Federal Financial Assistance'' received on September 5, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–10614. A communication from the Acting Assistant General Counsel for Regulations, Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Notice of Final Competitive Preference for Fiscal Year 2001 for the Rehabilitation Long-Term Training and Rehabilitation Continuing Education Programs'' (RIN89.129L and 84.264B) received on August 29, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–10615. A communication from the Deputy Secretary of the Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Rule 12f–2 under the Securities Exchange Act of 1934, 17 CFR 240.12f–2, ''Extending Unlisted Trading Privileges to a Security that is the Subject of an Initial Public Offering'' received on August 30, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–10616. A communication from the Assistant General Counsel for Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance'' (RIN2501–AC42 (FR–4301–F–02)) received on August 30, 2000; to the Committee on Banking, Housing, and Urban Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–613. A resolution adopted by the Council of the Borough of Surf City relative to the dumping of dredged material; to the Committee on Environment and Public Works.

POM–614. A resolution adopted by the Township of Manchester, New Jersey relative to the ''Mud Dump Site''; to the Committee on Environment and Public Works.

POM–615. A resolution adopted by the City Council of Portsmouth, Ohio relative to the Uranium Enrichment Plant; to the Committee on Energy and Natural Resources.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. BYRD, for Mr. WARNER, from the Committee on Armed Services:

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Charles R. Holland, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Glen W. Moorhead III, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Norton A. Schwartz, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Daniel J. Petrosky, 0000

The following named officer for appointment as The Surgeon General, United States Army, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 601 and 3036:

To be lieutenant general

Maj. Gen. James B. Peake, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601, and as a Senior Member of the Military Staff Committee:

To be lieutenant general

Maj. Gen. John P. Abizaid, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Edward G. Anderson III, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Bryan D. Brown, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. William P. Tangney, 0000

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Walter F. Doran, 0000

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Michael P. Delong, 0000

By Mr. INHOFE, for Mr. WARNER, from the Committee on Armed Services:

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Peter Pace, 0000

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. INHOFE:

S. 3013. To make technical amendments concerning contracts affecting certain Indian tribes in Oklahoma, and for other purposes; to the Committee on Indian Affairs.

By Mr. SPECTER:

S. 3014. A bill to amend title 18 of the US Code to penalize the knowing and reckless introduction of a defective product into interstate commerce; to the Committee on the Judiciary.

By Mr. ASHCROFT:

S. 3015. A bill to grant the consent of Congress to the Kansas and Missouri Metropolitan Culture District Compact; to the Committee on the Judiciary.

By Mr. ROTH (for himself, Mr. JEFFORDS, Mr. GRAMM, Mr. MURKOWSKI, Mr. CAMPBELL, Mr. NICKLES, Mr. LOTT, Mr. STEVENS, Mr. FRIST, Mr. DOMENICI, Mr. CRAIG, and Mr. GRAMS):

S. 3016. To amend the Social Security Act to establish an outpatient prescription drug assistance program for low-income medicare beneficiaries and medicare beneficiaries with high drug costs; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. JEFFORDS, Mr. MURKOWSKI, Mr. CAMPBELL, Mr. STEVENS, and Mr. FRIST):

S. 3017. A bill to amend the Social Security Act to establish an outpatient prescription drug assistance program for low-income medicare beneficiaries and medicare beneficiaries with high drug costs; to the Committee on Finance.

By Mr. TORRICELLI (for himself and Mr. JOHNSON):

S. 3018. A bill to amend the Federal Deposit Insurance Act with respect to municipal deposits; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. INHOFE:

S. 3019. A bill to clarify the Federal relationship to the Shawnee Tribe as a distinct Indian tribe, to clarify the status of the members of the Shawnee Tribe, and for other purposes; to the Committee on Indian Affairs.

By Mr. GRAMS (for himself, Mr. BAUCUS, Mr. INHOFE, Mr. GREGG, and Mrs. HUTCHISON):

S. 3020. A bill to require the Federal Communications Commission to revise its regulations authorizing the operation of new, low-power FM radio stations; to the Committee on Commerce, Science, and Transportation.

By Mrs. HUTCHISON (for herself, Mr. DOMENICI, Mr. DODD, and Mrs. FEINSTEIN):

S. 3021. A bill to provide that a certification of the cooperation of Mexico with United States counterdrug efforts not be required in fiscal year 2001 for the limitation on assistance for Mexico under section 490 of the Foreign Assistance Act of 1961 not to go into effect in that fiscal year.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HUTCHINSON:

S. Res. 349. A resolution to designate September 7, 2000 as ''National Safe Television for All-Ages Day''; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. INHOFE:

S. 3013. To make technical amendments concerning contracts affecting certain Indian tribes in Oklahoma, and for other purposes; to the Committee on Indian Affairs.

LEGISLATION CONCERNING CONTRACTS AFFECTING CERTAIN INDIAN TRIBES IN OKLAHOMA

Mr. INHOFE. Mr. President, today I am pleased to introduce legislation which will remedy a long outdated statute which impedes economic development for the Five Civilized Tribes of Oklahoma. For years tribes have been required to seek approval by the Secretary of the Interior before they may engage in contracts. Section 81, as it is known, provides that a contract 'relating to Indian lands' is not valid unless it is approved by the Secretary. This statute was enacted with good intentions but unfortunately has outgrown its usefulness. Today this provision constitutes a confusing legal obstacle for tribal development.

Early last year, Senator BEN NIGHTHORSE CAMPBELL introduced comprehensive legislation to address the current problems associated with this statute. That legislation has passed the Senate and now awaits action before the House. However, the Five Tribes have often been treated with separate statutes unique to eastern Oklahoma. The legislation I propose simply corrects a technical oversight which affects only the Five Civilized Tribes of Oklahoma which is commonly referred to as Section 82a. Without this correction, the Five Civilized Tribes of Oklahoma would be the only tribes in the nation which may still be required to seek Secretarial approval for these contracts. I urge my colleagues to join me in correcting this oversight.

Mr. ASHCROFT:

S. 3015. A bill to grant the consent of Congress to the Kansas and Missouri Metropolitan Culture District Compact; to the Committee on the Judiciary.

THE KANSAS AND MISSOURI METROPOLITAN CULTURAL DISTRICT COMPACT ACT OF 2000

Mr. ASHCROFT. Mr. President, today I rise to introduce a bill to grant the consent of Congress to the Kansas and Missouri Metropolitan Cultural District Compact.

This bill would allow the people in 2002, or after, to consider additional projects which contribute or enhance the aesthetic, artistic, historical, intellectual of social development or appreciation of members of the general public. This definition has been expanded to include sports facilities. This compact has made the restoration of Kansas City's Union Station possible.

The original enabling legislation, which passed in 1994 established a bi-state cultural district for the Kansas City metropolitan area of five counties in Western Missouri and Eastern Kansas. This provides a secure source of local funding for metropolitan cooperation across state lines to restore historic structures and cultural facilities. The Federal authority for this bi-state compact expires at the end of 2001. We must see to it that a new compact is approved to continue this successful venture.

Mr. President, this legislation does not cost the Federal government any money. It is funded through a ⅛ sales tax, passed by the voters of Jackson, Johnson, Clay and Platte counties, and merely needs Federal approval. This measure is a perfect example of the appropriate relationship between the Federal government and the states. This approval would allow these local communities to make decisions on how—and whether—their tax dollars are to be spent on cultural activities.

This bill has bipartisan support in the House of Representatives. The companion legislation, HR 4700, passed the House Judiciary Committee by voice vote and the full House also by voice vote. It is supported by the Greater Kansas City Chamber of Commerce, the Mid-American Regional Council, the Overland Park Chamber of Commerce, Kansas City Area Development Council, Johnson County President's Council, Labor-Management Council of Greater Kansas City, Jackson County Executive, Kansas Governor Bill Graves, and Missouri Governor Mel Carnahan.

Mr. ROTH (for himself, Mr. JEFFORDS, Mr. GRAMM, Mr. MURKOWSKI, Mr. CAMPBELL, Mr. NICKLES, Mr. LOTT, Mr. STEVENS, Mr. FRIST, Mr. DOMENICI, Mr. CRAIG, and Mr. GRAMS):

MEDICARE TEMPORARY DRUG ASSISTANCE ACT

Mr. ROTH. Mr. President, for the past two years, the Finance Committee has been working on comprehensive Medicare reform—reform intended both to modernize the Medicare benefit package, which would include the creation of an outpatient prescription drug benefit, and to protect the long-term solvency of the program. The Committee has held 15 hearings on many different aspects of Medicare reform. We have listened to testimony from scores of witnesses.

And we appreciate how important, but also how complex an undertaking Medicare reform is, as what we do will affect 40 million Americans who rely on the program.

Working closely with colleagues on both sides of the aisle, this July I introduced an ambitious Medicare plan that took the best ideas from Republicans and Democrats—a plan that would achieve the modern reforms we all seek. I am committed to adding a comprehensive prescription drug benefit to the Medicare program, coupled with other major reforms that are badly needed.

The plan that I have been working on includes not only comprehensive drug coverage added to the basic Medicare benefit package, but improvements to hospital and other benefits, low-income beneficiary protections, access to medical technologies, private sector drug benefit management, improvements to Medicare's long-term solvency and a strengthened Medicare+Choice Program.

I have been working for several months to refine my bill and to get the finalized estimates from the Congressional Budget Office that are necessary to advance any major piece of legislation in the Congress. These steps are also essential to make sure that the program is kept affordable for beneficiaries and taxpayers alike. I intend shortly to share the latest information with my colleagues on the Finance Committee.

It is my intention to continue to work aggressively with my colleagues on the Finance Committee—as well as with all members of this body—to build on my initiative introduced in July and to move ahead with successful bipartisan reform. I appreciate the strong interest and support our agenda for reform is receiving from both sides of the aisle.

However, there are real reasons why we don't yet have agreement on Medicare. Program reform efforts are enormously complex. In no small part because Medicare is such an important part of our social fabric. We must work through extraordinarily diverse views on the proper role of government, how best to achieve affordability for beneficiaries and taxpayers—all while ensuring stability and continuity in the program.

In view of the fact that at this time there is no clear consensus on comprehensive reform, and that even if there were, such reform would take two or three years to implement, I am today introducing legislation that will help us see that low-income beneficiaries are not denied prescription drug coverage while we continue to move forward with long-term reform.

I call this legislation the Medicare Temporary Drug Assistance Act, and it actually includes two versions—one that meets current budget guidelines and will only require a simple majority for passage, and a second version that is larger, covers more beneficiaries, but exceeds budget guidelines and will thus require a sixty-vote majority.

I call this initiative the Medicare Temporary Drug Assistance Act, because that's exactly what it is. This effort is not to be mistaken with the lasting, comprehensive Medicare reform that we will continue to aggressively pursue—a reform effort that will build on our more comprehensive plan offered in July. What this temporary legislation offers is an assurance to low-income seniors that they will be able to receive the help they need while Congress completes the larger task of overhauling the Medicare program.

It's an assurance that their immediate needs will not be put on hold as we deliberate and debate the complex intricacies of long-term Medicare reform.

In testimony before our committee, the AARP repeatedly reminded us how

important it is that we proceed carefully with long-term reform. AARP also told our Committee that a program aiding low-income beneficiaries could be achieved in a shorter time frame. I agree with their assessment and support the goal of providing immediate help to low-income beneficiaries.

And this is what my legislation will do—it allows us to continue the intricate work of long-term reform without forcing Americans to dilute their prescription dosages or to choose between prescription drugs and food.

It is my hope—as I believe there is sufficient bipartisan consensus on the subject of prescription drug coverage—that we can come together to pass this legislation. Like I've said, the first version of this bill requires only a simple majority. It has been designed to fit within current budget restrictions.

Having my preference, Mr. President, I would like to see us pass the broader version that will require sixty votes, as it will offer more extensive coverage. But either way, these bills—once enacted—will implement a temporary, state-based, program to provide low-income Medicare beneficiaries with prescription drug coverage outside the Medicare program.

Now, Mr. President, let me clear up a couple of misunderstandings that appear to surround this. First of all, I have heard concerns raised that this legislation depends on the appropriations process for funding. This is wrong; they do not. Just like the State Children Health Insurance Program, funding is mandatory under the Social Security Act.

Second, I know that some have tried to attach a welfare stigma to the new program. Let me be clear: prescription drug coverage is not welfare, it is common sense. Frankly, I am surprised that there are those who would imply otherwise, because for years, we have worked to de-stigmatize important programs such as Medicaid and the State Children's Health Insurance Program.

The legislation I'm introducing is modeled on the State Children's Health Insurance Program—a solution designed to extend drug coverage to lower-income Medicare beneficiaries—beneficiaries with incomes below 150 percent of the poverty, and those with the highest out-of-pocket drug costs. If we have sufficient support to pass the more generous measure, we can cover beneficiaries up to 175 percent of the poverty level.

State participation in the new program would be optional, as it is under SCHIP. According to the National Conference of State Legislatures, 22 states have passed some type of pharmacy assistance law. Senior Pharmacy Assistance Programs currently are in place in 16 states, and another five states have passed laws to create such programs. Many of these states will likely opt to immediately participate in the new program—receiving federal funds to allow them to quickly expand their programs to provide drug benefits to even more Medicare beneficiaries.

Eligible beneficiaries living in states that choose not to participate in the new program would receive coverage through a fall-back option administered by the Health Care Financing Administration. HCFA would contract with a pharmacy benefit manager to provide these beneficiaries with a drug benefit comparable to that offered to all Federal employees through the Blue Cross Standard Option plan.

Under either scenario, beneficiaries will receive immediate assistance. They will not have to wait, they will not have to wonder, and most importantly they will not have to worry about what happens in Washington.

Again, Mr. President, this effort is not to be mistaken with the lasting, comprehensive Medicare reform that we must continue to pursue. It is best seen as a bridge—a bridge that will provide a low-income Medicare beneficiaries with prescription drugs—a bridge that the Washington Post acknowledged just today would be of material value to lower-income individuals while we continue our work on long-term, bipartisan reform.

I will continue to work in the Finance Committee toward long-term Medicare reform—reform which will include a comprehensive outpatient prescription drug benefit. If we can't pass such a package this year, we will resume our efforts on the first day of the next session, and we will not stop until we get the job done. But low-income Medicare beneficiaries should not have to wait for comprehensive reform to be enacted in order to receive prescription drug benefits.

This legislation will provide prescription drug coverage and peace of mind while Congress continues to work on the larger reform package. Passing it will certainly not obviate the need, nor diminish the pressing objective that we will have to achieve Medicare reform. There is no argument on either side of the aisle that long-term reform is not necessary. But in the interim, we should also take this step.

Then when we get the long-term reform initiative passed—when comprehensive reform is enacted—this interim step will automatically be repealed. In that way, it will not replace or compete with reform. But it will provide valuable protection for many. Full enactment of this legislation will ensure that 82 percent of all Medicare beneficiaries will have prescription drug coverage, through the new program and through other sources of coverage. If Congress votes for increased coverage, 85 percent of all Medicare beneficiaries would have prescription drug coverage.

Mr. President, I urge my colleagues to join me on this important issue. Our many successes in advancing the Medicare program these last three years have been achieved through cooperation from both sides of the aisle. We have seen what we can do when we move forward on those issues where we have a consensus. Now, let's join together to take this step, as well. Let's implement a principle on which I believe we all agree—helping our neediest Medicare beneficiaries pay for their prescription drugs. Toward achieving this important objective, there is no legitimate reason to delay.

Mr. President, I ask unanimous consent that the bill I am introducing be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Temporary Drug Assistance Act''.

SEC. 2. OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PROGRAM.

(a) ESTABLISHMENT.—The Social Security Act (42 U.S.C. 301 et seq.) is amended by adding at the end the following new title:

''TITLE XXII—OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PROGRAM

''SEC. 2201. PURPOSE; OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PLANS.

''(a) PURPOSE.—The purpose of this title is to provide funds to States to enable States, individually or in a group, to establish a program, separate from the medicaid program under title XIX, to provide assistance to low-income medicare beneficiaries (as defined in section 2202(b)) and, at State option, medicare beneficiaries with high drug costs (as defined in section 2202(c)) to obtain coverage for outpatient prescription drugs.

