

108TH CONGRESS  
1ST SESSION

# S. 1950

To amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 24, 2003

Mr. DURBIN introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Medicare Prescription  
5       Drug Savings Act of 2003”.

6       **SEC. 2. ESTABLISHMENT OF MEDICARE OPERATED PRE-**  
7       **SCRIPTION DRUG PLAN OPTION.**

8       (a) IN GENERAL.—Subpart 2 of part D of the Social  
9       Security Act, as added by section 101 of the Medicare Pre-  
10      scription Drug, Improvement, and Modernization Act of

1 2003, is amended by inserting after section 1860D–11 the  
2 following new section:

3 “MEDICARE OPERATED PRESCRIPTION DRUG PLAN  
4 OPTION

5 “SEC. 1860D–11A. (a) IN GENERAL.—Notwith-  
6 standing any other provision of this part, for each year  
7 (beginning with 2006), in addition to any plans offered  
8 under section 1860D–11, the Secretary shall offer a medi-  
9 care operated prescription drug plan (as defined in sub-  
10 section (c)) with a service area that consists of the entire  
11 United States and shall enter into negotiations with phar-  
12 maceutical manufacturers to reduce the purchase cost of  
13 covered part D drugs for eligible part D individuals in ac-  
14 cordance with subsection (b).

15 “(b) NEGOTIATIONS.—Notwithstanding section  
16 1860D–11(i), for purposes of offering a medicare operated  
17 prescription drug plan under this section, the Secretary  
18 shall negotiate with pharmaceutical manufacturers with  
19 respect to the purchase price of covered part D drugs and  
20 shall encourage the use of more affordable therapeutic  
21 equivalents to the extent such practices do not override  
22 medical necessity as determined by the prescribing physi-  
23 cian. To the extent practicable and consistent with the  
24 previous sentence, the Secretary shall implement strate-  
25 gies similar to those used by other Federal purchasers of

1 prescription drugs, and other strategies, to reduce the pur-  
 2 chase cost of covered part D drugs.

3 “(c) MEDICARE OPERATED PRESCRIPTION DRUG  
 4 PLAN DEFINED.—For purposes of this part, the term  
 5 ‘medicare operated prescription drug plan’ means a pre-  
 6 scription drug plan that only offers the standard prescrip-  
 7 tion drug coverage and access to negotiated prices de-  
 8 scribed in section 1860D–2(a)(1)(A) and does not include  
 9 any supplemental prescription drug coverage.

10 “(d) MONTHLY BENEFICIARY PREMIUM.—The  
 11 monthly beneficiary premium to be charged under a medi-  
 12 care operated prescription drug plan shall be uniform na-  
 13 tionally and shall be determined by the Secretary related  
 14 to the Secretary’s estimate of the average monthly per  
 15 capita actuarial cost, including administrative expenses,  
 16 under the medicare operated prescription drug plan of  
 17 providing coverage in the region, as calculated by the  
 18 Chief Actuary of the Centers for Medicare & Medicaid  
 19 Services. In calculating such administrative expenses, the  
 20 Chief Actuary shall use a factor that is based on similar  
 21 expenses of prescription drug plans that are not medicare  
 22 operated prescription drug plans.”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 1860D–3(a) of the Social Security  
 25 Act, as added by section 101 of the Medicare Pre-

1       scription Drug, Improvement, and Modernization  
2       Act of 2003, is amended by adding at the end the  
3       following new paragraph:

4               “(4) AVAILABILITY OF THE MEDICARE OPER-  
5       ATED PRESCRIPTION DRUG PLAN.—

6               “(A) IN GENERAL.—A medicare operated  
7       prescription drug plan (as defined in section  
8       1860D–11A(c)) shall be offered nationally in  
9       accordance with section 1860D–11A.

10              “(B) RELATIONSHIP TO OTHER PLANS.—

11              “(i) IN GENERAL.—Subject to clause  
12       (ii), a medicare operated prescription drug  
13       plan shall be offered in addition to any  
14       qualifying plan or fallback prescription  
15       drug plan offered in a PDP region and  
16       shall not be considered to be such a plan  
17       purposes of meeting the requirements of  
18       this subsection.

19              “(ii) DESIGNATION AS A FALLBACK  
20       PLAN.—Notwithstanding any other provi-  
21       sion of this part, the Secretary may des-  
22       ignate the medicare operated prescription  
23       drug plan as the fallback prescription drug  
24       plan for any fallback service area (as de-  
25       fined in section 1860D–11(g)(3)) deter-

1           mined to be appropriate by the Sec-  
2           retary.”.

3           (2) Section 1860D–13(c)(3) of such Act, as  
4           added by such section, is amended—

5           (A) in the heading, by inserting “AND  
6           MEDICARE OPERATED PRESCRIPTION DRUG  
7           PLANS” after “FALLBACK PLANS”; and

8           (B) by inserting “or a medicare operated  
9           prescription drug plan” after “a fallback pre-  
10          scription drug plan”.

11          (3) Section 1860D–16(b)(1) of such Act, as  
12          added by such section, is amended—

13          (A) in subparagraph (C), by striking  
14          “and” after the semicolon at the end;

15          (B) in subparagraph (D), by striking the  
16          period at the end and inserting “; and”; and

17          “(E) payments for expenses incurred with  
18          respect to the operation of medicare operated  
19          prescription drug plans under section 1860D–  
20          11A.”.

21          (4) Section 1860D–41(a) of such Act, as added  
22          by such section, is amended by adding at the end  
23          the following new paragraph:

24          “(19) MEDICARE OPERATED PRESCRIPTION  
25          DRUG PLAN.—The term ‘medicare operated prescrip-

1       tion drug plan' has the meaning given such term in  
2       section 1860D–11A(c).”.

3       (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall take effect as if included in the enact-  
5 ment of section 101 of the Medicare Prescription Drug,  
6 Improvement, and Modernization Act of 2003.

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