119TH CONGRESS
2D SESSION

S. _____

To amend title 10, United States Code, to improve access to certain medications under the TRICARE program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. COTTON (for himself and Mr. KAINE) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend title 10, United States Code, to improve access to certain medications under the TRICARE program, and for other purposes.

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 ''Rx Access, Choice, Cost Equity, and Supply Stability Act'' or the ''Rx ACCESS Act''.

SEC. 2. IMPROVEMENTS RELATING TO ACCESS, FAIRNESS, AND TRANSPARENCY UNDER TRICARE PHARMACY BENEFITS PROGRAM.

(a) BENEFICIARY ELECTION OF PRESCRIPTION REFILL MEANS.—Section 1074g(a)(9) of title 10, United States Code, is amended—

(1) in subparagraph (A), by inserting ", and ending on October 1, 2026" after "Beginning on October 1, 2015"; and

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

"(D) Beginning on October 1, 2026, an eligible covered beneficiary may elect to receive non-generic prescription maintenance medications through any means described in paragraph (2)(E).".

(b) PHARMACY BENEFIT MANAGER REIMBURSEMENT STANDARDS; INDEPENDENT AUDITS.—Section 1074g of title 10, United States Code, as amended by subsection (a), is further amended—

(1) by redesignating subsections (i) and (j) as subsections (j) and (k), respectively; and

(2) by inserting after subsection (h) the following new subsection:

"(i) PHARMACY BENEFIT MANAGER REIMBURSEMENT STANDARDS.—(1) The Secretary of Defense shall ensure that, as a condition of any contract entered into

for the administration of the pharmacy benefits program, reimbursement to a retail pharmacy described in subsection (a)(2)(E)(ii) for a pharmaceutical agent provided under such program shall be an amount that is equal to not less than the sum of—

''(A) either—

''(i) the actual cost to the pharmacy of acquiring such pharmaceutical agent from a wholesaler, or

''(ii) in the case of a pharmaceutical agent included on the national average drug acquisition cost index published by the Administrator of the Centers for Medicare & Medicaid Services, a proxy amount calculated at a rate that is not lower than the national average acquisition cost for such pharmaceutical agent, as identified on such cost index as of the date of the adjudication of the claim for such reimbursement, and

''(B) a professional dispensing fee that is equal to the professional dispensing fee paid by the State in which the pharmacy is located under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for dispensing a prescription drug.

''(2) The contractor administering the pharmacy benefits program may not impose any fees on a retail pharmacy described in subsection (a)(2)(E)(ii), including point-of-sale fees, retroactive fees, or other indirect or hidden fees.

''(3)(A) Not less frequently than annually, the Comptroller General of the United States shall—

''(i) conduct an audit of—

''(I) data reported by the contractor responsible for the administration of the pharmacy benefits program relating to the rates of reimbursement under paragraph (1) and any price concessions; and

''(II) the adequacy of the retail pharmacy network under the TRICARE program and access by eligible covered beneficiaries to such network, including with respect to continuity of care, geographic accessibility (taking into account factors in addition to travel time to and from a pharmacy, with special consideration for rural and underserved areas), and the extent to which elections by such beneficiaries under subsection (a)(9) reflect personal preference; and

''(ii) submit the results of such audit to the Committee on Armed Services of the Senate and the

Committee on Armed Services of the House of Representatives.

''(B) The Secretary shall ensure that, as a condition of any contract entered into for the administration of the pharmacy benefits program, the contractor provides the Comptroller General information required to conduct the audit under subparagraph (A).''.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees (as defined in section 101(a)(16) of title 10, United States Code) a plan for the implementation of this section.