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## **BIPARTISAN BILL WOULD BRING GENERIC DRUGS TO MARKET SOONER, SAVING AMERICANS MILLIONS OF DOLLARS IN HEALTH CARE COSTS**

WASHINGTON – U.S. Senators Jeff Bingaman (NM), David Vitter (LA), Sherrod Brown (OH) and Jeff Merkley (OR) today introduced bipartisan legislation that will help generic manufacturers bring high-quality, lower-priced prescription medications to market in a more timely fashion. Enacting the bill is expected to save American consumers and the federal government hundreds of millions of dollars and level the playing field among generic manufacturers.

The legislation, called the Fair and Immediate Release of Generic Drugs Act ([FAIR GENERxICS Act](#)) of 2011, fixes an unintended problem in the Hatch-Waxman Act – a law that provides the framework to incentivize name brand companies to develop new medications and generic manufacturers to bring medications to market. A provision in that law gives the first generic company to file for a patent the exclusive right to sell a generic version of the medication for 180 days after the original patent expires.

Unfortunately, in many instances, the “first-filer” is paid by or settles with the name brand company to delay selling their generic drug. This leaves only the expensive brand name drug on the market, while both the name-brand company and the generic company financially benefit. During this delay, the brand name company enjoys market exclusivity, reaping 100 percent of profits from drug sales. The generic company may enjoy a settlement payment, and blocks other generics from coming to market. In the meantime, American consumers and the federal government (through Medicaid, Medicare, and other federal healthcare programs) are forced to purchase more expensive medications for longer periods of time.

The FAIR GENERxICS Act would modify the “first-filer” provision, while still maintaining the integrity of the goals of the original Hatch-Waxman legislation—innovation, competition, and affordability. Specifically, FAIR GENERxICS would allow any generic company that wins a patent challenge in district court or is not sued by the brand name company to share most of the 180 day market exclusivity that was originally reserved for first filers only. This new incentive structure will end the “pay-for-delay” problem and bring less expensive generics to market sooner.

“At a time when Americans are struggling to make ends meet, the cost of prescription medications is outpacing inflation. We need a federal law in place that encourages competition,

not collusion,” **BINGAMAN** said. “This bill would bring lower-cost medications to market, and bring a level of fairness to the pharmaceutical industry.”

“The purpose of the original law was to ensure quicker access to lower-cost generic drugs for Americans,” said **VITTER**. “This is a great opportunity to achieve cost savings by bringing lower-priced generics to the market faster and will greatly benefit many Americans on tight budgets, as well as significant savings to the federal government.”

“The United States is the world’s largest market for prescription drugs, but we pay the world’s highest prices for medications. The FAIR GENERxICS Act would help consumers, as well as the federal government, save millions of dollars. Right now, Ohioans are taking bus trips into Canada or using the Internet to gain access to lower-priced prescription medications from other countries. They shouldn’t have to. This bill will help Ohioans save money while ensuring access to safe and lower-priced generic drugs,” **BROWN** said.

“Generic medications play a critical role in making treatments – sometimes life-saving treatments – available and affordable to Oregonians from all walks of life,” said Merkley. “This is a common-sense fix that will help make sure that the reality of the market matches the intent of the original law, which is to simply to ensure that our seniors and patients get access to affordable generic drugs with no unnecessary delays,” **MERKELY** said.

FAIR GENERxICS would complement another Senate measure authored by Senators Herb Kohl and Chuck Grassley that creates that creates a presumption that payments between name-brand and generic companies are anti-competitive.

The bill will be sent to the Senate Health, Education, Labor and Pensions Committee. Bingaman is a senior member of that committee.