

1 HOUSE RESOLUTION

2 WHEREAS, More than almost all other consumer purchases,
3 the ability to purchase medications has a direct, discernible
4 impact on the health and life of this State's citizens; and

5 WHEREAS, A substantial and significant portion of the
6 prescription drug price and cost to the consumer and the
7 State is represented by advertising, particularly
8 direct-to-consumer advertising; and

9 WHEREAS, The National Institute for Health Care
10 Management has reported that "... prescription drugs
11 advertised directly to consumers are the largest and fastest
12 selling medicines. They contributed significantly to the 19%
13 increase in pharmaceutical spending in 1999.
14 Direct-to-consumer advertising accounted for 27% of the \$6.6
15 billion drug companies spent directly promoting their
16 products. Mass media advertising was 22% of all direct
17 promotion expenses in 1998 compared to 10% in 1995 ..."; and

18 WHEREAS, This marked increase in spending by
19 pharmaceutical companies and distributors for
20 direct-to-consumer advertising began with the relaxation of
21 federal regulations in 1997. In 1999, drug companies spent
22 \$1.8 billion on mass media advertising, up 38.5% from the
23 amount spent in 1998 and 33 times the \$55 million spent on
24 mass media in 1991. The drug industry has increased its
25 direct-to-consumer ad spending by 40% per year. Television
26 ads accounted for 70% -- \$1.1 billion -- of the 1998
27 spending. At the current pace, all ad spending was expected
28 to exceed \$2 billion in 2000; and

29 WHEREAS, Some drug companies are now spending more of
30 their revenue on advertising, marketing, and administrative
31 costs than on research. According to Public Citizen's
32 Congress Watch, Fortune 500 drug companies allocated 17% of

1 their revenue into profits last year and 30% into marketing
2 and administration, but spent just 12% on research and
3 development. The National Institute for Health Care
4 Management reports that this increase in consumer advertising
5 could be responsible for 25% of the recent increase in
6 prescription drug spending. There is growing concern that
7 this priority on advertising is short-changing new product
8 research and development and may be confusing to consumers
9 and affecting their relationships with health care providers.
10 As a result, the U.S. Food and Drug Administration (FDA) is
11 planning a study to determine whether these ads are causing
12 more harm than good. The FDA will be reviewing its
13 direct-to-consumer advertising policy to determine whether it
14 should be changed, rescinded, or kept in place; and

15 WHEREAS, This excessive advertising may result in
16 consumers making inappropriate demands for newer, costlier
17 medicines, when less expensive drugs may be as or more
18 appropriate; and

19 WHEREAS, Health insurance companies claim that
20 direct-to-consumer advertising motivates consumers to go to
21 the doctor to ask for more expensive drugs than necessary or
22 for unnecessary drugs, which, in turn, is responsible in part
23 for large increases in health insurance premiums; and

24 WHEREAS, There are no accurate reported figures on what
25 pharmaceutical companies and distributors spend on
26 advertising; and

27 WHEREAS, Researchers have indicated that assumptions of
28 the amount of advertising are based on extrapolation from
29 data in the public domain since they were unable to obtain
30 data directly from the pharmaceutical companies; and

31 WHEREAS, The State of Illinois is a major purchaser of
32 prescription medications amounting to nearly \$1.5 billion per

1 year, and the spiralling cost of direct-to-consumer
2 advertising is contributing to the State's excessive
3 prescription drug liability, so the State has a compelling
4 interest in controlling drug costs; and

5 WHEREAS, Pharmaceutical companies claim that any action
6 by the government to deal with those increasing prices and
7 costs will have a negative impact on their capacity to engage
8 in vital research and development; and

9 WHEREAS, The House of Representatives needs data that is
10 reliable and valid to evaluate the competing claims of
11 consumer groups and the pharmaceutical companies; and

12 WHEREAS, The House of Representatives has determined that
13 it must require pharmaceutical companies and distributors to
14 provide data through the disclosure of their expenditures for
15 mass media direct-to-consumer advertising and correspondence
16 to consumers; and

17 WHEREAS, The Illinois Health Care Cost Containment
18 Council was established to contain health care costs and to
19 identify appropriate utilization practices through the
20 collection and dissemination of data obtained from
21 appropriate sources; and

22 WHEREAS, The Illinois Health Care Cost Containment
23 Council is authorized to collect data and provide reports on
24 health issues, and a report on prescription drug advertising
25 that influences health care costs is consistent with the
26 Council's duty to promote health care cost containment and to
27 identify appropriate utilization practices in order to
28 contain costs and to ensure access to quality care through
29 the dissemination of data to purchasers and consumers of
30 health care and to public officials who determine
31 health-related programs and policies; and

