959.01 of the Revised Code. 54

(J) "Prescription drug product" means a biological 55  
product, biosimilar, brand name drug, or generic drug. 56

(K) "Prescription drug product purchaser" means an entity 57  
that purchases and takes ownership of a prescription drug 58  
product for resale or providing to patients. 59

(L) "Third-party payer" means a health benefit plan, the 60  
department of medicaid, a person administering a self-funded 61  
plan, or a pharmacy benefit manager. 62

(M) "Wholesale acquisition cost" has the same meaning as 63  
in 42 U.S.C. 1395w-3a(c) (6) (B). 64

**Sec. 3901.851.** (A) The prescription drug affordability 65  
board is established in the department of insurance. The board 66  
consists of nine members, each appointed by the governor and 67  
confirmed by the senate. The members shall collectively have 68  
expertise in health care economics, health policy, health 69  
equity, and clinical medicine. At least one member of the board 70  
shall be an individual who advocates for patients. A member 71  
shall not be employed by, or serve as a board member of, 72  
consultant to, or lobbyist for, a drug manufacturer or trade 73  
association of drug manufacturers or have any personal or 74

financial interest related to drug manufacturing. Members shall 75  
be appointed not later than thirty days after the effective date 76  
of this section. 77

(B) Of the initial members, four shall be appointed for 78  
one-year terms and five shall be appointed for two-year terms. 79  
Thereafter, each membership term shall be for four years. 80

Members may be removed by the governor at any time for 81  
good cause, including incompetence, dereliction of duty, 82  
malfeasance, misfeasance, or nonfeasance. 83

Members may be reappointed, and vacancies shall be filled 84  
in the manner provided for original appointments. Any member 85  
appointed to fill a vacancy occurring before the expiration date 86  
of the term for which the member's predecessor was appointed 87  
shall hold office as a member for the remainder of that term. 88

Each member shall be compensated for each day that the 89  
member is actually engaged in the performance of board duties. 90  
Members also shall be reimbursed for ordinary travel expenses, 91  
including meals and lodging incurred in the performance of their 92  
duties. 93

(C) The board's initial meeting shall take place at the 94  
call of the governor. At the initial meeting, the board shall 95  
select from among its members a chairperson and any other 96  
officers it considers necessary or appropriate. 97

After the initial meeting, the board shall meet at least 98  
four times a year. The board also may meet at other times 99  
specified by the call of the chairperson or a majority of board 100  
members. 101

A majority of board members constitutes a quorum and is 102  
required for the transaction of official board business, except 103

that when one or more members have recused themselves, two- 104  
thirds of the members present and serving are required for 105  
official board business. 106

(D) (1) The following actions by the board shall be 107  
conducted in accordance with section 121.22 of the Revised Code: 108

(a) Any deliberation as to whether to conduct a cost 109  
review of a prescription drug; 110

(b) Any decision or deliberation toward a decision on any 111  
matter before the board except as provided in division (D) (2) of 112  
this section. 113

(2) The board may meet in executive session to discuss 114  
information relating to a trade secret. 115

(E) Any writing that is prepared, owned, used, in the 116  
possession of, or retained by the board in performing official 117  
business is a public record, except that the board shall keep 118  
strictly confidential any information it collects, uses, or 119  
relies upon if the information is confidential, proprietary, or 120  
a trade secret. 121

**Sec. 3901.852.** (A) The prescription drug affordability 122  
board may enter into a contract with a qualified, independent 123  
third party for any service necessary to carry out the powers 124  
and duties of the board. Unless permission is granted by the 125  
board, a third party hired by the board may not release, 126  
publish, or otherwise use any information to which the third 127  
party has access under its contract. 128

(B) The board shall adopt rules as necessary to implement 129  
this chapter. All rules shall be adopted in accordance with 130  
Chapter 119. of the Revised Code. 131