''(b) OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PLAN REQUIRED.—A State may not receive payments under section 2205 unless the State, individually or as part of a group of States, submits in writing to the Secretary an outpatient prescription drug assistance plan under section 2206(a)(1) that—

''(1) describes how the State or group of States intends to use the funds provided under this title to provide outpatient prescription drug assistance to low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs consistent with the provisions of this title;

''(2) includes a description of the budget for the plan (updated periodically as necessary) and details on the planned use of funds, the sources of the non-Federal share of plan expenditures, and any requirements for cost-sharing by beneficiaries;

''(3) describes the procedures to be used to ensure that the outpatient prescription drug assistance provided to low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs under the plan does not supplant coverage for outpatient prescription drugs available to such beneficiaries under group health plans; and

''(4) has been approved by the Secretary under section 2206(a)(2).

''(c) ENTITLEMENT.—Subject to subsection (d)(2), this title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States, groups of States, and contractors described in section 2209(a)(2)(A), of amounts provided under section 2204.

''(d) PERIOD OF APPLICABILITY.—

''(1) IN GENERAL.—No State, group of States, or contractor described in section 2209(a)(2)(A), may receive payments under

section 2205 for outpatient prescription drug assistance provided for periods beginning before October 1, 2000, or after December 31, 2003.

''(2) MEDICARE REFORM.—If medicare reform legislation that includes coverage for outpatient prescription drugs is enacted during the period that begins on October 1, 2000, and ends on December 31, 2003, this title shall be repealed upon the effective date of such legislation, and no State, group of States, or contractor described in section 2209(a)(2)(A) shall be entitled to receive payments for any outpatient prescription drug assistance provided on or after such date.

''SEC. 2202. BENEFICIARY ELIGIBILITY.

''(a) ELIGIBILITY.—

''(1) IN GENERAL.—In order for a State (individually or as part of a group of States) to receive payments under section 2205 with respect to an outpatient prescription drug assistance program, the program must provide, subject to the availability of funds, outpatient prescription drug assistance to each individual who—

''(A) resides in the State;

''(B) applies for such assistance; and

''(C) establishes that the individual is—

''(i) a low-income medicare beneficiary (as defined in subsection (b)); or

''(ii) at the option of the State, a medicare beneficiary with high drug costs (as defined in subsection (c)).

''(2) RESIDENCY RULES.—In applying paragraph (1), residency rules similar to the residency rules applicable to the State plan under title XIX shall apply.

''(b) LOW-INCOME MEDICARE BENEFICIARY DEFINED.—

''(1) IN GENERAL.—In this title, except as provided in section 2209(a)(2)(B), the term 'low-income medicare beneficiary' means an individual who—

''(A) is entitled to benefits under part A of title XVIII or enrolled under part B of such title, including an individual enrolled in a Medicare+Choice plan under part C of such title;

''(B) subject to subsection (d), is not entitled to medical assistance with respect to prescribed drugs under title XIX or under a waiver under section 1115 of the requirements of such title;

''(C) is determined to have family income that does not exceed a percentage of the poverty line for a family of the size involved specified by the State that, subject to paragraph (2), may not exceed 150 percent; and

''(D) at the option of the State, is determined to have resources that do not exceed a level specified by the State.

''(2) STATE-ONLY DRUG ASSISTANCE PROGRAMS.—In the case of a State that has a State-based drug assistance program described in section 2203(e) that provides outpatient prescription drug coverage for individuals described in paragraph (1)(A) who have family income up to or exceeding 150 percent of the poverty line, the State may specify a percentage of the poverty line under paragraph (1)(C) that exceeds the income eligibility level specified by the State for such program but does not exceed 50 percentage points above such income eligibility level.

''(c) MEDICARE BENEFICIARY WITH HIGH DRUG COSTS DEFINED.—

''(1) IN GENERAL.—In this title, except as provided in section 2209(a)(2)(C), the term 'medicare beneficiary with high drug costs' means an individual—

''(A) who satisfies the requirements of subparagraphs (A) and (B) of subsection (b)(1);

''(B) whose family income exceeds the percentage of the poverty line specified by the State in accordance with subsection (b)(1)(C);

''(C) at the option of the State, whose resources exceed a level (if any) specified by the State in accordance with subsection (b)(1)(D); and

''(D) who has out-of-pocket expenses for outpatient prescription drugs and biologicals (including insulin and insulin supplies) for which outpatient prescription drug assistance is available under this title that exceed such amount as the State specifies in accordance with paragraph (2).

''(2) DETERMINATION OF OUT-OF-POCKET EXPENSES.—A State that elects to provide outpatient prescription drug assistance to an individual described in paragraph (1) shall provide the Secretary with the methodology and standards used to determine the individual's eligibility under subparagraph (D) of such paragraph.

''(d) ACCESS FOR MEDICAID EXPANSION STATES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, with respect to any State that, as of the date of enactment of this title, has made outpatient prescription drug coverage for individuals described in paragraph (2) available through the State medicaid program under title XIX under a section 1115 waiver, the Secretary, in consultation with such State, shall establish procedures under which the State shall be able to receive payments from the allotment made available under section 2204 for such State for a fiscal year for purposes of offsetting the costs of making such coverage available to such individuals.

''(2) INDIVIDUALS DESCRIBED.—Individuals described in this paragraph are individuals who are—

''(A) entitled to benefits under part A of title XVIII or enrolled under part B of such title, including an individual enrolled in a Medicare+Choice plan under part C of such title; and

''(B) eligible for outpatient prescription drug coverage only, under a State medicaid program under title XIX as a result of a section 1115 waiver.

''(e) INDIVIDUAL NONENTITLEMENT.—Nothing in this title shall be construed as providing an individual with an entitlement to outpatient prescription drug assistance provided under this title.

''SEC. 2203. COVERAGE REQUIREMENTS.

''(a) REQUIRED SCOPE OF COVERAGE.—

''(1) IN GENERAL.—The outpatient prescription drug assistance provided under the plan may consist of any of the following:

''(A) BENCHMARK COVERAGE.—Outpatient prescription drug coverage that is equivalent to the outpatient prescription drug coverage in a benchmark benefit package described in subsection (b).

''(B) AGGREGATE ACTUARIAL VALUE EQUIVALENT TO BENCHMARK PACKAGE.—Outpatient prescription drug coverage that has an aggregate actuarial value that is at least equivalent to one of the benchmark benefit packages.

''(C) EXISTING COMPREHENSIVE STATE-BASED COVERAGE.—Outpatient prescription drug coverage under an existing State-based program, described in subsection (e).

''(D) SECRETARY-APPROVED COVERAGE.—Any other outpatient prescription drug coverage that the Secretary determines, upon application by a State or group of States, provides appropriate outpatient prescription drug coverage for the population of medicare beneficiaries proposed to be provided such coverage.

''(2) CONSISTENT DESIGN.—A State or group of States may only select one of the options described in paragraph (1) (and, if the State or group chooses to provide outpatient prescription drug coverage that is equivalent to the outpatient prescription drug coverage in a benchmark benefit package, only one of the benchmark benefit package options described in subsection (b)) in order to provide outpatient prescription drug assistance in a uniform manner for the population of medicare beneficiaries provided such coverage.

''(b) BENCHMARK BENEFIT PACKAGES.—The benchmark benefit packages are as follows:

''(1) MEDICAID OUTPATIENT PRESCRIPTION DRUG COVERAGE.—In the case of—

''(A) a State, the outpatient prescription drug coverage provided under the State medicaid plan under title XIX; or

''(B) a group of States, the outpatient prescription drug coverage provided under the State medicaid plan under such title of one of the States in the group, as identified in the outpatient prescription drug assistance plan.

''(2) FEHBP-EQUIVALENT OUTPATIENT PRESCRIPTION DRUG COVERAGE.—The outpatient prescription drug coverage provided under the Standard Option Blue Cross and Blue Shield Service Benefit Plan described in and offered under section 8903(1) of title 5, United States Code.

''(3) STATE EMPLOYEE OUTPATIENT PRESCRIPTION DRUG COVERAGE.—In the case of—

''(A) a State, the outpatient prescription drug coverage provided under a health benefits coverage plan that is offered and generally available to State employees in the State involved; or

''(B) a group of States, the outpatient prescription drug coverage provided under a health benefits coverage plan that is offered and generally available to State employees in one of the States in the group, as identified in the outpatient prescription drug assistance plan.

''(4) OUTPATIENT PRESCRIPTION DRUG COVERAGE OFFERED THROUGH LARGEST HMO.—In the case of—

''(A) a State, the outpatient prescription drug coverage provided under a health insurance coverage plan that is offered by a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act) and has the largest insured commercial, nonmedicaid enrollment of covered lives of such coverage plans offered by such a health maintenance organization in the State involved; or

''(B) a group of States, the outpatient prescription drug coverage provided under a health insurance coverage plan that is offered by a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act) and has the largest insured commercial, nonmedicaid enrollment of covered lives of such coverage plans offered by such a health maintenance organization in one of the States involved.

''(c) DETERMINATION OF ACTUARIAL VALUE OF COVERAGE.—

''(1) IN GENERAL.—The actuarial value of outpatient prescription drug coverage offered under benchmark benefit packages and the outpatient prescription drug assistance plan shall be set forth in an opinion in a report that has been prepared—

''(A) by an individual who is a member of the American Academy of Actuaries;

''(B) using generally accepted actuarial principles and methodologies;

''(C) using a standardized set of utilization and price factors;

''(D) using a standardized population that is representative of the population to be covered under the outpatient prescription drug assistance plan;

''(E) applying the same principles and factors in comparing the value of different coverage;

''(F) without taking into account any differences in coverage based on the method of delivery or means of cost control or utilization used; and

''(G) taking into account the ability of a State or group of States to reduce benefits by taking into account the increase in actuarial value of benefits coverage offered under the outpatient prescription drug assistance plan that results from the limitations on cost-sharing under such coverage.

''(2) REQUIREMENT.—The actuary preparing the opinion shall select and specify in the report the standardized set and population to be used under subparagraphs (C) and (D) of paragraph (1).

''(d) PROHIBITED COVERAGE.—Nothing in this section shall be construed as requiring any outpatient prescription drug coverage offered under the plan to provide coverage for an outpatient prescription drug for which payment is prohibited under this title, notwithstanding that any benchmark benefit package includes coverage for such an outpatient prescription drug.

''(e) DESCRIPTION OF EXISTING COMPREHENSIVE STATE-BASED COVERAGE.—

''(1) IN GENERAL.—A program described in this paragraph is an outpatient prescription drug coverage program for individuals who are entitled to benefits under part A of title XVIII or enrolled under part B of such title, including an individual enrolled in a Medicare+Choice plan under part C of such title, that—

''(A) is administered or overseen by the State and receives funds from the State;

''(B) was offered as of the date of the enactment of this title;

''(C) does not receive or use any Federal funds; and

''(D) is certified by the Secretary as providing outpatient prescription drug coverage that satisfies the scope of coverage required under subparagraph (A), (B), or (D) of subsection (a)(1).

''(2) MODIFICATIONS.—A State may modify a program described in paragraph (1) from time to time so long as it does not reduce the actuarial value (evaluated as of the time of the modification) of the outpatient prescription drug coverage under the program below the lower of—

''(A) the actuarial value of the coverage under the program as of the date of enactment of this title; or

''(B) the actuarial value described in subsection (a)(1)(B).

''(f) BENEFICIARY PREMIUMS AND COST-SHARING.—

''(1) DESCRIPTION; GENERAL CONDITIONS.—

''(A) DESCRIPTION.—

''(i) IN GENERAL.—An outpatient prescription drug assistance plan shall include a description, consistent with this subsection, of the amount of any premiums or cost-sharing imposed under the plan.

''(ii) PUBLIC SCHEDULE OF CHARGES.—Any premium or cost-sharing described under clause (i) shall be imposed under the plan pursuant to a public schedule.

''(B) PROTECTION FOR BENEFICIARIES.—The outpatient prescription drug assistance plan may only vary premiums and cost-sharing based on the family income of low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs, in a manner that does not favor such beneficiaries with higher income over beneficiaries with low-income.

''(2) LIMITATIONS ON PREMIUMS AND COST-SHARING.—

''(A) NO PREMIUMS OR COST-SHARING FOR BENEFICIARIES WITH INCOME BELOW 100 PERCENT OF POVERTY LINE.—In the case of a low-income medicare beneficiary whose family income does not exceed 100 percent of the poverty line, the outpatient prescription drug assistance plan may not impose any premium or cost-sharing.

''(B) OTHER BENEFICIARIES.—For low-income medicare beneficiaries not described in subparagraph (A) and, if applicable, medicare beneficiaries with high drug costs, any premiums or cost-sharing imposed under the outpatient prescription drug assistance plan may be imposed, subject to paragraph (1)(B), on a sliding scale related to income, except that the total annual aggregate of such premiums and cost-sharing with respect to all such beneficiaries in a family under this title may not exceed 5 percent of such family's income for the year involved.

''(g) RESTRICTION ON APPLICATION OF PREEXISTING CONDITION EXCLUSIONS.—The outpatient prescription drug assistance plan shall not permit the imposition of any preexisting condition exclusion for covered benefits under the plan and may not discriminate in the pricing of premiums under such plan because of health status, claims experience, receipt of health care, or medical condition.

''SEC. 2204. ALLOTMENTS.

''(a) APPROPRIATION.—

''(1) IN GENERAL.—For the purpose of providing allotments under this section to States, there is appropriated, out of any money in the Treasury not otherwise appropriated—

''(A) for fiscal year 2001, $1,200,000,000;

''(B) for fiscal year 2002, $4,200,000,000;

''(C) for fiscal year 2003, $9,000,000,000; and

''(D) for fiscal year 2004, $3,000,000,000.

''(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall only be available for providing the allotments described in such paragraph during the fiscal year for which such amounts are appropriated. Any amounts that have not been obligated by the Secretary for the purposes of making payments from such allotments under section 2205, or under contracts entered into under section 2209(b)(2)(B), on or before September 30 of fiscal year 2001, 2002, or 2003 (as applicable) or, with respect to fiscal year 2004, December 31, 2003, shall be returned to the Treasury.

''(b) ALLOTMENTS TO 50 STATES AND DISTRICT OF COLUMBIA.—

''(1) IN GENERAL.—Subject to paragraph (3), of the amount available for allotment under subsection (a) for a fiscal year, reduced by the amount of allotments made under subsection (c) for the fiscal year, the Secretary shall allot to each State (other than a State described in such subsection) with an outpatient prescription drug assistance plan approved under this title the same proportion as the ratio of—

''(A) the number of medicare beneficiaries with family income that does not exceed 150 percent of the poverty line residing in the State for the fiscal year; to

''(B) the total number of such beneficiaries residing in all such States.

''(2) DETERMINATION OF NUMBER OF MEDICARE BENEFICIARIES WITH INCOME THAT DOES NOT EXCEED 150 PERCENT OF POVERTY.—For purposes of paragraph (1), a determination of the number of medicare beneficiaries with family income that does not exceed 150 percent of the poverty line residing in a State for the calendar year in which such fiscal year begins shall be made on the basis of the arithmetic average of the number of such medicare beneficiaries, as reported and defined in the 5 most recent March supplements to the Current Population Survey of the Bureau of the Census before the beginning of the fiscal year.

''(3) MINIMUM ALLOTMENT.—In no case shall the amount of the allotment under this subsection for one of the 50 States or the District of Columbia for a fiscal year be less than an amount equal to 0.5 percent of the amount provided for allotments under subsection (a) for that fiscal year (reduced by the amount of allotments made under subsection (c) for the fiscal year). To the extent that the application of the previous sentence results in an increase in the allotment to a State or the District of Columbia above the amount otherwise provided, the allotments for the other States and the District of Columbia under this subsection shall be reduced in a pro rata manner (but not below the minimum allotment described in such preceding sentence) so that the total of such allotments in a fiscal year does not exceed the amount otherwise provided for allotment under subsection (a) for that fiscal year (as so reduced).

''(c) ALLOTMENTS TO TERRITORIES.—

''(1) IN GENERAL.—Of the amount available for allotment under subsection (a) for a fiscal year, the Secretary shall allot 0.25 percent among each of the commonwealths and territories described in paragraph (3) in the same proportion as the percentage specified in paragraph (2) for such commonwealth or territory bears to the sum of such percentages for all such commonwealths or territories so described.

