

Dear Senator {{Last Name}},

On behalf of the four organizations listed below, we urge you to vote NO on two bills that will negatively impact efforts to lower prescription drug prices in the U.S.

We oppose these bills:

- [S.2220 - PREVAIL Act](#)
- [S 2140 - PERA \(Patent Eligibility Restoration Act\)](#)

Our organizations are working to address the high cost of prescription drugs, which increases costs for patients, employers, and insurers, as well as our state and federal health programs like Medicare and Medicaid. [One in four](#) people in the United States has difficulty affording medication. Congress has made some good strides in addressing drug prices over the past few years but more can and should be done.

**A key element of impactful drug cost solutions is to improve competition to drive down prices. That's why changes in patent law have significant implications on what we pay for our prescription medications.**

Americans benefit from dramatic price savings that result from competition when a prescription drug comes off patent.

- According to the [FDA](#), a single generic competitor can lead to price reductions of up to 39%, while four generics competing are 79% less than the brand drug price before generic entry.

Affordability makes it more likely for a patient to be compliant with their prescribed medications; they'll be more likely to fill their prescriptions and take them as directed.

Improving drug competition will improve this public health goal.

**We urge you to vote NO on S. 2220 (PREVAIL).**

This bill curtails an important mechanism that allows interested parties an opportunity to challenge patents that they have evidence that should never have been granted in the first place. It offers a swifter, less expensive way to challenge a drug patent before a panel of patent experts in the U.S. Patent and Trademark Office (PTO) through the Patent Trial and Appeal Board (PTAB). Although a wrongly granted patent can be challenged in federal courts, these challenges take years and come with a median cost of [\\$3.5 million per case](#). Meanwhile we all are deprived of access to a lower-priced generic or biosimilar competitor medication.

Additionally, the bill seriously undermines citizens' ability to promote competition by challenging patents. Members of the public have no standing in regular courts to challenge drug patents. The PTAB is our only recourse to asking the PTO to reconsider a patent's validity. Yet, it

is the public who bear the brunt of drug costs in co-pays, deductibles and insurance premiums when an invalid patent continues to block generic and biosimilar competition.

**We urge you to vote NO on S. 2140 (PERA).**

The Patent Eligibility Restoration Act expands patent eligibility far beyond what we've ever had since the U.S. patent law was created. PERA would allow patents on natural phenomena, laws of nature, and abstract ideas. Patents and monopoly pricing that goes with it, should be reserved for true novel human innovation as patent law originally intended. Aspects of nature and general concepts are not inventions but merely the elements used when creating something new that can then be submitted in a patent application. PERA opens the door to allow an individual or corporation to acquire exclusive rights to aspects of nature and information about our own bodies. This is a radical departure from historical and international norms and the implications are far-reaching and untested.

At a minimum, by expanding patent eligibility beyond the limits we have today, pharmaceutical companies would have increased ability to create dense patent thickets and more opportunities to obtain a patent which could be abused with product-hopping tactics.

Rather than expanding the subject matter for patents so broadly, Congress should ensure the patent applications that are filed are not being used simply to game the system.

**We urge you to vote NO on PREVAIL and PERA.**

We welcome an opportunity to work together to reform the patent system so patent gaming will no longer be used to block competitors. Congress should not create new policies (such as PERA and PREVAIL) that make it easier for drug companies to eliminate competitors by expanding what can be patented and by eliminating less costly and swifter ways to challenge the validity of a patent.

Thank you for your consideration.

Generation Patient  
I-MAK  
R Street  
U.S. PIRG