Sec. 3901.853. (A) (1) The prescription drug affordability stakeholder council is established in the department of insurance. The purpose of the council is to provide stakeholder input to the prescription drug affordability board established under section 3901.851 of the Revised Code, in order to assist the board in making decisions as required by this chapter. The stakeholder council consists of the following twenty-three members: 132  
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(a) The superintendent of insurance or the superintendent's designee, but only if the designee is part of the department of insurance's executive leadership; 140  
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(b) The medicaid director or the director's designee, but only if the designee is part of the department of medicaid's executive leadership; 143  
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(c) A member of the board of pharmacy, appointed by resolution adopted by the board of pharmacy; 146  
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(d) An individual representing manufacturers of brand name drugs, appointed by the governor; 148  
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(e) Three individuals representing the general public, each appointed by the governor; 150  
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(f) An individual representing manufacturers of generic drugs, appointed by the governor; 152  
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(g) An individual representing employers and businesses from the prescription drug industry, appointed by the governor; 154  
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(h) An individual representing pharmacy benefit managers, appointed by the governor; 156  
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(i) An individual representing pharmacists, appointed by the governor; 158  
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<u>(j) An individual representing physicians, appointed by the governor;</u>	160 161
<u>(k) An individual representing nurses, appointed by the governor;</u>	162 163
<u>(l) An individual representing hospitals, appointed by the governor;</u>	164 165
<u>(m) An individual representing a managed care organization, appointed by the governor, except that the managed care organization shall not be controlled or formerly controlled by, either directly or indirectly, a mutual insurance company;</u>	166 167 168 169
<u>(n) An individual representing clinical researchers, appointed by the governor;</u>	170 171
<u>(o) An individual representing a statewide organization that advocates for senior citizens, appointed by the governor;</u>	172 173
<u>(p) An individual representing a statewide organization that advocates for health care, appointed by the governor;</u>	174 175
<u>(q) An individual representing a statewide organization that advocates for diversity within communities, appointed by the governor;</u>	176 177 178
<u>(r) An individual representing a statewide organization that advocates for consumer rights, appointed by the governor;</u>	179 180
<u>(s) An individual from a labor union that represents prescription drug industry employees, appointed by the governor;</u>	181 182
<u>(t) An individual representing researchers who specialize in prescription drug products, appointed by the governor;</u>	183 184
<u>(u) An individual representing a mutual insurance company, appointed by the governor, except that the mutual insurance</u>	185 186

company shall not be controlled or formerly controlled by, 187  
either directly or indirectly, a managed care organization. 188

The members described in division (A) (1) of this section 189  
shall be appointed as soon as practicable after the effective 190  
date of this section. 191

(2) For each of the following topics, at least one member 192  
from among the members appointed by the governor as described in 193  
division (A) (1) of this section shall have knowledge in that 194  
topic: 195

(a) The pharmaceutical business model; 196

(b) Supply chain business models; 197

(c) The practice of medicine or clinical training; 198

(d) Consumer or patient perspectives; 199

(e) Health care cost trends; 200

(f) Clinical and health services research. 201

(B) Of the initial members described in divisions (A) (1) 202  
(c) to (u) of this section, seven shall serve terms of one year, 203  
seven shall serve terms of two years, and seven shall serve 204  
terms of three years. 205

Thereafter, each membership term shall be for three years. 206

Members may be removed by the governor at any time for 207  
good cause, including incompetence, dereliction of duty, 208  
malfeasance, misfeasance, or nonfeasance. 209

Members may be reappointed, and vacancies shall be filled 210  
in the manner provided for original appointments. Any member 211  
appointed to fill a vacancy occurring prior to the expiration of 212  
the term for which the member's predecessor was appointed shall 213

hold office as a member for the remainder of that term. 214

(C) Members of the stakeholder council shall not be 215  
compensated for their service but shall be reimbursed for 216  
ordinary travel expenses, including meals and lodging incurred 217  
in the performance of their duties. 218

(D) The council's initial meeting shall take place at the 219  
call of the chairperson of the prescription drug affordability 220  
board established under section 3901.851 of the Revised Code. At 221  
the initial meeting, the council shall select from among its 222  
members a chairperson and any other officers it considers 223  
necessary or appropriate. 224

After the initial meeting, the council shall meet at least 225  
four times a year. The council also may meet at other times at 226  
the call of the chairperson or by request of at least seven 227  
council members. 228

A majority of council members constitutes a quorum, and a 229  
majority of the members present and serving are required for the 230  
transaction of official council business. The council shall 231  
transact official council business in accordance with section 232  
121.22 of the Revised Code. 233

Any writing that is prepared, owned, used, in the 234  
possession of, or retained by the council in transacting 235  
official business is a public record, except that the council 236  
shall keep strictly confidential any information it collects, 237  
uses, or relies upon if the information is proprietary, a trade 238  
secret, or otherwise confidential under law. 239

**Sec. 3901.854.** (A) Beginning eighteen months after the 240  
effective date of this section, the prescription drug 241  
affordability board, in consultation with the prescription drug 242

affordability stakeholder council, shall select one or more 243  
prescription drug products based on the following criteria: 244

(1) The prescription drug product is a brand name drug or 245  
biological product that, as adjusted annually for inflation in 246  
accordance with the consumer price index, has a wholesale 247  
acquisition cost of sixty thousand dollars or more per year or 248  
course of treatment or a wholesale acquisition cost increase of 249  
three thousand dollars or more in any twelve-month period. 250

(2) The prescription drug product is a biosimilar that has 251  
a wholesale acquisition cost that is not at least fifteen per 252  
cent lower than the referenced brand biologic. 253