''(2) PERCENTAGE.—The percentage specified in this paragraph for—

''(A) Puerto Rico is 91.6 percent;

''(B) Guam is 3.5 percent;

''(C) the United States Virgin Islands is 2.6 percent;

''(D) American Samoa is 1.2 percent; and

''(E) the Northern Mariana Islands is 1.1 percent.

''(3) COMMONWEALTHS AND TERRITORIES.—A commonwealth or territory described in this paragraph is any of the following if it has an outpatient prescription drug assistance plan approved under this title:

''(A) Puerto Rico.

''(B) Guam.

''(C) The United States Virgin Islands.

''(D) American Samoa.

''(E) The Northern Mariana Islands.

''(d) TRANSFER OF CERTAIN ALLOTMENTS AND PORTIONS OF ALLOTMENTS.—

''(1) TRANSFER AND REDISTRIBUTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), not later than 30 days after the date described in paragraph (2)—

''(i) 90 percent of the allotment determined for a fiscal year under subsection (b) or (c) for a State shall be transferred and made available in such fiscal year to the Secretary, acting through the Administrator of the Health Care Financing Administration, for purposes of carrying out the default program established under section 2209; and

''(ii) 10 percent of such allotment shall be redistributed in accordance with subsection (e).

''(B) APPLICABILITY.—Subparagraph (A) shall not apply if, not later than the date described in paragraph (2) for such fiscal year, a State submits a plan or is part of a group of States that submits a plan to the Secretary that the Secretary finds meets the requirements of section 2201(b).

''(2) DATE DESCRIBED.—The date described in this paragraph is—

''(A) in the case of fiscal year 2001, December 31, 2000; and

''(B) in the case of fiscal year 2002, 2003, or 2004, September 1 of the fiscal year preceding such fiscal year.

''(e) REDISTRIBUTION OF PORTION OF ALLOTMENTS.—With respect to a fiscal year, not later than 30 days after the date described in subsection (d)(2) for such fiscal year, the Secretary shall redistribute the total amount made available for redistribution for such fiscal year under subsection (d)(1)(A)(ii) to each State that submits a plan or is part of a group of States that submits a plan to the Secretary that the Secretary finds meets the requirements of this title. Such amount shall be redistributed in the same manner as allotments are determined under subsections

(b) and (c) and shall be available only to the extent consistent with subsection (a)(2).

"SEC. 2205. PAYMENTS TO STATES.

''(a) IN GENERAL.—Subject to the succeeding provisions of this section, the Secretary shall pay to each State with a plan approved under section 2206(a)(2) (individually or as part of a group of States) from the State's allotment under section 2204, an amount for each quarter equal to the applicable percentage of expenditures in the quarter—

''(1) for outpatient prescription drug assistance under the plan for low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs in the form of providing coverage for outpatient prescription drugs that meets the requirements of section 2203; and

''(2) only to the extent permitted consistent with subsection (c), for reasonable costs incurred to administer the plan.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

''(1) for low-income medicare beneficiaries with family incomes that do not exceed 135 percent of the poverty line, 100 percent; and

''(2) for all other low-income medicare beneficiaries and for medicare beneficiaries with high drug costs, the enhanced FMAP (as defined in section 2105(b)).

''(c) LIMITATION ON PAYMENTS FOR CERTAIN EXPENDITURES.—

''(1) GENERAL LIMITATIONS.—Funds provided to a State or group of States under this title shall only be used to carry out the purposes of this title.

''(2) ADMINISTRATIVE EXPENDITURES.—

''(A) IN GENERAL.—Subject to subparagraph (B), payment shall not be made under subsection (a) for expenditures described in subsection (a)(2) for a fiscal year to the extent the total of such expenditures (for which payment is made under such subsection) exceeds 10 percent of the total expenditures described in subsection (a)(1) made by—

''(i) in the case of a State that is not part of a group of States, the State for such fiscal year; and

''(ii) in the case of a group of States, the group for such fiscal year.

''(B) SPECIAL RULE.—With respect to the first fiscal year that a State or group of States provides outpatient prescription drug assistance under a plan approved under this title, the 10 percent limitation described in subparagraph (A) shall be applied—

''(i) in the case of a State that is not part of a group of States, to the allotment available for such State for such fiscal year; and

''(ii) in the case of a group of States, to the aggregate of the State allotments available for all the States in such group for such fiscal year.

''(3) USE OF NON-FEDERAL FUNDS FOR STATE MATCHING REQUIREMENT.—Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of the non-Federal share of plan expenditures required under the plan.

''(4) OFFSET OF RECEIPTS ATTRIBUTABLE TO PREMIUMS OR COST-SHARING.—For purposes of subsection (a), the amount of the expenditures under the plan shall be reduced by the amount of any premiums or cost-sharing received by a State.

''(5) PREVENTION OF DUPLICATIVE PAYMENTS.—

''(A) OTHER HEALTH PLANS.—No payment shall be made under this section for expenditures for outpatient prescription drug assistance provided under an outpatient prescription drug assistance plan to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan, a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the beneficiary is eligible for or is provided outpatient prescription drug assistance under the plan.

''(B) OTHER FEDERAL GOVERNMENTAL PROGRAMS.—Except as otherwise provided by law, no payment shall be made under this section for expenditures for outpatient prescription drug assistance provided under an outpatient prescription drug assistance plan to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care insurance program identified by the Secretary. For purposes of this paragraph, rules similar to the rules for overpayments under section 1903(d)(2) shall apply.

''(d) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this section for each quarter on the basis of advance estimates of expenditures submitted by a State or group of States and such other investigation as the Secretary may find necessary, and may reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

''(e) FLEXIBILITY IN SUBMITTAL OF CLAIMS.—Nothing in this section shall be construed as preventing a State or group of States from claiming as expenditures in any quarter of a fiscal year expenditures that were incurred in a previous quarter of such fiscal year.

"SEC. 2206. PROCESS FOR SUBMISSION, APPROVAL, AND AMENDMENT OF OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PLANS.

''(a) INITIAL PLAN.—

''(1) SUBMISSION.—A State may receive payments under section 2205 with respect to a fiscal year if the State, individually or as part of a group of States, has submitted to the Secretary, not later than the date described in section 2204(d)(2), an outpatient prescription drug assistance plan that the Secretary has found meets the applicable requirements of this title.

''(2) APPROVAL.—Except as the Secretary may provide under subsection (e), a plan submitted under paragraph (1)—

''(A) shall be approved for purposes of this title; and

''(B) shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than October 1, 2000.

''(b) PLAN AMENDMENTS.—Within 30 days after a State or group of States amends an outpatient prescription drug assistance plan submitted pursuant to subsection (a), the State or group shall notify the Secretary of the amendment.

''(c) DISAPPROVAL OF PLANS AND PLAN AMENDMENTS.—

''(1) PROMPT REVIEW OF PLAN SUBMITTALS.—The Secretary shall promptly review plans and plan amendments submitted under this section to determine if they substantially comply with the requirements of this title.

''(2) 45-DAY APPROVAL DEADLINES.—A plan or plan amendment is considered approved unless the Secretary notifies the State or group of States in writing, within 45 days after receipt of the plan or amendment, that the plan or amendment is disapproved (and the reasons for the disapproval) or that specified additional information is needed.

''(3) CORRECTION.—In the case of a disapproval of a plan or plan amendment, the Secretary shall provide a State or group of States with a reasonable opportunity for correction before taking financial sanctions against the State or group on the basis of such disapproval.

''(d) PROGRAM OPERATION.—

''(1) IN GENERAL.—A State or group of States shall conduct the program in accordance with the plan (and any amendments) approved under this section and with the requirements of this title.

''(2) VIOLATIONS.—The Secretary shall establish a process for enforcing requirements under this title. Such process shall provide for the withholding of funds in the case of substantial noncompliance with such requirements. In the case of an enforcement action against a State or group of States under this paragraph, the Secretary shall provide a State or group of States with a reasonable opportunity for correction and for administrative and judicial appeal of the Secretary's action before taking financial sanctions against the State or group of States on the basis of such an action.

''(e) CONTINUED APPROVAL.—Subject to section 2201(d), an approved outpatient prescription drug assistance plan shall continue in effect unless and until the State or group of States amends the plan under subsection (b) or the Secretary finds, under subsection (d), substantial noncompliance of the plan with the requirements of this title.

"SEC. 2207. PLAN ADMINISTRATION; APPLICATION OF CERTAIN GENERAL PROVISIONS.

''(a) PLAN ADMINISTRATION.—An outpatient prescription drug assistance plan shall include an assurance that the State or group of States administering the plan will collect the data, maintain the records, afford the Secretary access to any records or information relating to the plan for the purposes of review or audit, and furnish reports to the Secretary, at the times and in the standardized format the Secretary may require in order to enable the Secretary to monitor program administration and compliance and to evaluate and compare the effectiveness of plans under this title.

''(b) APPLICATION OF CERTAIN GENERAL PROVISIONS.—The following sections of this Act shall apply to the program established under this title in the same manner as they apply to a State under title XIX:

''(1) TITLE XIX PROVISIONS.—

''(A) Section 1902(a)(4)(C) (relating to conflict of interest standards).

''(B) Paragraphs (2), (16), and (17) of section 1903(i) (relating to limitations on payment).

''(C) Section 1903(w) (relating to limitations on provider taxes and donations).

''(2) TITLE XI PROVISIONS.—

''(A) Section 1115 (relating to waiver authority).

''(B) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with this title.

''(C) Section 1124 (relating to disclosure of ownership and related information).

''(D) Section 1126 (relating to disclosure of information about certain convicted individuals).

''(E) Section 1128A (relating to civil monetary penalties).

''(F) Section 1128B(d) (relating to criminal penalties for certain additional charges).

"SEC. 2208. REPORTS.

''(a) IN GENERAL.—Each State or group of States administering a plan under this title shall annually—

''(1) assess the operation of the outpatient prescription drug assistance plan under this title in each fiscal year; and

''(2) report to the Secretary on the result of the assessment.

''(b) REQUIRED INFORMATION.—The annual report required under subsection (a) shall include the following:

''(1) An assessment of the effectiveness of the plan in providing outpatient prescription drug assistance to low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs.

''(2) A description and analysis of the effectiveness of elements of the plan, including—

''(A) the characteristics of the low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs assisted under the plan, including family income and access to, or coverage by, other health insurance prior to the plan and after eligibility for the plan ends;

''(B) the amount and level of assistance provided under the plan; and

''(C) the sources of the non-Federal share of plan expenditures.

''(c) ANNUAL REPORT OF THE SECRETARY.—The Secretary shall submit to Congress and make available to the public an annual report based on the reports required under subsection (a) and section 2209(b)(5), containing any conclusions and recommendations the Secretary considers appropriate.

''SEC. 2209. ESTABLISHMENT OF DEFAULT PROGRAM.

''(a) PROGRAM AUTHORITY.—

''(1) IN GENERAL.—With respect to a fiscal year, in the case of a State that fails to submit (individually or as part of a group of States) an approved outpatient prescription drug assistance plan to the Secretary by the date described in section 2204(d)(2) for such fiscal year, outpatient prescription drug assistance to low-income medicare beneficiaries and, subject to the availability of funds, medicare beneficiaries with high drug costs, who reside in such State shall be provided during such fiscal year by the Secretary, through the Administrator of the Health Care Financing Administration, in accordance with this section.

''(2) DEFINITIONS.—In this section:

''(A) CONTRACTOR.—The term 'contractor' means a pharmaceutical benefit manager or other entity that meets standards established by the Administrator of the Health Care Financing Administration for the provision of outpatient prescription drug assistance under a contract entered into under this section.

''(B) LOW-INCOME MEDICARE BENEFICIARY.—The term 'low-income medicare beneficiary' means an individual who—

''(i) satisfies the requirements of subparagraphs (A) and (B) of section 2202(b)(1);

''(ii) is determined to have family income that does not exceed a percentage of the poverty line for a family of the size involved specified by the Administrator of the Health Care Financing Administration that may not exceed 135 percent; and

''(iii) at the option of the Administrator of the Health Care Financing Administration, is determined to have resources that do not exceed a level specified by such Administrator.

''(C) MEDICARE BENEFICIARY WITH HIGH DRUG COSTS.—The term 'medicare beneficiary with high drug costs' means an individual—

''(i) who satisfies the requirements of subparagraphs (A) and (B) of section 2202(b)(1);

''(ii) whose family income exceeds the percentage of the poverty line specified by the Administrator of the Health Care Financing Administration under subparagraph (B)(ii) for a low-income medicare beneficiary residing in the same State;

''(iii) whose resources exceed a level (if any) specified by the Administrator of the Health Care Financing Administration under subparagraph (B)(iii) for a low-income medicare beneficiary residing in the same State; and

''(iv) with respect to any 3-month period, who has out-of-pocket expenses for outpatient prescription drugs and biologicals (including insulin and insulin supplies) for which outpatient prescription drug assistance is available under this title that exceed a level specified by such Administrator (consistent with the availability of funds for the operation of the program established under this section in the State where the beneficiary resides).

''(b) ADMINISTRATION.—In administering the default program established under this section, the Administrator of the Health Care Financing Administration shall—

''(1) establish procedures to determine the eligibility of the low-income medicare beneficiaries and medicare beneficiaries with high drug costs described in subsection (a) for outpatient prescription drug assistance;

''(2) establish a process for accepting bids to provide outpatient prescription drug assistance to such beneficiaries, awarding contracts under such bids, and making payments under such contracts;

''(3) establish policies and procedures for overseeing the provision of outpatient prescription drug assistance under such contracts;

''(4) develop and implement quality and service assessment measures that include beneficiary quality surveys and annual quality and service rankings for contractors awarded a contract under this section;

''(5) annually assess the program established under this section and submit a report to the Secretary containing the information required under section 2208(b); and

''(6) carry out such other responsibilities as are necessary for the administration of the provision of outpatient prescription drug assistance under this section.

''(c) CONTRACT REQUIREMENTS.—

''(1) AUTHORITY; TERM.—

''(A) USE OF COMPETITIVE PROCEDURES.—

''(i) FISCAL YEAR 2001.—With respect to fiscal year 2001, the Administrator of the Health Care Financing Administration may enter into contracts under this section without using competitive procedures, as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5)), or any other provision of law requiring competitive bidding.

''(ii) FISCAL YEARS 2002, 2003, AND 2004.—With respect to fiscal years 2002, 2003, and 2004, the Administrator of the Health Care Financing Administration shall award contracts under this section using competitive procedures (as so defined).

''(B) TERM.—Each contract shall be for a uniform term of at least 1 year, but may be made automatically renewable from term to term in the absence of notice of termination by either party.

''(2) BENEFIT.—The contract shall require the contractor to provide a low-income medicare beneficiary and, if applicable, a medicare beneficiary with high drug costs, outpatient prescription drug assistance that is equivalent to the FEHBP-equivalent benchmark benefit package described in section 2203(b)(2) in a manner that is consistent with the provisions of this title as such provisions apply to a State that provides such assistance.

''(3) QUALITY AND SERVICE ASSESSMENT.—The contract shall require the contractor to cooperate with the quality and service assessment measures implemented in accordance with subsection (b)(4).

''(4) PAYMENTS.—The contract shall specify the amount and manner by which payments (including any administrative fees) shall be made to the contractor for the provision of outpatient prescription drug assistance to low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs.

''(d) FUNDING.—

''(1) AGGREGATE OF TRANSFERRED AMOUNTS.—The Secretary, through the Administrator of the Health Care Financing Administration, shall use the aggregate of the amounts transferred and made available under section 2204(d)(1)(A)(i) for purposes of carrying out the default program established under this section. Such aggregate may be used to provide outpatient prescription drug assistance to any low-income medicare beneficiary, and, subject to the availability of funds, medicare beneficiary with high drug costs, who resides in a State described in subsection (a)(1).

''(2) LIMITATION ON ADMINISTRATIVE COSTS.—Administrative expenditures incurred by the Secretary or the Administrator of the Health Care Financing Administration for a fiscal year to carry out this section (other than administrative fees paid to a contractor under a contract meeting the requirements of subsection (c))—

''(A) shall be paid out of the aggregate amounts described in paragraph (1); and

''(B) may not exceed an amount equal to 1 percent of all premiums imposed for such fiscal year to provide outpatient prescription drug assistance to low-income medicare beneficiaries and medicare beneficiaries with high drug costs under this section.

''(e) TERMINATION.—Except as provided in section 2201(d)(2), the program established under this section shall terminate on December 31, 2003.