1 WHEREAS, The Illinois Health Care Cost Containment
2 Council is best situated to aid the House of Representatives
3 in determining whether this State's citizens benefit from the
4 additional prices and costs of prescription drugs
5 attributable to advertising; therefore be it

6 RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE
7 NINETY-SECOND GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that
8 the Illinois Health Care Cost Containment Council
9 (hereinafter, "the Council") shall conduct a cost/benefit
10 analysis of advertising associated with the provision of
11 prescription drugs to this State's citizens by pharmaceutical
12 companies and distributors; and be it further

13 RESOLVED, That the Council shall utilize a methodology to
14 determine the impact upon the necessity for inpatient
15 hospital care, major ambulatory services, invasive
16 procedures, numbers of visits to health care professionals,
17 and health insurance premium rates relative to the costs
18 associated with advertising directed toward this State's
19 citizens by pharmaceutical companies and distributors; and be
20 it further

21 RESOLVED, That at reasonable intervals, as determined by
22 the Council, pharmaceutical companies and distributors that
23 provide prescription drugs under programs administered by
24 this State shall cooperate with the Council in providing
25 information necessary to carry out the Council's analysis;
26 and be it further

27 RESOLVED, That pharmaceutical companies and distributors
28 that advertise in media to reach an Illinois audience, and
29 pharmaceutical companies and distributors that correspond
30 directly with consumers, shall disclose the aggregate cost of
31 the advertising of prescription drugs in the media and in
32 correspondence to the consumer. For purposes of this

1 paragraph, "media" includes, but is not limited to, radio,
2 television, the Internet, daily and weekly magazines and
3 newspapers, billboards, and signs; and "correspondence" means
4 direct mail, telephone communications, and electronic mail
5 directed to specific individuals or households; and be it
6 further

7 RESOLVED, That pharmaceutical companies and distributors
8 referred to in the preceding paragraphs shall disclose the
9 aggregate of the portion of salaries of their drug
10 representatives and salespersons who have all or part of
11 their employment in activities enumerated in the preceding
12 paragraphs; and be it further

13 RESOLVED, That the Council shall collect and compile data
14 from pharmaceutical companies and distributors required to
15 provide information pursuant to this Resolution. The Council
16 shall use appropriate measures to analyze and compare data
17 with data on inpatient hospital stays, ambulatory services,
18 invasive procedures, and visits to health care professionals
19 to conduct the cost/benefit analysis required pursuant to
20 this Resolution; and be it further

21 RESOLVED, That if any pharmaceutical company or
22 distributor fails to cooperate with the Council in providing
23 information pursuant to this Resolution, the Council shall
24 promptly report that failure to the House of Representatives;
25 and be it further

26 RESOLVED, That the Council shall disseminate data in
27 accordance with this Resolution and shall, no later than one
28 year after the adoption of this Resolution, make
29 recommendations to the House of Representatives on the costs
30 associated with advertising by pharmaceutical companies and
31 distributors. The recommendations shall include, but need not
32 be limited to, the State of Illinois reforming its methods

1 and procedures to limit payments of advertising costs by the
2 State under insurance and other health plans and programs
3 that cover prescription drugs for State employees, residents
4 of State-operated facilities for the mentally ill and
5 developmentally disabled, inmates of State correctional
6 facilities, residents of veterans facilities, senior citizens
7 and the disabled, and Medicaid recipients; and be it further

8 RESOLVED, That the Department of Public Aid, the
9 Department of Children and Family Services, the Department of
10 Human Services, the Department of Revenue, and the Department
11 of Central Management Services shall cooperate with the
12 Council in the acquisition of the required cost information,
13 in the analysis of the collected data, and in the development
14 of the recommendations regarding reforms of State purchasing
15 of prescription drugs. The Council, in conjunction with the
16 Department of Public Aid, shall also determine the necessity
17 and procedure for obtaining federal approval for implementing
18 changes in Illinois' Medicaid program to effect cost controls
19 with respect to prescription drug payments, including but not
20 limited to the disallowance of unreasonable advertising
21 costs, and the Department of Public Aid shall obtain the
22 approval necessary to implement such controls; and be it
23 further

24 RESOLVED, That the Council shall estimate cost savings
25 that may be achieved by limiting the State's liability for
26 costs related to prescription drug advertising; and be it
27 further

28 RESOLVED, That any savings achieved by cost control
29 measures related to direct-to-consumer advertising shall be
30 reinvested in the State's Medical Assistance program; and be
31 it further

32 RESOLVED, That a copy of this Resolution be delivered to

1 the Chairman of the Illinois Health Care Cost Containment
2 Council.