(3) The prescription drug product is a generic drug that, 254  
as adjusted annually for inflation in accordance with the 255  
consumer price index, has a wholesale acquisition cost of at 256  
least one hundred dollars for a thirty-day supply that lasts a 257  
patient for a period of thirty consecutive days based on the 258  
recommended dosage approved for labeling by the United States 259  
food and drug administration, for a supply that lasts a patient 260  
for fewer than thirty days based on the recommended dosage 261  
approved for labeling by the United States food and drug 262  
administration, or for one unit of the drug if the labeling 263  
approved by the United States food and drug administration does 264  
not recommend a finite dosage, and that increased by two hundred 265  
per cent or more during the preceding twelve-month period, as 266  
determined by the difference between the resulting wholesale 267  
acquisition cost and the average of the wholesale acquisition 268  
reported over the preceding twelve months. 269

(4) The prescription drug product may create affordability 270  
challenges for this state's hospitals and health care systems or 271  
patients, including a drug to address a public health emergency. 272

(B) The board is not required to select every prescription drug that meets the criteria of division (A) of this section. 273  
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(C) The board shall determine whether to conduct a cost and affordability review for each prescription drug product selected under division (A) of this section. In making a determination under this division, the board shall consider input from the prescription drug affordability stakeholder council and the average patient cost share for each prescription drug product. 275  
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(D) If the board conducts a review of the cost and affordability of a prescription drug product, the board may consider any document or research related to the manufacturer's selection of the introductory price or price increase of the prescription drug product including life cycle management, net average price in this state, market competition, projected revenue, and the estimated cost-effectiveness of the prescription drug product. In its review, the board shall determine whether use of the prescription drug product in a manner that is fully consistent with the labeling approved by the United States food and drug administration or standard medical practice has led or will lead to affordability challenges for this state's hospitals and health care systems or high out-of-pocket costs for patients. 282  
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(E) In making its determination under this section, the board shall consider any information that a manufacturer chooses to provide to the board and, to the extent practicable, all of the following factors: 296  
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(1) The wholesale acquisition cost for the prescription drug product sold in this state; 300  
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- (2) The average monetary price concession, discount, or rebate that the manufacturer provides to health benefit plans and pharmacy benefit managers in this state or is expected to provide to health benefit plans and pharmacy benefit managers in this state, expressed as a per cent of the wholesale acquisition cost for the prescription drug product under review; 302  
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- (3) The price at which therapeutic alternatives for the prescription drug product have been sold in this state; 308  
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- (4) The average monetary concession, discount, or rebate that another manufacturer provides or is expected to provide to health benefit plans and pharmacy benefit managers in this state for therapeutic alternatives; 310  
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- (5) The cost to health benefit plans based on patient access consistent with United States food and drug administration labeled indications or recognized standard medical practice; 314  
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- (6) The impact on patient access resulting from the cost of the prescription drug product relative to insurance benefit design; 318  
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- (7) The current or expected dollar value of drug-specific patient access programs that are supported by the manufacturer; 321  
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- (8) The relative financial impact to health, medical, or social service costs as can be quantified and compared to baseline effects of existing therapeutic alternatives; 323  
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- (9) The average patient copay or other cost sharing for the prescription drug product in this state; 326  
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- (10) The impact on hospital access to the prescription drug product, prescription drug product shortage concerns, and 328  
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<u>the impact on the cost to hospitals purchasing the prescription</u>	330
<u>drug product;</u>	331
<u>(11) Any other factor established by the board by rule.</u>	332
<u>(F) If the board determines that spending on a</u>	333
<u>prescription drug product reviewed under this section has led or</u>	334
<u>will lead to affordability challenges to hospitals and health</u>	335
<u>care systems in this state or high out-of-pocket costs for</u>	336
<u>patients in this state, the board shall establish by rule an</u>	337
<u>upper payment limit on that drug. In establishing an upper</u>	338
<u>payment limit under this division, the board shall consider both</u>	339
<u>of the following:</u>	340
<u>(1) Relevant administrative costs related to supplying or</u>	341
<u>stocking the prescription drug product;</u>	342
<u>(2) The impact of an upper payment limit for the</u>	343
<u>prescription drug product on 340B covered entities.</u>	344
<u>(G) An upper payment limit established under this section</u>	345
<u>shall not include professional dispensing fees. An upper payment</u>	346
<u>limit shall not be established for any prescription drug product</u>	347
<u>that is listed as currently in shortage in the drug shortage</u>	348
<u>database maintained by the United States food and drug</u>	349
<u>administration.</u>	350
<u>(H) If the board considers the estimated cost-</u>	351
<u>effectiveness of a prescription drug product under this section,</u>	352
<u>the board shall comply with both of the following:</u>	353
<u>(1) The board shall not use a cost-per-quality adjusted</u>	354
<u>life year, or a similar measure, to identify a subpopulation for</u>	355
<u>which a prescription drug product would be less cost-effective</u>	356
<u>due to severity of illness, age, or preexisting disability.</u>	357