''SEC. 2210. DEFINITIONS.

''In this title:

''(1) COST-SHARING.—The term 'cost-sharing' means a deductible, coinsurance, copayment, or similar charge, and includes an enrollment fee.

''(2) OUTPATIENT PRESCRIPTION DRUG ASSISTANCE.—

''(A) IN GENERAL.—The term 'outpatient prescription drug assistance' means, subject to subparagraph (B), payment for part or all of the cost of coverage of self-administered outpatient prescription drugs and biologicals (including insulin and insulin supplies) for low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs.

''(B) EXCLUSIONS.—Such term does not include payment or coverage with respect to—

''(i) items covered under title XVIII; or

''(ii) items for which coverage is not available under a State plan under title XIX.

''(3) OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PLAN; PLAN.—Unless the context otherwise requires, the terms 'outpatient prescription drug assistance plan' and 'plan' mean an outpatient prescription drug assistance plan approved under section 2206.

''(4) GROUP HEALTH PLAN; GROUP HEALTH INSURANCE COVERAGE; ETC.—The terms 'group health plan', 'group health insurance coverage', and 'health insurance coverage' have the meanings given such terms in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91).

''(5) POVERTY LINE.—The term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

''(6) PREEXISTING CONDITION EXCLUSION.—The term 'preexisting condition exclusion' has the meaning given such term in section 2701(b)(1)(A) of the Public Health Service Act (42 U.S.C. 300gg(b)(1)(A)).

''(7) STATE.—The term 'State' has the meaning given such term for purposes of title XIX.''.

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF STATE.—Section 1101(a)(1) of the Social Security Act (42 U.S.C. 1301(a)(1)) is amended in the first and fourth sentences, by striking ''and XXI'' each place it appears and inserting ''XXI, and XXII''.

(2) TREATMENT AS STATE HEALTH CARE PROGRAM.—Section 1128(h) of such Act (42 U.S.C. 1320a–7(h)) is amended—

(A) in paragraph (3), by striking ''or'' at the end;

(B) in paragraph (4), by striking the period at the end and inserting '', or''; and

(C) by adding at the end the following new paragraph:

''(5) an outpatient prescription drug assistance plan approved under title XXII.''.

SEC. 3. ELECTION BY LOW-INCOME MEDICARE BENEFICIARIES AND MEDICARE BENEFICIARIES WITH HIGH DRUG COSTS TO SUSPEND MEDIGAP INSURANCE.

Section 1882(q) of the Social Security Act (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (5)(C), by striking ''this paragraph or paragraph (6)'' and inserting ''this paragraph, or paragraph (6) or (7)''; and

(2) by adding at the end the following new paragraph:

''(7) Each medicare supplemental policy shall provide that benefits and premiums under the policy shall be suspended at the request of the policyholder if the policyholder is entitled to benefits under section 226 and is covered under an outpatient prescription drug assistance plan (as defined in section 2210(3)) or provided outpatient prescription drug assistance under the program established under section 2209. If such suspension occurs and if the policyholder or certificate holder loses coverage under such plan or program, such policy shall be automatically reinstituted (effective as of the date of such loss of coverage) under terms described in subsection (n)(6)(A)(ii) as of the loss of such coverage if the policyholder provides notice of loss of such coverage within 90 days after the date of such loss.''.

Mr. JEFFORDS. Mr. President, today I am announcing my support for the Medicare Temporary Drug Assistance Act, introduced by Senator ROTH. The Act will immediately provide funding for prescription drugs for Medicare beneficiaries who are having difficulty paying for the medicines that they need to live longer, happier lives.

Mr. President, we all know that as the baby boomers become eligible for Medicare the program needs to be reformed due to the increased population. As a part of Medicare reform, we must have a broad prescription drug benefit that ensures that all Medicare beneficiaries have access to affordable medications. It doesn't make any sense for Medicare to pay for the cost of hospital stays, but not cover the drugs that can keep patients out of the hospital. The best medicines in the world will not help a patient who can't afford to take them. That is why I will continue to do all that I can, as the Chairman of the Committee on Health, Education, Labor and Pensions and member of the Finance Committee, to assure that Medicare beneficiaries have access to affordable prescription drugs this year.

Today Chairman ROTH has introduced two bills—one version that stays within the Budget Resolution, and one that exceeds our budget restraints—and I am proud to be an original cosponsor of this legislation, because I am convinced that it will immediately help millions of Americans who need but can't afford their medications. My own state of Vermont, which has already acted responsibly by extending prescription drug coverage to many low-income seniors through the Vermont Health Access Plan and the Vscript pharmacy program, will be rewarded with millions of federal dollars to extend its coverage to even larger numbers of Medicare beneficiaries. Under this bill, federal dollars will begin paying for prescription drugs for Vermonters on October 1 of this year—that's only about three weeks from now.

Mr. President, I commend Chairman ROTH for his outstanding leadership on this issue. Chairman ROTH has worked tirelessly with me and the other members of the Finance Committee, clearly demonstrating that he supports Medicare reform, including coverage of prescription drugs, and that he believes that this can only be achieved through a bipartisan process. I have strongly supported his efforts to build a bipartisan consensus on this issue through the Committee process.

Several weeks ago, Chairman ROTH acknowledged the difficulty in finding a bipartisan consensus during this election year, and announced that if the Finance Committee is unable to report out a bipartisan Medicare reform bill, he would propose a plan to cover prescription drugs for the most needy Medicare beneficiaries, through grants to the states, as a stop-gap measure until Congress is able to pass larger-scale Medicare reform. He also acknowledged that even if we were able to enact a prescription drug benefit this year, it would be almost impossible to implement such a plan for at least two years. The bill he has introduced today addresses both of these problems.

Mr. President, let me be clear. This proposal is a stop-gap measure that will be put into place only until we are able to achieve broad Medicare reform, including prescription drug coverage that benefits all Medicare beneficiaries. This is not a substitute for Medicare reform, and it does not mean that we have given up on enacting Medicare reform this year. We must also attack the problem of affordability by passing my bill, the Medicine Equity and Drug Safety Act (S. 2520), which already passed the Senate by a vote of 74–21 as a part of the Agriculture Appropriations bill. These efforts will be undertaken simultaneously. I consider this bill to be emergency aid for prescription drugs that will be the bridge to a comprehensive plan. It is a very important down payment that will benefit Vermonters and all Americans immediately. That is why I am an original cosponsor of Chairman ROTH's proposal, I urge my colleagues support.

Thank you, Mr. President. I yield the floor.

By Mr. ROTH (for himself, Mr. JEFFORDS, Mr. MURKOWSKI, Mr. CAMPBELL, Mr. STEVENS, and Mr. FRIST):

S. 3017. A bill to amend the Social Security Act to establish an outpatient prescription drug assistance program for low-income Medicare beneficiaries and Medicare beneficiaries with high drug costs; to the Committee on Finance.

MEDICARE TEMPORARY DRUG ASSISTANCE ACT

Mr. ROTH. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Temporary Drug Assistance Act''.

SEC. 2. OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PROGRAM.

(a) ESTABLISHMENT.—The Social Security Act (42 U.S.C. 301 et seq.) is amended by adding at the end the following new title:

''TITLE XXII—OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PROGRAM

''SEC. 2201. PURPOSE; OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PLANS.

''(a) PURPOSE.—The purpose of this title is to provide funds to States to enable States, individually or in a group, to establish a program, separate from the medicaid program under title XIX, to provide assistance to low-income medicare beneficiaries (as defined in section 2202(b)) and, at State option, medicare beneficiaries with high drug costs (as defined in section 2202(c)) to obtain coverage for outpatient prescription drugs.

''(b) OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PLAN REQUIRED.—A State may not receive payments under section 2205 unless the State, individually or as part of a group of States, submits in writing to the Secretary an outpatient prescription drug assistance plan under section 2206(a)(1) that—

''(1) describes how the State or group of States intends to use the funds provided under this title to provide outpatient prescription drug assistance to low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs consistent with the provisions of this title;

''(2) includes a description of the budget for the plan (updated periodically as necessary) and details on the planned use of funds, the sources of the non-Federal share of plan expenditures, and any requirements for cost-sharing by beneficiaries;

''(3) describes the procedures to be used to ensure that the outpatient prescription drug assistance provided to low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs under the plan does not supplant coverage for outpatient prescription drugs available to such beneficiaries under group health plans; and

''(4) has been approved by the Secretary under section 2206(a)(2).

''(c) ENTITLEMENT.—Subject to subsection (d)(2), this title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States, groups of States, and contractors described in section 2209(a)(2)(A), of amounts provided under section 2204.

''(d) PERIOD OF APPLICABILITY.—

''(1) IN GENERAL.—No State, group of States, or contractor described in section 2209(a)(2)(A), may receive payments under section 2205 for outpatient prescription drug assistance provided for periods beginning before October 1, 2000, or after September 30, 2004.

''(2) MEDICARE REFORM.—If medicare reform legislation that includes coverage for outpatient prescription drugs is enacted during the period that begins on October 1, 2000, and ends on September 30, 2004, this title shall be repealed upon the effective date of such legislation, and no State, group of States, or contractor described in section 2209(a)(2)(A) shall be entitled to receive payments for any outpatient prescription drug assistance provided on or after such date.

''SEC. 2202. BENEFICIARY ELIGIBILITY.

''(a) ELIGIBILITY.—

''(1) IN GENERAL.—In order for a State (individually or as part of a group of States) to receive payments under section 2205 with respect to an outpatient prescription drug assistance program, the program must provide, subject to the availability of funds, outpatient prescription drug assistance to each individual who—

''(A) resides in the State;

''(B) applies for such assistance; and

''(C) establishes that the individual is—

''(i) a low-income medicare beneficiary (as defined in subsection (b)); or

''(ii) at the option of the State, a medicare beneficiary with high drug costs (as defined in subsection (c)).

''(2) RESIDENCY RULES.—In applying paragraph (1), residency rules similar to the residency rules applicable to the State plan under title XIX shall apply.

''(b) LOW-INCOME MEDICARE BENEFICIARY DEFINED.—

''(1) IN GENERAL.—In this title, except as provided in section 2209(a)(2)(B), the term 'low-income medicare beneficiary' means an individual who—

''(A) is entitled to benefits under part A of title XVIII or enrolled under part B of such title, including an individual enrolled in a Medicare+Choice plan under part C of such title;

''(B) subject to subsection (d), is not entitled to medical assistance with respect to prescribed drugs under title XIX or under a waiver under section 1115 of the requirements of such title;

''(C) is determined to have family income that does not exceed a percentage of the poverty line for a family of the size involved specified by the State that, subject to paragraph (2), may not exceed 175 percent; and

''(D) at the option of the State, is determined to have resources that do not exceed a level specified by the State.

''(2) STATE-ONLY DRUG ASSISTANCE PROGRAMS.—In the case of a State that has a State-based drug assistance program described in section 2203(e) that provides outpatient prescription drug coverage for individuals described in paragraph (1)(A) who have family income up to or exceeding 175 percent of the poverty line, the State may specify a percentage of the poverty line under paragraph (1)(C) that exceeds the income eligibility level specified by the State for such program but does not exceed 50 percentage points above such income eligibility level.

''(c) MEDICARE BENEFICIARY WITH HIGH DRUG COSTS DEFINED.—

''(1) IN GENERAL.—In this title, except as provided in section 2209(a)(2)(C), the term 'medicare beneficiary with high drug costs' means an individual—

''(A) who satisfies the requirements of subparagraphs (A) and (B) of subsection (b)(1);

''(B) whose family income exceeds the percentage of the poverty line specified by the State in accordance with subsection (b)(1)(C);

''(C) at the option of the State, whose resources exceed a level (if any) specified by the State in accordance with subsection (b)(1)(D); and

''(D) who has out-of-pocket expenses for outpatient prescription drugs and biologicals (including insulin and insulin supplies) for which outpatient prescription drug assistance is available under this title that exceed such amount as the State specifies in accordance with paragraph (2).

''(2) DETERMINATION OF OUT-OF-POCKET EXPENSES.—A State that elects to provide outpatient prescription drug assistance to an individual described in paragraph (1) shall provide the Secretary with the methodology and standards used to determine the individual's eligibility under subparagraph (D) of such paragraph.

''(d) ACCESS FOR MEDICAID EXPANSION STATES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, with respect to any State that, as of the date of enactment of this title, has made outpatient prescription drug coverage for individuals described in paragraph (2) available through the State medicaid program under title XIX under a section 1115 waiver, the Secretary, in consultation with such State, shall establish procedures under which the State shall be able to receive payments from the allotment made available under section 2204 for such State for a fiscal year for purposes of offsetting the costs of making such coverage available to such individuals.

''(2) INDIVIDUALS DESCRIBED.—Individuals described in this paragraph are individuals who are—

''(A) entitled to benefits under part A of title XVIII or enrolled under part B of such title, including an individual enrolled in a Medicare+Choice plan under part C of such title; and

''(B) eligible for outpatient prescription drug coverage only, under a State medicaid program under title XIX as a result of a section 1115 waiver.

''(e) INDIVIDUAL NONENTITLEMENT.—Nothing in this title shall be construed as providing an individual with an entitlement to outpatient prescription drug assistance provided under this title.

''SEC. 2203. COVERAGE REQUIREMENTS.

''(a) REQUIRED SCOPE OF COVERAGE.—

''(1) IN GENERAL.—The outpatient prescription drug assistance provided under the plan may consist of any of the following:

''(A) BENCHMARK COVERAGE.—Outpatient prescription drug coverage that is equivalent to the outpatient prescription drug coverage in a benchmark benefit package described in subsection (b).

''(B) AGGREGATE ACTUARIAL VALUE EQUIVALENT TO BENCHMARK PACKAGE.—Outpatient prescription drug coverage that has an aggregate actuarial value that is at least equivalent to one of the benchmark benefit packages.

''(C) EXISTING COMPREHENSIVE STATE-BASED COVERAGE.—Outpatient prescription drug coverage under an existing State-based program, described in subsection (e).

''(D) SECRETARY-APPROVED COVERAGE.—Any other outpatient prescription drug coverage that the Secretary determines, upon application by a State or group of States, provides appropriate outpatient prescription drug coverage for the population of medicare beneficiaries proposed to be provided such coverage.

''(2) CONSISTENT DESIGN.—A State or group of States may only select one of the options described in paragraph (1) (and, if the State or group chooses to provide outpatient prescription drug coverage that is equivalent to the outpatient prescription drug coverage in a benchmark benefit package, only one of the benchmark benefit package options described in subsection (b)) in order to provide outpatient prescription drug assistance in a uniform manner for the population of medicare beneficiaries provided such coverage.

''(b) BENCHMARK BENEFIT PACKAGES.—The benchmark benefit packages are as follows:

''(1) MEDICAID OUTPATIENT PRESCRIPTION DRUG COVERAGE.—In the case of—

''(A) a State, the outpatient prescription drug coverage provided under the State medicaid plan under title XIX; or

''(B) a group of States, the outpatient prescription drug coverage provided under the State medicaid plan under such title of one of the States in the group, as identified in the outpatient prescription drug assistance plan.

''(2) FEHBP-EQUIVALENT OUTPATIENT PRESCRIPTION DRUG COVERAGE.—The outpatient prescription drug coverage provided under the Standard Option Blue Cross and Blue Shield Service Benefit Plan described in and offered under section 8903(1) of title 5, United States Code.

''(3) STATE EMPLOYEE OUTPATIENT PRESCRIPTION DRUG COVERAGE.—In the case of—

''(A) a State, the outpatient prescription drug coverage provided under a health benefits coverage plan that is offered and generally available to State employees in the State involved; or

''(B) a group of States, the outpatient prescription drug coverage provided under a health benefits coverage plan that is offered and generally available to State employees in one of the States in the group, as identified in the outpatient prescription drug assistance plan.

''(4) OUTPATIENT PRESCRIPTION DRUG COVERAGE OFFERED THROUGH LARGEST HMO.—In the case of—

''(A) a State, the outpatient prescription drug coverage provided under a health insurance coverage plan that is offered by a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act) and has the largest insured commercial, nonmedicaid enrollment of covered lives of such coverage plans offered by such a health maintenance organization in the State involved; or

''(B) a group of States, the outpatient prescription drug coverage provided under a health insurance coverage plan that is offered by a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act) and has the largest insured commercial, nonmedicaid enrollment of covered lives of such coverage plans offered by such a health maintenance organization in one of the States involved.

