To enable certain hospitals that were participating in or applied for the drug discount program under section 340B of the Public Health Service Act prior to the COVID–19 public health emergency to temporarily maintain eligibility for such program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Thune (for himself, Ms. Stabenow, Mr. Portman, Ms. Baldwin, Mrs. Capito, and Mr. Cardin) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To enable certain hospitals that were participating in or applied for the drug discount program under section 340B of the Public Health Service Act prior to the COVID–19 public health emergency to temporarily maintain eligibility for such 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. ELIGIBILITY EXCEPTION FOR THE DRUG DISCOUNT PROGRAM DUE TO THE COVID–19 PUBLIC HEALTH EMERGENCY.

(a) IN GENERAL.—Notwithstanding any other provision of law, a hospital described in subsection (b) that,
for an applicable calendar quarter, otherwise meets the requirements for being a covered entity under subparagraph (L), (M), or (O) of subsection (a)(4) of section 340B of the Public Health Service Act (42 U.S.C. 256b) and is in compliance with all other requirements of the program under such section, but that, for such calendar quarter, does not meet the applicable requirement for the disproportionate share adjustment percentage described in subsection (c), shall be deemed a covered entity under such respective subparagraph for such applicable calendar quarter.

(b) HOSPITALS.—A hospital described in this subsection is—

(1) an entity that, on the day before the first day of the COVID–19 public health emergency, was a covered entity described in subparagraph (L), (M), or (O) of subsection (a)(4) of section 340B of the Public Health Service Act participating in the drug discount program under such section; or

(2) an entity that—

(A) prior to the COVID–19 public health emergency, submitted an application for participation in such program as a covered entity described in subparagraph (L), (M), or (O) of sec-
tion 340B(a)(4) of the Public Health Service Act;

(B) prior to or during such emergency, was approved for such participation; and

(C) during such emergency, began participating in such program.

(e) Applicable Requirement for Disproportionate Share Adjustment Percentage.—The applicable requirement for the disproportionate share adjustment percentage described in this subsection is—

(1) in the case of a hospital described in subsection (a) that otherwise meets the requirements under subparagraph (L) or (M) of section 340B(a)(4) of the Public Health Service Act, the requirement under subparagraph (L)(ii) of such section; and

(2) in the case of a hospital described in subsection (a) that otherwise meets the requirements under subparagraph (O) of such section 340B(a)(4), the requirement with respect to the disproportionate share adjustment percentage described in such subparagraph (O).

(d) Definitions.—In this section:

(1) Applicable Calendar Quarter.—The term “applicable calendar quarter” means a cal-
endar quarter for which eligibility for the drug dis-
count program under section 340B of the Public
Health Service Act (42 U.S.C. 256b) is based on a
cost reporting period for which the COVID–19 pub-
lic health emergency is in effect for all or part of
such cost reporting period.

(2) COVERED ENTITY.—The term “covered en-
tity” has the meaning given such term in section
340B(a)(4) of the Public Health Service Act (42
U.S.C. 256b(a)(4)).

(3) COVID–19 PUBLIC HEALTH EMERGENCY.—
The term “COVID–19 public health emergency”
means the public health emergency declared by the
Secretary of Health and Human Services under sec-
tion 319 of the Public Health Service Act (42
U.S.C. 247d) on January 31, 2020, with respect to
COVID–19.