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**Markup Statement of Senator Max Baucus (D-Mont.)  
Regarding Medicare Drug Price Negotiation**

Forty-five years ago, not far from this site, President John F. Kennedy said: "Let us never fear to negotiate."

Today, we meet to consider whether we can allow the Government to negotiate over drug prices. Some find that prospect simply too frightening. Some would argue that the only thing that we have to fear is negotiation itself. But my Colleagues, I believe that we are made of sterner stuff.

Today we consider legislation that has generated a great deal of controversy. Proponents and detractors of negotiation have voiced strong opinions. But my Colleagues, the legislation before us today is nothing to fear.

Let me start from the beginning. First, what is the noninterference clause?

The noninterference clause prohibits the Secretary of Health and Human Services from interfering with the negotiations between drug manufacturers and pharmacies and drug plan sponsors. Essentially, the clause bans the Secretary from affecting the prices that Medicare pays for drugs.

What was the purpose of the noninterference clause?

When we created the Medicare drug benefit, we could only imagine how it might work. In some respects, our work was theoretical. First, we established a private-sector delivery approach. That is the foundation.

Next, in an abundance of caution, we went a step further. We went what I am now convinced was a step too far: We tied the hands of the Secretary of Health and Human Services with the noninterference clause. We eliminated the Government's role in getting fair drug prices for seniors.

Now, the drug benefit exists. It is in its second year. And while it is not perfect, it is working for millions of Americans. We need to do all we can to make it work well for everyone.

Now that the program is established, it is time for us to look at it from a longer-term perspective. Our initial concerns about whether there would be enough interest from beneficiaries and from plans are behind us. From here on out, our responsibility is to monitor and guide the program as it matures.

Looking at the program today, the noninterference clause is an unnecessary hindrance.

We want the Secretary to use tools in the tool box so to help shape the drug benefit into a strong and thriving program. It is time to untie the Secretary's hands.

I cannot recall when so few words caused as much of a stir as the noninterference clause. Whether seniors and Medicare are getting the best prices evokes passionate debate, as does the appropriate role of government in health care. The philosophical divides in this debate are ones we have struggled with before. It is no wonder this issue is so hot politically.

But we must put politics aside. We must tackle this issue once and for all.

I am anxious to have the Finance Committee consider this legislation, because it is the right thing to do. We need to take this step so we can move on to other aspects of the program.

Just to name a few, we need to look at CMS oversight of private plans. We need to address pharmacy access. And we need to revisit the low-income subsidy asset test.

I hope and expect future improvements to the drug benefit will be bipartisan.

So why strike the noninterference clause?

We should strike it, because we know the drug benefit is not perfect. We should strike it, because we cannot envision every scenario or situation in the future of this program. And we should strike it, because we must untie the Secretary's hands and make sure the toolbox is available.

It is important to note what striking the clause does not mean. It does not mean the Secretary can impose price controls or set drug prices. It does not mean the Secretary can create a national formulary. It also does not mean the Secretary can administer pricing. Nor does it mean the Secretary can intervene in the market in a heavy-handed way.

We want the Secretary to be able to check under the hood. And if there is a problem, we want the Secretary not to be barred from doing something about it.

I believe that the Secretary has a role or responsibility here — short of creating a national formulary. The noninterference clause prohibits us from pursuing constructive efforts to make the drug benefit work better for seniors. It should be eliminated.

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I have included policies regarding transparency and comparative effectiveness in the mark. They are key to the issue of drug pricing and represent steps the Secretary should take as a good steward of the Medicare program. They are also areas of bipartisan interest when it comes to drug pricing.

It is clear that we need a better understanding of prescription drug pricing in the Medicare market. We also need to know more about the effectiveness of the drugs Medicare pays for. I believe increased transparency and use of comparative effectiveness will make Medicare a smarter shopper and help us evaluate the success of the program.

I am not trying to write the book on these issues with this mark. But we should move forward.

I anticipate many more policy discussions this year and more progress. I hope today's mark up will initiate that dialogue and start us down a path toward improving and strengthening the Medicare drug benefit.

It has been a long road to get to this markup. I want to thank my Colleagues who paved the way. Senators Wyden and Snowe have led us through the many policy considerations and put forth thoughtful legislation. Senator Stabenow and Senator Smith have also devoted a great deal of time and effort to this issue. I appreciate all of their hard work and commitment to making the Medicare drug benefit better.

I also want to thank all the Members who gave me thoughtful input as we put this mark together. The mark represents a common desire to make sure seniors have access to affordable medicines. It symbolizes our shared concern about how Medicare dollars are spent. And, most importantly, it shows our continued willingness to move forward and make improvements.

So, let us not fear to negotiate. Let us not fear to improve the Medicare drug bill. And let us continue in our effort to bring the best to America's seniors.

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