''(c) DETERMINATION OF ACTUARIAL VALUE OF COVERAGE.—

''(1) IN GENERAL.—The actuarial value of outpatient prescription drug coverage offered under benchmark benefit packages and the outpatient prescription drug assistance plan shall be set forth in an opinion in a report that has been prepared—

''(A) by an individual who is a member of the American Academy of Actuaries;

''(B) using generally accepted actuarial principles and methodologies;

''(C) using a standardized set of utilization and price factors;

''(D) using a standardized population that is representative of the population to be covered under the outpatient prescription drug assistance plan;

''(E) applying the same principles and factors in comparing the value of different coverage;

''(F) without taking into account any differences in coverage based on the method of delivery or means of cost control or utilization used; and

''(G) taking into account the ability of a State or group of States to reduce benefits by taking into account the increase in actuarial value of benefits coverage offered under

the outpatient prescription drug assistance plan that results from the limitations on cost-sharing under such coverage.

''(2) REQUIREMENT.—The actuary preparing the opinion shall select and specify in the report the standardized set and population to be used under subparagraphs (C) and (D) of paragraph (1).

''(d) PROHIBITED COVERAGE.—Nothing in this section shall be construed as requiring any outpatient prescription drug coverage offered under the plan to provide coverage for an outpatient prescription drug for which payment is prohibited under this title, notwithstanding that any benchmark benefit package includes coverage for such an outpatient prescription drug.

''(e) DESCRIPTION OF EXISTING COMPREHENSIVE STATE-BASED COVERAGE.—

''(1) IN GENERAL.—A program described in this paragraph is an outpatient prescription drug coverage program for individuals who are entitled to benefits under part A of title XVIII or enrolled under part B of such title, including an individual enrolled in a Medicare+Choice plan under part C of such title, that—

''(A) is administered or overseen by the State and receives funds from the State;

''(B) was offered as of the date of the enactment of this title;

''(C) does not receive or use any Federal funds; and

''(D) is certified by the Secretary as providing outpatient prescription drug coverage that satisfies the scope of coverage required under subparagraph (A), (B), or (D) of subsection (a)(1).

''(2) MODIFICATIONS.—A State may modify a program described in paragraph (1) from time to time so long as it does not reduce the actuarial value (evaluated as of the time of the modification) of the outpatient prescription drug coverage under the program below the lower of—

''(A) the actuarial value of the coverage under the program as of the date of enactment of this title; or

''(B) the actuarial value described in subsection (a)(1)(B).

''(f) BENEFICIARY PREMIUMS AND COST-SHARING.—

''(1) DESCRIPTION; GENERAL CONDITIONS.—

''(A) DESCRIPTION.—

''(i) IN GENERAL.—An outpatient prescription drug assistance plan shall include a description, consistent with this subsection, of the amount of any premiums or cost-sharing imposed under the plan.

''(ii) PUBLIC SCHEDULE OF CHARGES.—Any premium or cost-sharing described under clause (i) shall be imposed under the plan pursuant to a public schedule.

''(B) PROTECTION FOR BENEFICIARIES.—The outpatient prescription drug assistance plan may only vary premiums and cost-sharing based on the family income of low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs, in a manner that does not favor such beneficiaries with higher income over beneficiaries with low-income.

''(2) LIMITATIONS ON PREMIUMS AND COST-SHARING.—

''(A) NO PREMIUMS OR COST-SHARING FOR BENEFICIARIES WITH INCOME BELOW 100 PERCENT OF POVERTY LINE.—In the case of a low-income medicare beneficiary whose family income does not exceed 100 percent of the poverty line, the outpatient prescription drug assistance plan may not impose any premium or cost-sharing.

''(B) OTHER BENEFICIARIES.—For low-income medicare beneficiaries not described in subparagraph (A) and, if applicable, medicare beneficiaries with high drug costs, any premiums or cost-sharing imposed under the outpatient prescription drug assistance plan may be imposed, subject to paragraph (1)(B), on a sliding scale related to income, except that the total annual aggregate of such premiums and cost-sharing with respect to all such beneficiaries in a family under this title may not exceed 5 percent of such family's income for the year involved.

''(g) RESTRICTION ON APPLICATION OF PREEXISTING CONDITION EXCLUSIONS.—The outpatient prescription drug assistance plan shall not permit the imposition of any preexisting condition exclusion for covered benefits under the plan and may not discriminate in the pricing of premiums under such plan because of health status, claims experience, receipt of health care, or medical condition.

''SEC. 2204. ALLOTMENTS.

''(a) APPROPRIATION.—

''(1) IN GENERAL.—For the purpose of providing allotments under this section to States, there is appropriated, out of any money in the Treasury not otherwise appropriated—

''(A) for fiscal year 2001, $1,300,000,000;

''(B) for fiscal year 2002, $4,600,000,000;

''(C) for fiscal year 2003, $9,700,000,000; and

''(D) for fiscal year 2004, $13,000,000,000.

''(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall only be available for providing the allotments described in such paragraph during the fiscal year for which such amounts are appropriated. Any amounts that have not been obligated by the Secretary for the purposes of making payments from such allotments under section 2205, or under contracts entered into under section 2209(b)(2)(B), on or before September 30 of fiscal year 2001, 2002, 2003, or 2004 (as applicable), shall be returned to the Treasury.

''(b) ALLOTMENTS TO 50 STATES AND DISTRICT OF COLUMBIA.—

''(1) IN GENERAL.—Subject to paragraph (3), of the amount available for allotment under subsection (a) for a fiscal year, reduced by the amount of allotments made under subsection (c) for the fiscal year, the Secretary shall allot to each State (other than a State described in such subsection) with an outpatient prescription drug assistance plan approved under this title the same proportion as the ratio of—

''(A) the number of medicare beneficiaries with family income that does not exceed 175 percent of the poverty line residing in the State for the fiscal year; to

''(B) the total number of such beneficiaries residing in all such States.

''(2) DETERMINATION OF NUMBER OF MEDICARE BENEFICIARIES WITH INCOME THAT DOES NOT EXCEED 175 PERCENT OF POVERTY.—For purposes of paragraph (1), a determination of the number of medicare beneficiaries with family income that does not exceed 175 percent of the poverty line residing in a State for the calendar year in which such fiscal year begins shall be made on the basis of the arithmetic average of the number of such medicare beneficiaries, as reported and defined in the 5 most recent March supplements to the Current Population Survey of the Bureau of the Census before the beginning of the fiscal year.

''(3) MINIMUM ALLOTMENT.—In no case shall the amount of the allotment under this subsection for one of the 50 States or the District of Columbia for a fiscal year be less than an amount equal to 0.5 percent of the amount provided for allotments under subsection (a) for that fiscal year (reduced by the amount of allotments made under subsection (c) for the fiscal year). To the extent that the application of the previous sentence results in an increase in the allotment to a State or the District of Columbia above the amount otherwise provided, the allotments for the other States and the District of Columbia under this subsection shall be reduced in a pro rata manner (but not below the minimum allotment described in such preceding sentence) so that the total of such allotments in a fiscal year does not exceed the amount otherwise provided for allotment under subsection (a) for that fiscal year (as so reduced).

''(c) ALLOTMENTS TO TERRITORIES.—

''(1) IN GENERAL.—Of the amount available for allotment under subsection (a) for a fiscal year, the Secretary shall allot 0.25 percent among each of the commonwealths and territories described in paragraph (3) in the same proportion as the percentage specified in paragraph (2) for such commonwealth or territory bears to the sum of such percentages for all such commonwealths or territories so described.

''(2) PERCENTAGE.—The percentage specified in this paragraph for—

''(A) Puerto Rico is 91.6 percent;

''(B) Guam is 3.5 percent;

''(C) the United States Virgin Islands is 2.6 percent;

''(D) American Samoa is 1.2 percent; and

''(E) the Northern Mariana Islands is 1.1 percent.

''(3) COMMONWEALTHS AND TERRITORIES.—A commonwealth or territory described in this paragraph is any of the following if it has an outpatient prescription drug assistance plan approved under this title:

''(A) Puerto Rico.

''(B) Guam.

''(C) The United States Virgin Islands.

''(D) American Samoa.

''(E) The Northern Mariana Islands.

''(d) TRANSFER OF CERTAIN ALLOTMENTS AND PORTIONS OF ALLOTMENTS.—

''(1) TRANSFER AND REDISTRIBUTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), not later than 30 days after the date described in paragraph (2)—

''(i) 90 percent of the allotment determined for a fiscal year under subsection (b) or (c) for a State shall be transferred and made available in such fiscal year to the Secretary, acting through the Administrator of the Health Care Financing Administration, for purposes of carrying out the default program established under section 2209; and

''(ii) 10 percent of such allotment shall be redistributed in accordance with subsection (e).

''(B) APPLICABILITY.—Subparagraph (A) shall not apply if, not later than the date described in paragraph (2) for such fiscal year, a State submits a plan or is part of a group of States that submits a plan to the Secretary that the Secretary finds meets the requirements of section 2201(b).

''(2) DATE DESCRIBED.—The date described in this paragraph is—

''(A) in the case of fiscal year 2001, December 31, 2000; and

''(B) in the case of fiscal year 2002, 2003, or 2004, September 1 of the fiscal year preceding such fiscal year.

''(e) REDISTRIBUTION OF PORTION OF ALLOTMENTS.—With respect to a fiscal year, not later than 30 days after the date described in subsection (d)(2) for such fiscal year, the Secretary shall redistribute the total amount made available for redistribution for such fiscal year under subsection (d)(1)(A)(ii) to each State that submits a plan or is part of a group of States that submits a plan to the Secretary that the Secretary finds meets the requirements of this title. Such amount shall be redistributed in the same manner as allotments are determined under subsections (b) and (c) and shall be available only to the extent consistent with subsection (a)(2).

''SEC. 2205. PAYMENTS TO STATES.

''(a) IN GENERAL.—Subject to the succeeding provisions of this section, the Secretary shall pay to each State with a plan

approved under section 2206(a)(2) (individually or as part of a group of States) from the State's allotment under section 2204, an amount for each quarter equal to the applicable percentage of expenditures in the quarter—

''(1) for outpatient prescription drug assistance under the plan for low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs in the form of providing coverage for outpatient prescription drugs that meets the requirements of section 2203; and

''(2) only to the extent permitted consistent with subsection (c), for reasonable costs incurred to administer the plan.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

''(1) for low-income medicare beneficiaries with family incomes that do not exceed 135 percent of the poverty line, 100 percent; and

''(2) for all other low-income medicare beneficiaries and for medicare beneficiaries with high drug costs, the enhanced FMAP (as defined in section 2105(b)).

''(c) LIMITATION ON PAYMENTS FOR CERTAIN EXPENDITURES.—

''(1) GENERAL LIMITATIONS.—Funds provided to a State or group of States under this title shall only be used to carry out the purposes of this title.

''(2) ADMINISTRATIVE EXPENDITURES.—

''(A) IN GENERAL.—Subject to subparagraph (B), payment shall not be made under subsection (a) for expenditures described in subsection (a)(2) for a fiscal year to the extent the total of such expenditures (for which payment is made under such subsection) exceeds 10 percent of the total expenditures described in subsection (a)(1) made by—

''(i) in the case of a State that is not part of a group of States, the State for such fiscal year; and

''(ii) in the case of a group of States, the group for such fiscal year.

''(B) SPECIAL RULE.—With respect to the first fiscal year that a State or group of States provides outpatient prescription drug assistance under a plan approved under this title, the 10 percent limitation described in subparagraph (A) shall be applied—

''(i) in the case of a State that is not part of a group of States, to the allotment available for such State for such fiscal year; and

''(ii) in the case of a group of States, to the aggregate of the State allotments available for all the States in such group for such fiscal year.

''(3) USE OF NON-FEDERAL FUNDS FOR STATE MATCHING REQUIREMENT.—Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of the non-Federal share of plan expenditures required under the plan.

''(4) OFFSET OF RECEIPTS ATTRIBUTABLE TO PREMIUMS OR COST-SHARING.—For purposes of subsection (a), the amount of the expenditures under the plan shall be reduced by the amount of any premiums or cost-sharing received by a State.

''(5) PREVENTION OF DUPLICATIVE PAYMENTS.—

''(A) OTHER HEALTH PLANS.—No payment shall be made under this section for expenditures for outpatient prescription drug assistance provided under an outpatient prescription drug assistance plan to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan, a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the beneficiary is eligible for or is provided outpatient prescription drug assistance under the plan.

''(B) OTHER FEDERAL GOVERNMENTAL PROGRAMS.—Except as otherwise provided by law, no payment shall be made under this section for expenditures for outpatient prescription drug assistance provided under an outpatient prescription drug assistance plan to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care insurance program identified by the Secretary. For purposes of this paragraph, rules similar to the rules for overpayments under section 1903(d)(2) shall apply.

''(d) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this section for each quarter on the basis of advance estimates of expenditures submitted by a State or group of States and such other investigation as the Secretary may find necessary, and may reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

''(e) FLEXIBILITY IN SUBMITTAL OF CLAIMS.—Nothing in this section shall be construed as preventing a State or group of States from claiming as expenditures in any quarter of a fiscal year expenditures that were incurred in a previous quarter of such fiscal year.

''SEC. 2206. PROCESS FOR SUBMISSION, APPROVAL, AND AMENDMENT OF OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PLANS.

''(a) INITIAL PLAN.—

''(1) SUBMISSION.—A State may receive payments under section 2205 with respect to a fiscal year if the State, individually or as part of a group of States, has submitted to the Secretary, not later than the date described in section 2204(d)(2), an outpatient prescription drug assistance plan that the Secretary has found meets the applicable requirements of this title.

''(2) APPROVAL.—Except as the Secretary may provide under subsection (e), a plan submitted under paragraph (1)—

''(A) shall be approved for purposes of this title; and

''(B) shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than October 1, 2000.

''(b) PLAN AMENDMENTS.—Within 30 days after a State or group of States amends an outpatient prescription drug assistance plan submitted pursuant to subsection (a), the State or group shall notify the Secretary of the amendment.

''(c) DISAPPROVAL OF PLANS AND PLAN AMENDMENTS.—

''(1) PROMPT REVIEW OF PLAN SUBMITTALS.—The Secretary shall promptly review plans and plan amendments submitted under this section to determine if they substantially comply with the requirements of this title.

''(2) 45-DAY APPROVAL DEADLINES.—A plan or plan amendment is considered approved unless the Secretary notifies the State or group of States in writing, within 45 days after receipt of the plan or amendment, that the plan or amendment is disapproved (and the reasons for the disapproval) or that specified additional information is needed.

''(3) CORRECTION.—In the case of a disapproval of a plan or plan amendment, the Secretary shall provide a State or group of States with a reasonable opportunity for correction before taking financial sanctions against the State or group on the basis of such disapproval.

''(d) PROGRAM OPERATION.—

''(1) IN GENERAL.—A State or group of States shall conduct the program in accordance with the plan (and any amendments) approved under this section and with the requirements of this title.

''(2) VIOLATIONS.—The Secretary shall establish a process for enforcing requirements under this title. Such process shall provide for the withholding of funds in the case of substantial noncompliance with such requirements. In the case of an enforcement action against a State or group of States under this paragraph, the Secretary shall provide a State or group of States with a reasonable opportunity for correction and for administrative and judicial appeal of the Secretary's action before taking financial sanctions against the State or group of States on the basis of such an action.

''(e) CONTINUED APPROVAL.—Subject to section 2201(d), an approved outpatient prescription drug assistance plan shall continue in effect unless and until the State or group of States amends the plan under subsection (b) or the Secretary finds, under subsection (d), substantial noncompliance of the plan with the requirements of this title.

''SEC. 2207. PLAN ADMINISTRATION; APPLICATION OF CERTAIN GENERAL PROVISIONS.

''(a) PLAN ADMINISTRATION.—An outpatient prescription drug assistance plan shall include an assurance that the State or group of States administering the plan will collect the data, maintain the records, afford the Secretary access to any records or information relating to the plan for the purposes of review or audit, and furnish reports to the Secretary, at the times and in the standardized format the Secretary may require in order to enable the Secretary to monitor program administration and compliance and to evaluate and compare the effectiveness of plans under this title.