(2) If the board uses a cost-effectiveness analysis for a 358  
prescription drug product that extends an individual's life, the 359  
board shall use a cost-effectiveness analysis that weighs the 360  
value of all additional lifetime gained equally for any 361  
individual, no matter the severity of illness, age, or 362  
preexisting disability. 363

(I) An upper payment limit established under this section 364  
takes effect on the date prescribed by the board by rule but not 365  
earlier than six months after the date the upper payment limit 366  
is established. 367

**Sec. 3901.855.** (A) Except as provided in division (B) of 368  
this section, if the prescription drug affordability board 369  
establishes an upper payment limit under section 3901.854 of the 370  
Revised Code for a prescription drug product, then beginning on 371  
the effective date of the upper payment limit, a prescription 372  
drug product purchaser or third-party payer shall not purchase, 373  
bill, or reimburse for the prescription drug product in an 374  
amount that exceeds the upper payment limit, regardless of 375  
whether the prescription drug product is dispensed or 376  
distributed in person, by mail, or by other means. 377

(B) A prescription drug product purchaser or third-party 378  
payer shall not reimburse any of the following prescription drug 379  
product purchasers for a prescription drug product in an amount 380  
less than an upper payment limit established under section 381  
3901.854 of the Revised Code for the prescription drug product: 382

(1) An independent pharmacy; 383

(2) A hospital pharmacy; 384

(3) A hospital, including one that provides behavioral 385  
health care; 386

<u>(4) A 340B covered entity.</u>	387
<u>Sec. 3901.856. (A) The attorney general may investigate a</u>	388
<u>violation of section 3901.855 of the Revised Code and may</u>	389
<u>commence a civil action against a person for appropriate relief,</u>	390
<u>including injunctive relief, for a violation of that section.</u>	391
<u>(B) A person aggrieved by a decision of the board may</u>	392
<u>appeal the decision in accordance with Chapter 119. of the</u>	393
<u>Revised Code.</u>	394
<u>Sec. 3901.857. The prescription drug affordability fund is</u>	395
<u>created in the state treasury. All money appropriated for</u>	396
<u>purposes of administering sections 3901.85 to 3901.858 of the</u>	397
<u>Revised Code or collected from any other source for such</u>	398
<u>purposes shall be deposited into the state treasury to the</u>	399
<u>credit of the fund. All investment earnings of the fund shall be</u>	400
<u>credited to the fund. The department of insurance shall use the</u>	401
<u>money in the fund to support the prescription drug affordability</u>	402
<u>board and prescription drug affordability stakeholder council in</u>	403
<u>the performance of their duties under sections 3901.85 to</u>	404
<u>3901.858 of the Revised Code.</u>	405
<u>Sec. 3901.858. (A) Not later than the thirty-first day of</u>	406
<u>December of each year, the prescription drug affordability board</u>	407
<u>shall prepare and submit to the general assembly a report that</u>	408
<u>includes all of the following information:</u>	409
<u>(1) Price trends for prescription drug products;</u>	410
<u>(2) The number of prescription drug products reviewed by</u>	411
<u>the board, including the results of the reviews and the number</u>	412
<u>and disposition of appeals and judicial reviews of board</u>	413
<u>decisions;</u>	414
<u>(3) Recommendations, if any, for legislative changes to</u>	415

<u>address prescription drug affordability in this state.</u>	416
<u>(B) The report shall be submitted to the general assembly</u>	417
<u>in accordance with section 101.68 of the Revised Code.</u>	418
<b>Section 2.</b> That section 125.95 of the Revised Code is	419
hereby repealed.	420
<b>Section 3.</b> (A) The Prescription Drug Affordability Board	421
shall review the operation of the United States market for	422
generic drugs. The review shall address all of the following	423
topics:	424
(1) The prices of generic drugs on a year-to-year basis;	425
(2) The degree to which generic drug prices affect yearly	426
insurance premium charges;	427
(3) Annual changes in cost sharing for generic drugs;	428
(4) The potential for and history of generic drug	429
shortages;	430
(5) The degree to which the prices of generic drugs affect	431
annual Medicaid spending in this state;	432
(6) The impact of an upper payment limit on 340B covered	433
entities;	434
(7) Any other topic the board considers relevant to	435
generic drug prices.	436
(B) Not later than one year after the effective date of	437
this section, the Board shall submit a report of its findings to	438
the General Assembly in accordance with section 101.68 of the	439
Revised Code.	440
<b>Section 4.</b> This act shall be known as the Prescription	441
Relief and Inflation Cost Elimination or P.R.I.C.E. Act.	442