J.R.S. 19. Joint resolution relating to prescription drug pricing.

[test taken from House Journal, 3/3/2017]
By Senators Mullin, Lyons, Pearson, and Sears,

J.R.S. 19. Joint resolution relating to prescription drug pricing.

Whereas, in the United States, drug manufacturers are allowed to discriminate in drug pricing, and

Whereas, drug prices in the aggregate in the United States are among the highest in the world, and

Whereas, prescription drug spending is rising faster than any other health expenditure, and

Whereas, providing for affordable access to medically necessary prescription drugs will lower health care costs, and

Whereas, pharmaceutical companies benefit from public tax dollars appropriated to the National Institutes of Health and other government agencies to pay for a substantial portion of all new prescription drug research, and

Whereas, the cost of prescription drugs remains unaffordable for a large number of Vermonters, and

Whereas, among the persons who are most reliant on prescription drugs are Vermont's senior citizens, individuals with disabilities, and individuals with chronic diseases, and

Whereas, many citizens are reluctantly adopting unhealthy and potentially dangerous practices of reducing their physicians' prescribed prescription drug dosages; others are traveling to Canada to obtain their prescription drugs for a lower cost, and

Whereas, pharmaceutical companies spend, on average, twice as much on advertising and marketing as they do on research and development, and

Whereas, one of the significant factors contributing to the increasing costs of prescription drugs is the growth of direct consumer promotional campaigns sponsored by the nation's pharmaceutical companies through print, broadcast, and Internet media, and

Whereas, pursuant to 21 U.S.C. § 321(n), the Food and Drug Administration is responsible for regulating the promotional activities

associated with prescription drugs, and

Whereas, the brief summaries of information relating to possible side effects, contraindications, and effectiveness in advertisements is often overshadowed by the attractive and promotional character of the advertisement that has the potential to lure a lay person into accepting the positive claims and ignoring the less prominently promoted and possibly dangerous side effects, and

Whereas, the Food and Drug Administration has established criteria at 21 C.F.R § 202.1 for direct consumer advertising, including broadcasting of prescription drugs, and

Whereas, even if adhering to the regulatory requirements, prescription drug advertising may be misleading by not adequately communicating risk information, and may damage physician-patient relationships, increase prescription drug prices, increase liability actions, and lead to overmedication and drug abuse, and

Whereas, the Food and Drug Administration has repeatedly reprimanded drug companies for false or misleading advertising of prescription drugs, and
Whereas, in more recent years, the presence of online drug advertising has only intensified the problems, and

Whereas, with the change of leadership at the Food and Drug Administration, and many years of nearly limitless and viewer attractive television and now online advertisements inducing unknowing consumers to purchase potentially harmful prescription drugs, the time to rein in direct advertising of prescription drugs to consumers has clearly arrived, and
Whereas, an important price reduction option for both private consumers and state governments has been an increasing reliance on generic drugs which cost considerably less than their brand-name counterparts, but provide equivalent medicinal benefit, and

Whereas, a major impediment to the introduction of new generic drugs is a controversial patent infringement federal statutory provision, 21 U.S.C. § 355(j)(5)(B)(iii), that Congress adopted in 1984 as part of the HatchWaxman Act, providing that a pharmaceutical company holding the patent on a brand name drug can file a complaint with the FDA triggering an automatic 30month Food and Drug Administration-imposed delay in a generic drug's introduction, unless a court rules the brand-name patent is invalid or not infringed, and

Whereas, anticompetitive "pay-for-delay" agreements between branded and generic drug companies delay consumer access to generic drugs, and

Whereas, Medicare Part D prescription drug plans would be unaffordable

for many Vermonters without Vermont's State wrap-around program called "VPharm," and

Whereas, the federal government does not negotiate for rebates and discounts in the Medicare Part D program, and

Whereas, state Medicaid programs have greatly reduced drug prices in the Medicaid program by negotiating with pharmaceutical companies for reduced prices through rebates and discounts, and

Whereas, Medicare Part D is funded, in part, through payments from the states to the federal government, commonly known as the "clawback," and

Whereas, many senior citizens and individuals with disabilities on Medicare Part D, as well as states, would benefit from negotiated, reduced prices in the Medicare Part D program,

now therefore be it
Resolved by the Senate and House of Representatives:
That the General Assembly calls upon our Congressional Delegation immediately to propose and seek passage of legislation that will:

1) Require any pharmaceutical company that receives or benefits from any federal funding for pharmaceutical research and development to amortize all of the company's research and development costs over the entire world market for prescription drugs;

2) Amend 21 U.S.C. § 381 and other related federal statutes so as to allow for the free trade of prescription drugs between Canada and the United States;

3) Restrain the huge expenditures by pharmaceutical companies on advertising and marketing;

4) Repeal 21 U.S.C. § 355(j)(5)(B)(iii) that delays the introduction of generic drugs to the public marketplace and enact prohibitions on pay-fordelay settlements between branded and generic drug manufacturers, and

5) Allow the Centers for Medicare and Medicaid to negotiate with pharmaceutical companies for rebates and discounts in the Medicare Part D program, and be it further

Resolved: That the General Assembly urges the federal Food and Drug Administration to institute a moratorium on the promotion of prescription drugs directly to consumers, and that during the moratorium, the Food and Drug Administration promulgate more effective regulations to address prescription drug advertisements directed at consumers, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution ~~[to President Donald Trump~~] to the Acting Food and Drug Administration Commissioner, Dr. Stephen Ostroff, and to the Vermont Congressional Delegation.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the Committee on Health Care.