''(b) APPLICATION OF CERTAIN GENERAL PROVISIONS.—The following sections of this Act shall apply to the program established under this title in the same manner as they apply to a State under title XIX:

''(1) TITLE XIX PROVISIONS.—

''(A) Section 1902(a)(4)(C) (relating to conflict of interest standards).

''(B) Paragraphs (2), (16), and (17) of section 1903(i) (relating to limitations on payment).

''(C) Section 1903(w) (relating to limitations on provider taxes and donations).

''(2) TITLE XI PROVISIONS.—

''(A) Section 1115 (relating to waiver authority).

''(B) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with this title.

''(C) Section 1124 (relating to disclosure of ownership and related information).

''(D) Section 1126 (relating to disclosure of information about certain convicted individuals).

''(E) Section 1128A (relating to civil monetary penalties).

''(F) Section 1128B(d) (relating to criminal penalties for certain additional charges).

''SEC. 2208. REPORTS.

''(a) IN GENERAL.—Each State or group of States administering a plan under this title shall annually—

''(1) assess the operation of the outpatient prescription drug assistance plan under this title in each fiscal year; and

''(2) report to the Secretary on the result of the assessment.

''(b) REQUIRED INFORMATION.—The annual report required under subsection (a) shall include the following:

''(1) An assessment of the effectiveness of the plan in providing outpatient prescription drug assistance to low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs.

''(2) A description and analysis of the effectiveness of elements of the plan, including—

''(A) the characteristics of the low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs assisted under the plan, including family income and access to, or coverage by, other health insurance prior to the plan and after eligibility for the plan ends;

''(B) the amount and level of assistance provided under the plan; and

''(C) the sources of the non-Federal share of plan expenditures.

''(c) ANNUAL REPORT OF THE SECRETARY.—The Secretary shall submit to Congress and make available to the public an annual report based on the reports required under subsection (a) and section 2209(b)(5), containing any conclusions and recommendations the Secretary considers appropriate.

''SEC. 2209. ESTABLISHMENT OF DEFAULT PROGRAM.

''(a) PROGRAM AUTHORITY.—

''(1) IN GENERAL.—With respect to a fiscal year, in the case of a State that fails to submit (individually or as part of a group of States) an approved outpatient prescription drug assistance plan to the Secretary by the date described in section 2204(d)(2) for such fiscal year, outpatient prescription drug assistance to low-income medicare beneficiaries and, subject to the availability of funds, medicare beneficiaries with high drug costs, who reside in such State shall be provided during such fiscal year by the Secretary, through the Administrator of the Health Care Financing Administration, in accordance with this section.

''(2) DEFINITIONS.—In this section:

''(A) CONTRACTOR.—The term 'contractor' means a pharmaceutical benefit manager or other entity that meets standards established by the Administrator of the Health Care Financing Administration for the provision of outpatient prescription drug assistance under a contract entered into under this section.

''(B) LOW-INCOME MEDICARE BENEFICIARY.—The term 'low-income medicare beneficiary' means an individual who—

''(i) satisfies the requirements of subparagraphs (A) and (B) of section 2202(b)(1);

''(ii) is determined to have family income that does not exceed a percentage of the poverty line for a family of the size involved specified by the Administrator of the Health Care Financing Administration that may not exceed 135 percent; and

''(iii) at the option of the Administrator of the Health Care Financing Administration, is determined to have resources that do not exceed a level specified by such Administrator.

''(C) MEDICARE BENEFICIARY WITH HIGH DRUG COSTS.—The term 'medicare beneficiary with high drug costs' means an individual—

''(i) who satisfies the requirements of subparagraphs (A) and (B) of section 2202(b)(1);

''(ii) whose family income exceeds the percentage of the poverty line specified by the Administrator of the Health Care Financing Administration under subparagraph (B)(ii) for a low-income medicare beneficiary residing in the same State;

''(iii) whose resources exceed a level (if any) specified by the Administrator of the Health Care Financing Administration under subparagraph (B)(iii) for a low-income medicare beneficiary residing in the same State; and

''(iv) with respect to any 3-month period, who has out-of-pocket expenses for outpatient prescription drugs and biologicals (including insulin and insulin supplies) for which outpatient prescription drug assistance is available under this title that exceed a level specified by such Administrator (consistent with the availability of funds for the operation of the program established under this section in the State where the beneficiary resides).

''(b) ADMINISTRATION.—In administering the default program established under this section, the Administrator of the Health Care Financing Administration shall—

''(1) establish procedures to determine the eligibility of the low-income medicare beneficiaries and medicare beneficiaries with high drug costs described in subsection (a) for outpatient prescription drug assistance;

''(2) establish a process for accepting bids to provide outpatient prescription drug assistance to such beneficiaries, awarding contracts under such bids, and making payments under such contracts;

''(3) establish policies and procedures for overseeing the provision of outpatient prescription drug assistance under such contracts;

''(4) develop and implement quality and service assessment measures that include beneficiary quality surveys and annual quality and service rankings for contractors awarded a contract under this section;

''(5) annually assess the program established under this section and submit a report to the Secretary containing the information required under section 2208(b); and

''(6) carry out such other responsibilities as are necessary for the administration of the provision of outpatient prescription drug assistance under this section.

''(c) CONTRACT REQUIREMENTS.—

''(1) AUTHORITY; TERM.—

''(A) USE OF COMPETITIVE PROCEDURES.—

''(i) FISCAL YEAR 2001.—With respect to fiscal year 2001, the Administrator of the Health Care Financing Administration may enter into contracts under this section without using competitive procedures, as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5)), or any other provision of law requiring competitive bidding.

''(ii) FISCAL YEARS 2002, 2003, AND 2004.—With respect to fiscal years 2002, 2003, and 2004, the Administrator of the Health Care Financing Administration shall award contracts under this section using competitive procedures (as so defined).

''(B) TERM.—Each contract shall be for a uniform term of at least 1 year, but may be made automatically renewable from term to term in the absence of notice of termination by either party.

''(2) BENEFIT.—The contract shall require the contractor to provide a low-income medicare beneficiary and, if applicable, a medicare beneficiary with high drug costs, outpatient prescription drug assistance that is equivalent to the FEHBP-equivalent benchmark benefit package described in section 2203(b)(2) in a manner that is consistent with the provisions of this title as such provisions apply to a State that provides such assistance.

''(3) QUALITY AND SERVICE ASSESSMENT.—The contract shall require the contractor to cooperate with the quality and service assessment measures implemented in accordance with subsection (b)(4).

''(4) PAYMENTS.—The contract shall specify the amount and manner by which payments (including any administrative fees) shall be made to the contractor for the provision of outpatient prescription drug assistance to low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs.

''(d) FUNDING.—

''(1) AGGREGATE OF TRANSFERRED AMOUNTS.—The Secretary, through the Administrator of the Health Care Financing Administration, shall use the aggregate of the amounts transferred and made available under section 2204(d)(1)(A)(i) for purposes of carrying out the default program established under this section. Such aggregate may be used to provide outpatient prescription drug assistance to any low-income medicare beneficiary, and, subject to the availability of funds, medicare beneficiary with high drug costs, who resides in a State described in subsection (a)(1).

''(2) LIMITATION ON ADMINISTRATIVE COSTS.—Administrative expenditures incurred by the Secretary or the Administrator of the Health Care Financing Administration for a fiscal year to carry out this section (other than administrative fees paid to a contractor under a contract meeting the requirements of subsection (c))—

''(A) shall be paid out of the aggregate amounts described in paragraph (1); and

''(B) may not exceed an amount equal to 1 percent of all premiums imposed for such fiscal year to provide outpatient prescription drug assistance to low-income medicare beneficiaries and medicare beneficiaries with high drug costs under this section.

''(e) TERMINATION.—Except as provided in section 2201(d)(2), the program established under this section shall terminate on September 30, 2004.

''SEC. 2210. DEFINITIONS.

''In this title:

''(1) COST-SHARING.—The term 'cost-sharing' means a deductible, coinsurance, copayment, or similar charge, and includes an enrollment fee.

''(2) OUTPATIENT PRESCRIPTION DRUG ASSISTANCE.—

''(A) IN GENERAL.—The term 'outpatient prescription drug assistance' means, subject to subparagraph (B), payment for part or all of the cost of coverage of self-administered outpatient prescription drugs and biologicals (including insulin and insulin supplies) for low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs.

''(B) EXCLUSIONS.—Such term does not include payment or coverage with respect to—

''(i) items covered under title XVIII; or

''(ii) items for which coverage is not available under a State plan under title XIX.

''(3) OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PLAN; PLAN.—Unless the context otherwise requires, the terms 'outpatient prescription drug assistance plan' and 'plan' mean an outpatient prescription drug assistance plan approved under section 2206.

''(4) GROUP HEALTH PLAN; GROUP HEALTH INSURANCE COVERAGE; ETC.—The terms 'group health plan', 'group health insurance coverage', and 'health insurance coverage' have the meanings given such terms in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91).

''(5) POVERTY LINE.—The term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

''(6) PREEXISTING CONDITION EXCLUSION.—The term 'preexisting condition exclusion' has the meaning given such term in section 2701(b)(1)(A) of the Public Health Service Act (42 U.S.C. 300gg(b)(1)(A)).

''(7) STATE.—The term 'State' has the meaning given such term for purposes of title XIX.''.

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF STATE.—Section 1101(a)(1) of the Social Security Act (42 U.S.C. 1301(a)(1)) is amended in the first and fourth sentences, by striking ''and XXI'' each place it appears and inserting ''XXI, and XXII''.

(2) TREATMENT AS STATE HEALTH CARE PROGRAM.—Section 1128(h) of such Act (42 U.S.C. 1320a–7(h)) is amended—

(A) in paragraph (3), by striking ''or'' at the end;

(B) in paragraph (4), by striking the period at the end and inserting '', or''; and

(C) by adding at the end the following new paragraph:

''(5) an outpatient prescription drug assistance plan approved under title XXII.''.

SEC. 3. ELECTION BY LOW-INCOME MEDICARE BENEFICIARIES AND MEDICARE BENEFICIARIES WITH HIGH DRUG COSTS TO SUSPEND MEDIGAP INSURANCE.

Section 1882(q) of the Social Security Act (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (5)(C), by striking ''this paragraph or paragraph (6)'' and inserting ''this paragraph, or paragraph (6) or (7)''; and

(2) by adding at the end the following new paragraph:

''(7) Each medicare supplemental policy shall provide that benefits and premiums under the policy shall be suspended at the request of the policyholder if the policyholder is entitled to benefits under section 226 and is covered under an outpatient prescription drug assistance plan (as defined in section 2210(3)) or provided outpatient prescription drug assistance under the program established under section 2209. If such suspension occurs and if the policyholder or certificate holder loses coverage under such plan or program, such policy shall be automatically reinstituted (effective as of the date of such loss of coverage) under terms described in subsection (n)(6)(A)(ii) as of the loss of such coverage if the policyholder provides notice of loss of such coverage within 90 days after the date of such loss.''.

Mr. TORRICELLI (for himself and Mr. JOHNSON):

S. 3018. A bill to amend the Federal Deposit Insurance Act with respect to municipal deposits.

MUNICIPAL DEPOSIT INSURANCE PROTECTION ACT OF 2000

Mr. TORRICELLI. Mr. President, I rise with my colleague Senator JOHNSON to introduce ''The Municipal Deposit Insurance Protection Act of 2000.'' This legislation provides municipal deposits with one-hundred percent federal deposit insurance coverage by the Federal Deposit Insurance Corporation (FDIC). The lack of one-hundred percent coverage for municipal deposits has stifled the ability of community banks to invest in local families and businesses. By providing this much-needed coverage, this legislation ensures that local banks have the resources they need to grow their communities.

Municipal deposits are taxpayer funds deposited by state and local governments, school districts, water authorities and other public entities. Due to the fact that the FDIC does not provide insurance coverage to municipal deposits, many states require banks to provide collateral for municipal deposits. Full deposit insurance coverage of municipal deposits could free up bank resources currently used for collateral. These resources could be used to keep local public funds at work in the communities in which they are generated.

Moreover, FDIC coverage helps build consumer confidence in their bank and helps attract the core deposits that are needed for community lending and a bank's survival. Without FDIC coverage, many independent, local banks are losing substantial deposits to large, corporate banks because of the perception that larger banks are safer. Providing municipal deposits with complete insurance coverage will strengthen community banks by placing these banks in a more competitive position to attract municipal deposits. Our nation's independently-operated banks are a valued part of our communities. It is important that these banks are able to maintain their competitiveness and continue providing their communities with their characteristic attention to customer service and investments in local farms and small businesses.

Finally, numerous taxpayers may be at risk municipal funds are placed in a failed bank. Recently, a bank failure in Carlisle, Iowa resulted in the loss of nearly $12 million in uninsured municipal deposits. Even though the state of Iowa has a fund that guarantees the deposits of state and local governments, there was an $8.4 billion shortfall in the fund. Consequently, this shortfall in funds will have to be made up by other Iowa banks.

This is why Senator's JOHNSON and I are introducing ''The Municipal Deposit Insurance Protection Act of 2000.'' The legislation will provide one-hundred percent coverage for municipal deposits will free up bank resources currently used as collateral, enable local, independent banks to attract municipal deposits, and will protect municipal taxpayers from losing uninsured public money. Senator JOHNSON and I look forward to working with our colleagues on this much-need legislation.

By Mr. INHOFE:

S. 3019. A bill to clarify the Federal relationship to the Shawnee Tribe as a distinct Indian tribe, to clarify the status of the members of the Shawnee Tribe, and for other purposes; to the Committee on Indian Affairs.

SHAWNEE TRIBE STATUS ACT OF 2000

Mr. INHOFE. Mr. President, today I introduce a bill that will modify the relationship between the Cherokee Nation in Oklahoma and the Shawnee Tribe in Oklahoma. These two tribes were joined together by an Agreement entered into between them on June 7, 1869. This bill will allow the Shawnee Tribe to have an independent government, elect its own officials and do those things it believes necessary to protect its language, culture and traditions. Since the two tribes will continue to operate in the same territory, the bill sets forth the conditions which shall govern those operations.

This legislation will have the effect of modifying the Cherokee-Shawnee agreement by allowing the Shawnee tribe to operate independently of the Cherokee Nation. The Shawnee Tribe will be governed by a separate constitution currently in existence. Membership of Shawnee Indians will continue to be permitted within the Cherokee Nation, although Shawnee Indians who so elect will become members of the Shawnee Tribe exclusively.

The bill also sets forth the manner in which the Shawnee Tribe will conduct its business within the Cherokee Nation and both Tribes have concurred in this legislation through tribal resolutions of their respective governing bodies. Although the Shawnee Tribe will be operating within the jurisdictional territory of the Cherokee Nation, the Shawnee people believe it is in their best interest to have a separate tribal governance to protect and enhance their culture, language and history and to pursue the goal of self-sufficiency for their own Tribe.

It is important to note that in changing the agreement between these two tribes there is no new tribal territory created nor is it proposed that any additional land be taken into trust for either Tribe as a result of the changes. The jurisdictional area of the tribes remains as before so that there are no impacts on communities within the Cherokee Nation. The proposal is also revenue neutral as to the United States. Tribal members of either tribe now receiving services will continue to receive those services as they have in the past.

The Shawnee Tribe was never terminated nor can the Bureau of Indian Affairs cause the Tribes to be separated through the Federal Acknowledgment Process. The Agreement of 1869 between the two tribes was ratified by the President and can only be amended by this proposed action of Congress.

In summary, this bill would recognize the long standing policy of the United States to respect the sovereignty of every tribe and to respect the desire of the Shawnee people to be governed independently of the Cherokee Nation so that Shawnee people can identify with their own Tribe and work to maintain their culture, language, heritage and traditions.

By Mr. GRAMS (for himself, Mr. BAUCUS, Mr. INHOFE, Mr. GREGG, and Mrs. HUTCHISON):

S. 3020. A bill to require the Federal Communications Commission to revise its regulations authorizing the operation of new, low-power FM radio stations; to the Committee on Commerce, Science, and Transportation.

RADIO BROADCASTING PRESERVATION ACT OF 2000

Mr. GRAMS. Mr. President, I rise today to introduce legislation to address the ongoing dispute between advocates of low power FM radio and full power FM radio broadcasters. I am pleased to be joined in this bipartisan effort by Senators BAUCUS, INHOFE, GREGG, and HUTCHISON. Our legislation, the ''Radio Broadcasting Preservation Act of 2000,'' was overwhelmingly passed by the House of Representatives on April 13th by a vote of 274–110.

