March 11, 2020

Republican Leadership
Minnesota State Senate
St. Paul, MN  55155

Dear Senator,

It is our understanding that SF 3120, the Prescription Drug Affordability Act, could be called up for a committee hearing at any time. On behalf of the 35,575 members and supporters of the Council for Citizens Against Government Waste (CCAGW) in Minnesota, I ask that you do not call the bill up for consideration by a committee or in a floor vote.

SF 3120 presents many similarities to England’s National Institute for Health and Care Excellence (NICE), an agency within the National Health Service (NHS), a socialistic healthcare system that rations care in order to save money. NICE, which is not so nice, decides which treatments, including life-saving pharmaceuticals, can be used by NHS doctors. The Galen Institute, a public policy research organization that promotes patient-centered healthcare, released in March 2019 a report, “Examination of International Drug Pricing Policies in Selected Countries Shows Prevalent Government Control over Pricing and Restrictions on Access,” which shows what happens when a government institutes price controls and rations drugs. While citizens in the United States got access to 89 percent of new drugs released between 2011 to 2018, citizens in England only got access to 60 percent. Citizens in other countries that also use socialized medicine and rationing do not fare well either, like the French who only got access to 48 percent, and the Greeks, who were only able to access 14 percent of new drugs.

The Prescription Drug Affordability Commission and its advisory council created in SF 3120 will review prescription drug costs based on an increase of the wholesale acquisition cost (WAC), or list price, for brand-name and generic drugs over a certain time period. For brand-name drugs, the trigger is a 10 percent increase or an increase of $10,000 over a 12-month period; for generic drugs it is an increase of $100 over a 30-day period or a 200 percent increase or more over a 12-month period.

Using an increase of the WAC as the trigger for the pricing commission to consider whether a drug has an excessive cost and should be price-controlled is a faulty premise as it does not represent what an insured patient will pay after discounts, rebates, the use of copays, or other price reductions that have been negotiated.

The commission will review data provided by a manufacturer on a particular drug like the average price concession, the price of therapeutic alternatives, the cost to group purchasers, and other factors like research and development costs, the revenue of and federal taxes paid by the
manufacturer to determine if there is an “affordability challenge.” If the commission believes there is a challenge, it can implement a maximum reimbursement level, or a price control, for all public and private purchases.

CCAGW understands your concerns with drug costs but price controls create market distortions, often cause rationing, and ultimately hurt the very people the government intended to help. The better approach is to encourage competition that leads to lower prices and more innovation, which is a win for everyone.

Minnesota legislators should encourage their representatives in Washington, D.C. to make sure the Food and Drug Administration speeds up generic drug approvals and continues to adopt modern scientific techniques to shorten clinical trials. Congress should also work with the President to write better trade deals that would require our trading partners to pay their fair share of our biopharmaceutical research, instead of continuing to free-ride on our discoveries. This would be a far more effective way to help bring down the price of prescription drugs than creating a destructive drug affordability commission that will lead to price controls and rationing.

Again, I urge you to not allow SF 3120 to be considered in this legislative session.

Sincerely,

Thomas Schatz