THE MEDICARE DRUG PRICE NEGOTIATION ACT OF 2019
BACKGROUND

- ***Prescription drug prices continue to skyrocket.*** Over the past decade, the prices of 90% of brand name drugs have more than doubled and prescription drug spending reached $333 billion in 2017. In 2015, the average annual cost of therapy for widely used specialty drugs was about $53,000. This is more than twice the median income for people on Medicare and more than three and half times the average Social Security retirement benefit. A 2016 Commonwealth Fund survey found that nearly 20% of people reported not filling prescriptions because they could not afford them.

- ***Medicare pays far more for drugs than government programs that negotiate.*** Under current law, the Secretary of the Department of Health and Human Services (HHS) is prohibited from negotiating lower drug prices on behalf of Medicare Part D beneficiaries. In contrast, other government programs, like Medicaid and VA, are allowed to negotiate. As a result, Medicare Part D pays on average 73% more than Medicaid and 80% more than VA for brand name drugs. The federal government could save between $15.2 and $16 billion a year if Medicare Part D paid the same prices as Medicaid or VA.

- ***High drug prices continue to stress the federal budget, particularly within Medicare.*** Since 2006, government programs have paid for approximately 40% of the retail prescription drug expenditures in the United States. Medicare paid for 29% of retail drug costs in 2016. In large part as a result of skyrocketing drug prices, total spending on Medicare Part D is projected to more than double during the next 10 years, from $94.5 billion in 2018 to $195 billion in 2027.

- ***Americans fully support negotiating authority for Medicare***. According to a recent Kaiser Family Foundation poll, 92% of Americans—including, Democrats, Republicans, and Independents—want Medicare to negotiate for lower drug prices. According to the Center for Economic and Policy Research, the U.S. government could save $976 billion over ten years if Medicare negotiated the same prices for drugs as people in Denmark pay.

- ***President Trump claimed repeatedly that he supports negotiating lower drug prices.*** After being elected President, Donald Trump pledged: "I'm going to bring down drug prices." He also warned that the pharmaceutical industry is "getting away with murder." He said Americans could save billions of dollars if Medicare were allowed to negotiate directly with drug companies. "We don't do it," he said. "Why? Because of the drug companies." He also said the U.S. must "create new bidding procedures for the drug industry." He added: "Pharma has a lot of lobbies and a lot of lobbyists and a lot of power, and there's very little bidding on drugs." In March 2017, President Trump again criticized "outrageous" drug prices and pledged to create a "fair and competitive bidding process" that would result in prices "coming way, way, way down." In May 2018, President Trump promised yet again that, "We will have tougher negotiation, more competition, and much lower prices at the pharmacy counter. And it will start to take effect very soon." President Trump has openly acknowledged that "massive" spending and lobbying by the pharmaceutical industry has driven drug prices, "through the roof."

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SUMMARY OF LEGISLATION

Allowing Medicare to Negotiate Lower Drug Prices

- Under current law, the Secretary of HHS is prohibited from negotiating lower drug prices on behalf of Medicare Part D beneficiaries. This is called the "non-interference clause."

- The bill would strike the non-interference clause and direct the Secretary to negotiate lower prices with drug manufacturers that participate in Medicare Part D.

- The bill would direct the Secretary to prioritize negotiating for drugs that place the most burden on seniors and taxpayers: high-cost drugs, drugs that have significant price increases, drugs that drive up Medicare Part D spending, and drugs without competition.

- The bill would provide for automatic renegotiation of drug prices every three years.

- The bill would direct the Secretary to further leverage the purchasing power of the government by using drug formularies to enhance competition.

- The bill would allow Part D plans to use additional benefit design and formulary tools to secure steeper discounts or rebates for beneficiaries.

- The bill would establish fallback prices based on what other federal agencies and five foreign countries – Canada, the United Kingdom, Germany, France, and Japan – pay. These fallback prices would kick in automatically if negotiations with drug manufacturers are unsuccessful.

- The bill would preserve critical protections for patient access by including in any formulary certain categories and classes of drugs that are protected under current law and by strengthening the patient appeals processes for Part D plans.

Restoring Low-Income Beneficiary Rebates

- The bill would restore required drug rebates for low-income beneficiaries that were lost when Medicare Part D was created in 2006.

- CBO has projected that restoring these rebates for brand-name drugs alone would save taxpayers $154 billion over ten years.

- Before Part D came into effect, people who were eligible for both Medicare and Medicaid received their drug benefits through Medicaid. After Part D was created, these people began receiving their drug benefits through Medicare.

- Drug manufacturers that participate in Medicaid are required to provide discounts in the form of rebates back to Medicaid, but there are no similar statutory rebates for Medicare.

- As a result of shifting the drug benefits for these dual-eligible individuals from Medicaid to Medicare, the pharmaceutical industry received a huge windfall of billions of dollars in rebates drug companies were no longer required to pay.