On January 20th, the Federal Communications Commission narrowly adopted a proposal that would establish a new radio service known as low power FM radio (LPFM). Under this program, the Commission would license hundreds of new low power FM

radio stations in two classes. The new service would license stations with a maximum power level of 10 watts that would reach an area with a radius of between 1 and 2 miles, and a second class of stations with a maximum power level of 100 watts that would reach an area with a radius of three and a half miles. Although the commission adopted first- and second-adjacent channel interference protections as part of its rulemaking, it chose to allow LPFM stations to be licensed on third-adjacent channels. The FCC began accepting applications for this new service on May 30th.

Over the last several months, I have carefully listened to Minnesotans who care deeply about the issues involved in the debate over LPFM. In the absence of third-adjacent channel protection, incumbent FM broadcasters believe that low power FM radio stations would cause interference to existing radio services. LPFM advocates argue that the Federal Communications Commission has conducted adequate testing for interference and that requiring third adjacent channel protections would unnecessarily limit the number of licensed low power FM radio stations. Further, they suggest that the 1996 Telecommunications Act has resulted in unprecedented concentration within the telecommunications industry.

Although I have many concerns about the impact of LPFM service upon current FM radio broadcasting, I share the commission's stated goal of increasing diversity in radio and television broadcasting. Earlier this Congress, I supported the enactment of the Community Broadcasters Act, which preserves the unique community television broadcasting provided by low power television stations that are operated by diverse groups such as high schools, churches, local government and individual citizens. I also look forward to reviewing the findings and recommendations from the ongoing survey of minority broadcast owners being conducted by the National Telecommunications and Information Administration that will be used to analyze the impact of the 1996 Telecommunications Act upon minority broadcast ownership in the United States.

Mr. President, I am also very mindful of the concerns about LPFM raised by radio reading service programs. In my home state, the State Services for the Blind sponsors the ''Radio Talking Book'' program. Radio Talking Book is a closed-circuit broadcast system which uses FM subcarrier frequencies from radio stations in Minnesota and South Dakota to deliver readings from newspapers, magazines and books on a daily basis to more than 10,000 blind and visually impaired persons. Sub-carrier signals are the most vulnerable to low power FM radio interference because they are located at the outer edge of the frequency space.

I am troubled by the Federal Communications Commission's decision to adopt LPFM without conducting field testing of subcarrier receivers. Nearly eight months after the Commission approved LPFM, engineering studies and field testing of these receivers have not yet been completed by the Commission, and it remains unclear as to how the FCC intends to address interference that may be caused to radio reading services. The agency's inaction underscores the haste in which the LPFM plan was developed and gives credence to the view that the adoption of the FCC rules was a rush to judgment. I ask unanimous consent that letters from Minnesota Public Radio, the Minnesota State Services for the Blind and the International Association of Audio Information Services be inserted into the RECORD at this time.

For these reasons, I am pleased to introduce the ''Radio Broadcasting Preservation Act of 2000.'' I believe this legislation represents the interests of LPFM advocates, full power FM broadcasters, and most importantly—radio listeners. This compromise bill will allow the Federal Communications Commission to license lower power FM radio stations while requiring additional third adjacent channel protections for full power FM broadcasters.

Among its other provisions, the Radio Broadcasting Preservation Act of 2000 would require that an independent party conduct testing in nine FM radio markets to determine whether LPFM without third adjacent channel protections would cause harmful interference to existing FM radio services. The legislation would require the FCC to submit a report to Congress which analyzes the experimental test program results; and evaluates the impact of LPFM on listening audiences, incumbent FM radio broadcasters, minority and small market broadcasters, and radio stations that provide radio reading services to the blind.

Mr. President, some advocates of the low power FM plan adopted by the Commission argue that the Congress should simply allow the agency to move forward on LPFM without any input or modifications from Congress. Those individuals apparently favor granting legislative authority to federal regulatory agencies. Since the establishment of the Federal Communications Commission through an Act of Congress in 1934, members of the House and Senate have consistently exercised appropriate oversight of FCC rules and proposals.

As a member of the Senate, I have carefully monitored the Commission's activities to ensure responsible public policy and the wisest use of taxpayer dollars. Over the last few years, I have expressed my concern over a number of issues considered by the Commission, including satellite television, rights-of-way management, universal service, the impact of digital television rules upon low power television and translator stations, and most recently low power FM radio. Congress should not abdicate its oversight responsibilities when considering the LPFM issue.

Mr. President, I firmly believe that the ''Radio Broadcasting Preservation Act of 2000'' will strengthen community broadcasting without sacrificing existing radio services. I ask unanimous consent that the full text of this bill and additional material be printed in the RECORD and I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3020

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Radio Broadcasting Preservation Act of 2000''.

SEC. 2. MODIFICATIONS TO LOW-POWER FM REGULATIONS REQUIRED.

(a) THIRD-ADJACENT CHANNEL PROTECTIONS REQUIRED.—

(1) MODIFICATIONS REQUIRED.—The Federal Communications Commission shall modify the rules authorizing the operation of low-power FM radio stations, as proposed in MM Docket No. 99–25, to—

(A) prescribe minimum distance separations for third-adjacent channels (as well as for co-channels and first- and second-adjacent channels); and

(B) prohibit any applicant from obtaining a low-power FM license if the applicant has engaged in any manner in the unlicensed operation of any station in violation of section 301 of the Communications Act of 1934 (47 U.S.C. 301).

(2) CONGRESSIONAL AUTHORITY REQUIRED FOR FURTHER CHANGES.—The Federal Communications Commission may not—

(A) eliminate or reduce the minimum distance separations for third-adjacent channels required by paragraph (1)(A); or

(B) extend the eligibility for application for low-power FM stations beyond the organizations and entities as proposed in MM Docket No. 99–25 (47 CFR 73.853),

except as expressly authorized by Act of Congress enacted after the date of the enactment of this Act.

(3) VALIDITY OF PRIOR ACTIONS.—Any license that was issued by the Commission to a low-power FM station prior to the date on which the Commission modify its rules as required by paragraph (1) and that does not comply with such modifications shall be invalid.

(b) FURTHER EVALUATION OF NEED FOR THIRD-ADJACENT CHANNEL PROTECTIONS.—

(1) PILOT PROGRAM REQUIRED.—The Federal Communications Commission shall conduct an experimental program to test whether low-power FM radio stations will result in harmful interference to existing FM radio stations if such stations are not subject to the minimum distance separations for third-adjacent channels required by subsection (a). The Commission shall conduct such test in no more than nine FM radio markets, including urban, suburban, and rural markets, by waiving the minimum distance separations for third-adjacent channels for the stations that are the subject of the experimental program. At least one of the stations shall be selected for the purpose of evaluating whether minimum distance separations for third-adjacent channels are needed for FM translator stations. The Commission may, consistent with the public interest, continue after the conclusion of the experimental program to waive the minimum distance separations for third-adjacent channels for the stations that are the subject of the experimental program.

(2) CONDUCT OF TESTING.—The Commission shall select an independent testing entity to

conduct field tests in the markets of the stations in the experimental program under paragraph (1). Such field tests shall include—

(A) an opportunity for the public to comment on interference; and

(B) independent audience listening tests to determine what is objectionable and harmful interference to the average radio listener.

(3) REPORT TO CONGRESS.—The Commission shall publish the results of the experimental program and field tests and afford an opportunity for the public to comment on such results. The Federal Communications Commission shall submit a report on the experimental program and field tests to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than February 1, 2001. Such report shall include—

(A) an analysis of the experimental program and field tests and of the public comment received by the Commission;

(B) an evaluation of the impact of the modification or elimination of minimum distance separations for third-adjacent channels on—

(i) listening audiences;

(ii) incumbent FM radio broadcasters in general, and on minority and small market broadcasters in particular, including an analysis of the economic impact on such broadcasters;

(iii) the transition to digital radio for terrestrial radio broadcasters;

(iv) stations that provide a reading service for the blind to the public; and

(v) FM radio translator stations;

(C) the Commission's recommendations to the Congress to reduce or eliminate the minimum distance separations for third-adjacent channels required by subsection (a); and

(D) such other information and recommendations as the Commission considers appropriate.

COMMUNICATION CENTER,
STATE SERVICES FOR THE BLIND,
St. Paul, MN, February 11, 2000.

TO WHOM IT MAY CONCERN: The Communication Center of Minnesota State Services for the Blind, SSB, has provided blind and visually impaired persons with access to the printed word since 1953. The most popular and well-known way we provide our customers with this access is via the Radio Talking Book, RTB. The RTB is a closed-circuit broadcast system which uses FM subcarriers, or SCA's, to bring people readings from newspapers, magazines and books, 24 hours a day, seven days a week. We loan our customers special SCA receivers, which only pick up the RTB signal.

The RTB, this nation's oldest and largest radio reading service for the blind, was founded in 1969 and has over 10,000 users in Minnesota alone. It is also picked up by other radio reading services around the country, for rebroadcast, via satellite.

We rely on the SCA frequencies of approximately 40 radio stations in Minnesota and South Dakota, to distribute our programming to local listeners. Approximately 20 stations used by us are operated by Minnesota Public Radio, MPR. Further, the MPR stations we use are our main outlets. The other stations we use are smaller and/or cover sparsely populated areas. Consequently, the Radio Talking Book lives and dies via the technical integrity and success of MPR.

While we support the principles of diversity and community access for all, we cannot support these goals at the expense of existing services. As you know, the Federal Communications Commission, FCC, intends to create at least 1000 low-power FM stations across the country. However, it is my understanding that they have not tested the effects and implications of these new services on existing FM SCA signals. This does not seem right to us. Prior to authorizing a new set of services, it seems to us, that you should know all the implications to existing services.

Since the sub-carrier signal of an FM station is located on the outside edge of its frequency space, it seems logical to us that these are the signals which will receive the first, and most harmful interference from new, untested signals. We strongly urge the FCC to do more testing prior to proceeding with the creation of new low-power FM services. Further, it seems even more advisable to use to not create such a new service at all prior to making long-term decisions about digital broadcasting. The FCC may be creating a new service that will be obsolete in a few years.

While we understand that the FCC must respond to a variety of constituencies, their decision which doesn't adequately consider the needs of SCA users, the majority of whom are users of radio reading services, seems to be highly disrespectful to blind and visually impaired persons. We urge the FCC to reconsider its low-power FM policy. Thank you very much for your consideration of our concerns.

Respectfully yours,

DAVID ANDREWS,
Director, Communication Center.

MINNESOTA PUBLIC RADIO,
St. Paul, MN, September 6, 2000.

Senator ROD GRAMS,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR GRAMS: Minnesota Public Radio supports your efforts to protect high quality signal integrity for America's radio listening public. Recent action by the Federal Communications Commission will cause harm to the broadcast signal of existing stations and interfere with their ability to serve their listeners. Your legislation, a bipartisan compromise, will protect the rights of the listening public to receive the highest quality signal available.

In addition to protecting the general listening public, your legislation will protect a particularly vulnerable segment of the radio listening public, the blind and visually impaired.

More than 1 million blind and visually impaired people in the United States are served by the joint efforts of radio reading services and public radio stations. This service is now threatened by a well meaning but highly politicized action of the FCC.

Started in Minnesota in 1969 as Radio Talking Book (RTB) by the joint effort of Minnesota Public Radio and the Minnesota Services for the Blind, radio reading services have grown to more than 100 locally controlled and operated reading services around the country. They bring newspapers, magazines and books into the lives of those who can't see by the use of an FM radio subcarrier, or SCA. The SCA uses a sliver of the FM signal, and basically ''piggybacks'' onto the regular FM frequency. Reading service customers receive a special radio receiver, which picks up only the SCA broadcast.

The FCC in January approved rules to add more local public service broadcasting to America's airwaves. Unfortunately, it rescinded decades-old protections given existing broadcasters and the listening public. The removal of those protections will, most certainly, cause interference to the broadcast signal that are currently being delivered by the nation's radio reading services.

Many in this country, including Minnesota Public Radio, support the goal of licensing more locally owned low-power FM stations. They would be a welcome addition to the voices and opinions heard on the air. However, when government deals with trying to solve problems, it should learn from the medical profession's Hippocratic Oath: First do no harm. Your legislation helps solve the problem of additional voices and does no harm to America's general listening public and specifically the services of Radio Reading Services.

Attached is an Opinion piece from the Fergus Falls Daily Journal as well as a letter in opposition to the FCC decision by the Minnesota Services for the Blind.

Congratulations to taking on this important issue for the benefit of the people of Minnesota.

Sincerely yours,

WILL HADDELAND,
Senior Vice President.

INTERNATIONAL ASSOCIATION OF
AUDIO INFORMATION SERVICES,
Pittsburgh, PA, May 20, 2000.

Senator ROD GRAMS,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR GRAMS: We are writing to ask for your help in the urgent matter of Low Power FM service that is being rushed into place by the FCC. There are millions of Americans that may be dramatically and negatively impacted by these new stations. They are blind, visually impaired, or have a disability that prevents them from reading. Our association members serve them with reading services on the radio, and other print-to-audio services.

A reading service on the radio is the daily newspaper for these men and women. It's where they learn what is on sale at the local grocery store, what bus stops have changed in their town, and who passed away. Without this valuable link to their community, they are at grave risk of being isolated and become very dependent.

Our association of these reading services, IAAIS, has asked the FCC to ensure that reading services for the blind not suffer interference from the coming new Low Power FM stations. IAAIS is very concerned that the fragile sub-carrier services will not be heard clearly when a low power FM station is allowed in the 2nd adjacent space on the FM dial. The radios we have to use to give blind listeners access to the signals have very fragile reception characteristics. The FCC's plan for low power stations brings a potential of interference that never existed before.

We've taken radios from our members and supplied them to the FCC for testing. These are the same special radios blind listeners must use to hear the services. This entire class of radio was not tested before the FCC authorized LPFM—so no one knows if an LPFM station will impair the blind listeners ability to hear their reading service. That's what really concerns us.

The FCC does not know if Low Power stations will harm our services, yet it is proceeding with the plans for implementation. We think that's wrong and have asked them to wait until the tests are done. In spite of our request and others' at the end of this month, the FCC plans to begin the application process to create Low Power stations. There need be no rush. We think the FCC should at least wait for the results of receiver tests before starting something that might have devastating consequences.

We've also asked the FCC for a description of the procedure they will use to resolve interference that occurs after Low Power FM is implemented. They have given no indication that they have such a procedure. We find this alarming to say the least.

For all these reasons, we've endorsed the measures outlined in the compromise legislation passed by the House in April, HR3439. With the slow down in implementation and test roll-out of low power sites that the bill affords, we feel there will be a better chance that Low Power FM can be implemented without damage to reading services for the blind.

We hope you'll help by supporting a Senate measure that will echo the intentions of House Bill 3439. The Bill will buy time while tests are completed. These test results, and the procedure for resolving problems must be published before adding new radio stations. It would help to ensure that the listeners to reading services do not suffer the loss of their ability to read a newspaper . . . for the second time.

Sincerely,

DAVID W. NOBLE,
President.

By Mrs. HUTCHISON (for herself, Mr. DOMENICI, Mr. DODD, and Mrs. FEINSTEIN):

S. 3021. A bill to provide that a certification of the cooperation of Mexico with United States counterdrug efforts not be required in fiscal year 2001 for the limitation on assistance for Mexico under section 490 of the Foreign Assistance Act of 1961 not to go into effect in that fiscal year.

MEXICAN DECERTIFICATION MORATORIUM

Mrs. HUTCHISON. Mr. President, I send a bill to the desk. I submit this bill on behalf of myself, Senator DOMENICI, Senator DODD, and Senator FEINSTEIN.

The purpose of the bill is to put a 1-year moratorium on the decertification process for Mexico as it relates to the illegal drug trafficking issue that we have been dealing with for so long. The reason we are introducing this bill and hope for expedited procedures is that we have just seen a huge election in Mexico in which, for the first time in 71 years, there is a president from the opposition party, from the PRI, which has been the ruling party in Mexico all this time.

Democracy is beginning to be real in Mexico, and we want to do everything we can to encourage this democracy. We want to do everything we can to have good relations, better relations, with our sister country to the south, Mexico.

