

117TH CONGRESS  
1ST SESSION

# S. RES.

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Calling on the President and the Secretary of Health and Human Services  
to take action to lower prescription drug costs.

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## IN THE SENATE OF THE UNITED STATES

Mr. MERKLEY (for himself, Mr. SANDERS, Ms. WARREN, and Mr. BOOKER)  
submitted the following resolution; which was referred to the Committee  
on \_\_\_\_\_

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# RESOLUTION

Calling on the President and the Secretary of Health and  
Human Services to take action to lower prescription drug  
costs.

Whereas the United States is facing a pandemic, and eco-  
nomic crisis, caused by the Coronavirus Disease 2019  
(COVID–19) that threatens the health and financial well-  
being of nearly every family in the United States;

Whereas even before the COVID–19 pandemic, consumers  
and patients in the United States were charged higher  
prices for prescription drugs than consumers and patients  
in other countries around the world;

Whereas families in the United States continue to face finan-  
cial hardship from unaffordable out-of-pocket costs and  
higher premiums that have been exacerbated by an eco-

conomic crisis and losses in employer-sponsored health coverage;

Whereas 8 in 10 individuals in the United States say the cost of prescriptions is unreasonable, and nearly 3 in 10 individuals across the United States are rationing their medicine due to high prescription drug costs;

Whereas the prescription drug cost crisis has put families at risk for poor health outcomes, increasing the likelihood of complications from a severe case of COVID–19 for those families;

Whereas even before the COVID–19 pandemic, people of color, including Black, Brown, and indigenous people, were disproportionately impacted by high prescription drug costs, which was due in part to a higher prevalence of chronic conditions in those populations that require expensive prescription drugs;

Whereas people of color, including Black, Brown, and indigenous people, are dying at much higher rates as a result of COVID–19, and other diseases, for which affordable prescription drugs can and should be available;

Whereas any price gouging by pharmaceutical companies is a root cause of health disparities in the United States;

Whereas nearly 1 in 3 individuals in the United States facing increased prescription drug costs spend less on basic necessities, including groceries, to account for that increased prescription drug cost;

Whereas approximately 25 percent of the monthly premium for a health care consumer in the United States goes to prescription drug costs;

Whereas more than 1 in 4 health care consumers decline other medical tests or procedures, or put off a visit to the

doctor's office, because of increased prescription drug costs;

Whereas pharmaceutical companies abuse monopoly control granted by the Federal Government, in the form of patents and regulatory exclusivities, to limit competition and raise prescription drug costs;

Whereas 8 out of 10 new drug patents are for slight modifications to existing drugs, not for innovating new drug products;

Whereas 9 out of 10 of the largest pharmaceutical companies spend more on sales and marketing than on researching new drugs;

Whereas each of the 356 drugs approved by the Food and Drug Administration between 2010 and 2019 was developed through taxpayer-funded research conducted by the National Institutes of Health;

Whereas the 18 pharmaceutical companies on the S&P 500 spent more money on stock buybacks and dividends than on research and development between 2009 and 2018;

Whereas the pharmaceutical and medical products industry spent \$295,000,000 on lobbying in 2019, more than any other industry and nearly double the next closest industry;

Whereas the pharmaceutical industry employs more lobbyists than there are Members of Congress;

Whereas the 25 largest pharmaceutical companies in the United States achieve an average profit margin above 20 percent, more than twice the average profit margin of the other 500 largest companies in the United States;

Whereas pharmaceutical spending growth in the United States is projected to outpace inflation for the foreseeable future;

Whereas pharmaceutical companies raised the price of 245 drugs in the first 5 months of the COVID–19 pandemic, with the average price increase being 23.8 percent;

Whereas 61 of the 245 prescription drugs that saw price hikes during the first months of the COVID–19 pandemic were being used to treat COVID–19, and another 30 drugs were undergoing clinical trials for use against that virus;

Whereas nearly 9 in 10 adults in the United States said they were concerned the pharmaceutical industry would use the pandemic to raise prescription drug prices;

Whereas the United States spends twice as much money on prescription drugs when compared to other economically-comparable countries, including Canada, France, and the United Kingdom, despite purchasing fewer drugs per individual;

Whereas adults in the United States consistently rank the pharmaceutical industry as their least liked industry, with the industry being ranked less favorably than the oil, banking, and airline industries;

Whereas 8 out of 10 adults in the United States say prescription drug costs are unreasonable and driven by the desire for profits by pharmaceutical companies;

Whereas the President can license generic competition with patented products when it is in the public interest, including to combat abusive price gouging by large pharmaceutical companies;

Whereas the Secretary of Health and Human Services (referred to in this preamble as the “Secretary”) can require reasonable pricing in return for receiving Federal funding and other support for research and development; and

Whereas the President and the Secretary can lower prescription drug prices under existing law and authorities: Now, therefore, be it

1       *Resolved*, That the Senate—

2               (1) recognizes the authority of the President  
3               and the Secretary of Health and Human Services  
4               (referred to in this resolution as the “Secretary”) to  
5               lower prescription drug prices;

6               (2) calls on the President and the Secretary to  
7               take administrative action to lower prescription drug  
8               prices under existing law and authorities, includ-  
9               ing—

10               (A) Federal Government use, pursuant to  
11               section 1498(a) of title 28, United States Code;

12               (B) march-in rights, pursuant to section  
13               203 of title 35, United States Code;

14               (C) royalty-free rights, pursuant to sec-  
15               tions 202(e)(4) and 209(d)(1) of title 35,  
16               United States Code;

17               (D) the Center for Medicare and Medicaid  
18               Innovation, established by section 1115A(a)(1)

1           of the Social Security Act (42 U.S.C.  
2           1315a(a)(1)); and  
3           (E) all other existing law and authorities;  
4           and  
5           (3) encourages the President to use existing law  
6           and authorities to align prescription drug prices in  
7           the United States with drug prices in other economi-  
8           cally-comparable countries, including Canada,  
9           France, the United Kingdom, Japan, and Germany.