Vicente Fox has visited the United States. He has opened the door for better relations. I know our next President, whoever he may be, will also want to do the same thing.

It is a very simple bill. It is a bill that says for 1 year we are not going to go through the certification-decertification process, and hopefully our two new Presidents will begin a new era of cooperation in this very tough issue that plagues both of our countries. Having a criminal element in Mexico and a criminal element in the United States certainly is a cancer on both of our countries, and we want to do everything we can to improve the cooperation in combating this issue.

The inauguration of Vicente Fox as President of Mexico on December 1st should usher in a sea change in Mexican politics as well as the U.S.-Mexico relationship. Not only will 71 years of rule by the Institutional Revolutionary Party (PRI) come to an end, but hopefully so too will come an end to the flood of illegal drugs from Mexico into the U.S.

Despite the promise of a new day in our relationship with Mexico, a dark cloud looms on the horizon—the annual drug certification ritual in which Congress requires the President to ''grade'' drug-producing and drug-transit countries each March 1 on their progress in the war on drugs.

The facts have remained essentially unchanged over the past several years. Mexico is the source of about 20–30% of the heroin, up to 70% of the foreign grown marijuana, and the transit point for 50–60% of the cocaine shipped into the United States.

Mexico has never been decertified, but the thought of being in the company of Iran, Iraq, and Afghanistan on this list, has done little except to antagonize their political leadership and thwart expanded cooperation. There is no reason to go through this exercise next March and grade President Fox after fewer than 120 days in office. Further, with a new U.S. President taking office on January 20, there is no reason to set up a major confrontation between the two before they have even had an opportunity to work together cooperatively.

I am proud to introduce legislation with Senators PETE DOMENICI, CHRISTOPHER DODD, and DIANNE FEINSTEIN which will grant Mexico a 1-year waiver from the annual certification process. I hope the Congress will pass this waiver legislation before we adjourn.

This 1-year waiver will give President Fox the time he needs to develop and implement a new drug-fighting strategy in Mexico. And it will give the United States the time we need to work with President Fox in the creation of this new strategy, and to finally put in place the law enforcement needed to stop the flow of drugs across our 2000-mile shared border.

The United States has enjoyed a long-term partnership with Mexico that has grown closer and more cooperative over time. The North American Free Trade Agreement cemented and strengthened our relationship—and our interdependence. Just last year, Mexico surged past Japan as our nation's second largest trade partner.

But partnership is a two-way exchange, and in recent years we have drifted into tolerance of unacceptable conditions in the arena of drug trafficking and the endemic corruption it causes in communities on both sides of the border. The border has been a sieve for drugs, and it has resulted in a degree of lawlessness in Texas and along the U.S.-Mexico border that we have not seen since the days of the frontier. Even worse, the war on drugs plays out daily on nearly every schoolyard across our nation.

I am more optimistic than ever, though, by the election of Vicente Fox, that Mexico is prepared to make the sacrifices necessary to contain the drug threat. And as he seeks to make progress on this almost overwhelming issue, we do not need to poison the spirit of early cooperation by injecting drug certification.

Specifically, this bill waives for one-year only the requirement that the President certify Mexico's cooperation with the United States in the war on drugs. This waiver does not exempt Mexico from any of the reports or other activities associated with the certification process. It simply says the President does not need to ''grade'' Mexico by choosing between certification, decertification, or decertification with a national interest waiver.

This 1-year drug certification waiver will give both the United States and Mexico time to develop a process that will make us partners rather than adversaries in addressing the one issue that can make moot all of the promising opportunities between our two nations.

Still, President-elect Fox and the Government of Mexico should make no mistake about the priority the United States places on winning the war on drugs. We will expect this to be a top priority of our new President, and we hope that this will be a priority of President Fox.

The Mexican government must take effective, good-faith steps to stop the narco-corruption that infects and demoralizes both of our countries. We ask them to take effective action to destroy the major drug cartels and imprison their kingpins, implement laws to curtail money laundering, comply with U.S. extradition requests, increase interdiction efforts and cooperate with U.S. law enforcement agencies.

President-elect Fox has shown every willingness to work with the United States in developing these objectives. He knows the challenges ahead, and especially the ones that will come as Mexico's democracy continues to evolve and be tested. The United States should not add the pressures of the certification process next year to a situation so full of risks and opportunities.

Mr. DOMENICI. Mr. President, I commend Senator HUTCHISON, along with Senators DODD and FEINSTEIN for introducing this bill today. I am pleased to join in this effort.

The election of Vicente Fox as President of Mexico is a remarkable event in the history of our neighbor to the south.

After 71 years of rule by the Institutional Revolutionary Party, Mexico is about to embark on an important test of its new democracy.

Mr. Fox has spoken very eloquently and persuasively in recent weeks and he has offered some interesting new ideas on critical issues which affect both of our countries, like immigration, trade and controlling illegal drugs.

Some of his ideas are quite impressive, and they certainly will spur debate both in the United States and in Mexico.

I think it is important for our leaders in the United States, particularly those in the border region, to engage Mr. Fox, talk with him, listen to his ideas and offer our own thoughts to him.

In this spirit of cooperation and acceptance, I think it is critical for the United States to suspend the drug certification process for Mexico this coming year.

Mr. Fox needs time to build his administration, and to develop his own plan for dealing with the drug cartels.

As we all know, the history of drug cooperation between the United States and Mexico has not been great.

Mexico remains the source of 70 percent of the foreign grown marijuana in the U.S., 50–60 percent of the cocaine and 25–30 percent of the heroin.

In recent months, our federal law enforcement authorities have dismantled a major heroin ring operating out of Nayarit, Mexico, which was responsible for much of the black tar heroin in the Southwest.

It is this heroin which has torn apart the northern New Mexico county of Rio Arriba, which has the highest per capita heroin overdose rate in the Nation.

President-elect Fox has said that he will redouble his country's efforts to fight the drug cartels, and will increase the number of criminals extradited to the United States to stand trial.

I have fought for years for more extraditions, and I am pleased that President Fox shares my goal.

I want to give Mr. Fox time to prove that he means what he says. Engaging in the certification process in March of 2001, within only 120 days of Mr. Fox's first day in office, will only serve as a hindrance to developing mutual cooperation between the two new administrations.

The bill we have introduced today merely waives for one year the requirement that the President make a certification decision about Mexico.

This waiver would not exempt Mexico from any of the annual reports or other activities associated with the certification process, including review by the State Department in its annual report to Congress.

It simply says that the next United States President need not grade Mexico and its new President in his first four months in office by choosing between certification, decertification or certification through a national interest waiver.

Mr. Fox should make no mistake—Senators from the Southwest care deeply about the drug problem, which affects our communities, courts, jails, hospitals and border region like no other issue.

We expect Mr. Fox to set concrete, measurable goals and timetables for crippling the drug cartels and ending narco-corruption.

This is a fair bill, one that respects the new democracy in Mexico, and recognizes that the new administration needs time to set its own agenda.

I look forward to working with my colleagues in the Senate and the new President of Mexico on this and other important issues of mutual interest between our two countries.

Mr. DODD. Mr. President, I commend my friend from Texas for this proposal. I am pleased to be a cosponsor of it, along with the Senator from New Mexico, Senator DOMENICI, and Senator FEINSTEIN from California. We hope others will join us and will soon be circulating a dear colleague letter inviting them to do so.

We believe that this is a very sensible and timely proposal in light of the dramatic changes that have occurred this past July 2 with the election of Vincente Fox, candidate for the National Action Party, as the next President of Mexico. His inauguration later this year will bring to an end 71 years of the office of the Mexican President being held by a representative of the Institutional Revolutionary Party. Clearly President-elect Fox has an enormous task before him to put in place his new administration and to formulate policies and programs that he believes are consistent with his campaign promises and priorities. Among the many issues that he has suggested will be priorities of his administration is enhanced counter narcotics cooperation with the United States.

I have made no secret of the fact that I believe that the annual unilateral drug certification procedures have been an obstacle to furthering cooperation between U.S. and Mexican law enforcement authorities. Rather than encouraging them to work closely together to thwart the corrupting impact of the drug kingpins in the United States and Mexico, the certification process degenerates annually to a shouting match across our southern border with respect to whether the Mexican government has done enough to warrant a passing grade from us on the counter narcotics front. Needless to say, Mexican officials resent the fact the they are being unilaterally graded on their performance by us while U.S. policies and programs are never subject to similar review or criticism.

Frankly, Mr. President, this year elections on both sides of the border give us an opportunity to start afresh with respect to counter narcotics cooperation next year. By suspending the certification process for FY 2001, the climate for working more closely on these important programs will not be soured right off the bat by the March 1 grading of Mexico. It is my hope that the new U.S. and Mexican administrations will make it a high priority in the early days of their administrations to put forward a joint plan for ensuring enhanced cooperation on counter narcotics issues that will replace the existing and counterproductive unilateral annual certification process with a multilateral mechanism to monitor progress in combating drug trafficking and related crimes in all affected countries. I would certainly be prepared to support an additional suspension of the certification process for a second year if additional time is needed to put in place a multilateral mechanism to ensure that international cooperation on such matters is working.

Mr President, this is an extremely important issue for not only Mexico and the United States both for countries throughout this hemisphere. Certainly we need to address the problem of consumption here at home. Our neighbors in this hemisphere, that are either involved in the production, in the chemical transformation of these products, or the transportation or the money laundering have a different set of issues to address in our joint efforts to reduce both production and consumption of illicit drugs. It is vital that there be a high level of cooperation if we are going to be successful in stemming the tide and flow of narcotics that pour into this country, that result in the deaths of 50,000 Americans every year in drug-related deaths in this country. I believe that the certification procedures are impeding that kind of cooperation. We believe that the legislation we have introduced this evening will improve the prospects that this will be done. I would hope that all of our colleagues will join us in endorsing this approach.

Mrs. FEINSTEIN. Mr. President, I rise today to offer my support to the legislation introduced by my distinguished colleague from Texas, Senator HUTCHISON.

Essentially, this bill would—for 1 year only—suspend the certification process with respect to Mexico.

It is my hope that this one-year hiatus will be viewed as a sign of good faith between our nations, and that our two countries will dramatically increase the level of our cooperation in the coming year. The problem of drugs is as serious as any we face, and only with a true partnership with Mexico and other source countries can we hope to succeed in the battle against illegal narcotics.

Mr. President, let me be very clear—my support for this legislation this year should not be taken as a sign that I am any less concerned with the rampant corruption and increasingly serious problem of illegal narcotics flowing from Mexico into the United States. I sincerely hope that President-elect Fox and the government of Mexico will with innovation and commitment launch a new and effective war against the cartels that are currently of unparalleled strength and viciousness.

The Zedillo administration has made some progress in cooperating with the United States in this fight.

For instance, the Zedillo administration:

Allowed, for the first time, the extradition of two Mexican Nationals on

drug charges—although these were lower level participants in the drug trade. This is a beginning, but just that—there is still a long way to go.

Fired more than 1400 of 3500 federal police officers for corruption; and so far, more than 350 officers have been prosecuted.

Cooperated with the FBI late last year in an investigation on Mexican soil.

And greatly increased seizures of illegal narcotics.

On the other hand, not nearly enough has been done:

Mexico is still the conduit to as much as 70% of the cocaine consumed in the United States (much of it originating in Colombia);

Mexico supplies the majority of marijuana to the U.S., and, according to the United States Forest Service, Mexican cartels are now sending people across the border to grow marijuana in our national forests and on other federal lands;

Despite recent successes in disrupting methamphetamine production in Mexico, the meth cartels are now increasingly setting up meth labs in the United States;

To date, not one major drug kingpin of Mexican nationality has yet been extradited to this country, nor has a major kingpin even been arrested, with the exception of the Amezcua brothers, currently in jail, while the Mexican government decides whether to extradite. Until the cartel leaders are arrested, tried, convicted and imprisoned, there can be no real improvement.

In the meantime, Mexican drug cartels are becoming ever more vicious. Tijuana, for instance recently saw its second police chief gunned down in less than 6 years, as dozens of judges, prosecutors and drug agents have been killed in Tijuana alone in recent years.

Last April, the bodies of two Mexican drug agents and a special prosecutor for the Mexican Attorney General's anti-narcotics unit were found in such a mangled state that identification—even by the spouse of one of the agents—was impossible. According to press accounts, one investigator who saw the photographs of the crime scene said ''They told me it was a body. I've never seen anything like that.''

The Arellano Felix organization is responsible for many of these crimes. They hold such a strong grip over their community that former DEA Administrator Thomas Constantine recently said that ''in Tijuana and Baja, they have become more powerful than the instruments of government in Mexico.''

The Arellano Felix cartel operates with an estimated one million dollars in bribe money every day. With that money they pay law enforcement to look the other way, prosecutors to leave them alone, judges to let them go free, and for information about their enemies.

This leads to the largest single threat in this war against drugs—the level of corruption within Mexican law enforcement and even extending into this country. Honest law enforcement officers cannot know who to trust. Anyone who gets too close to capturing cartel members is subject to exposure and assassination. And the cycle of corruption and failure continues.

The corruption is evident at all levels of Mexican law enforcement, and this is a problem that can only be solved through a concerted, comprehensive effort on the part of the Fox administration.

Until the history of corruption is reversed and the drug cartels are brought to justice, this nation will have no respite from the scourge of drugs flowing across our borders.

I cosponsor this legislation today as an experiment to see that, if by putting aside the contentiousness of a certification debate next March, there can be a new, more productive process. I will follow this closely. If reports do not reflect substantial, positive change, we will know clearly that decertification may be the only course.

I thank the Chair, and I yield the floor.

Mrs. HUTCHISON. Mr. President, if Senator DOMENICI would yield for 1 more minute, I would like to, first of all, thank him for allowing us the time to introduce this bill. If we are going to be able to pass this by the end of the session, it is imperative that we get the bill into the process. I also thank the Senator from New Mexico, the Senator from Connecticut, and the Senator from California for being prime cosponsors because this will show the Mexican people and the new President-elect of Mexico that we do want cooperation.

I believe it is in our long-term best interests that we develop trade relationships with our neighbor to the south, that we work with them on investments because as we increase the standard of living in Mexico, I think many of the immigration problems and the problems dealing with illegal drugs will also be wiped away.

So this is a new era. I think this bill will signal that we do want cooperation and friendship. I have high hopes for President-elect Vincente Fox. I have high hopes that our new President will focus on this issue as well, to try to come up with a whole new process beyond certification and decertification, which certainly has not worked very well in the past.

I yield the floor.

ADDITIONAL COSPONSORS

S. 385

At the request of Mr. ENZI, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 385, a bill to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes.

S. 741

At the request of Mr. GRAHAM, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 741, a bill to provide for pension reform, and for other purposes.

S. 1805

At the request of Mr. KENNEDY, the names of the Senator from California (Mrs. BOXER) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 1805, a bill to restore food stamp benefits for aliens, to provide States with flexibility in administering the food stamp vehicle allowance, to index the excess shelter expense deduction to inflation, to authorize additional appropriations to purchase and make available additional commodities under the emergency food assistance program, and for other purposes.

S. 2029

At the request of Mr. FRIST, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 2029, a bill to amend the Communications Act of 1934 to prohibit telemarketers from interfering with the caller identification service of any person to whom a telephone solicitation is made, and for other purposes.

S. 2061

At the request of Mr. BIDEN, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 2061, a bill to establish a crime prevention and computer education initiative.

S. 2272

At the request of Mr. DEWINE, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 2272, a bill to improve the administrative efficiency and effectiveness of the Nation's abuse and neglect courts and for other purposes consistent with the Adoption and Safe Families Act of 1997.

S. 2274

At the request of Mr. GRASSLEY, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2274, a bill to amend title XIX of the Social Security Act to provide families and disabled children with the opportunity to purchase coverage under the medicaid program for such children.

S. 2438

At the request of Mr. MCCAIN, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Virginia (Mr. ROBB) were added as cosponsors of S. 2438, a bill to provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes.

S. 2572

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 2572, a bill to amend the Communications Act of 1934 to promote deployment of advanced services and foster the development of competition for the benefit of consumers in all regions of the Nation by relieving unnecessary burdens on the Nation's two percent local exchange telecommunications carriers, and for other purposes.

S. 2580

At the request of Mr. JOHNSON, the name of the Senator from Colorado