

119TH CONGRESS
1ST SESSION

S. _____

To amend title XVIII of the Social Security Act to apply prescription drug inflation rebates to drugs furnished in the commercial market and to change the base year for rebate calculations.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend title XVIII of the Social Security Act to apply prescription drug inflation rebates to drugs furnished in the commercial market and to change the base year for rebate calculations.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “_____ Act of
5 _____”.

1 **SEC. 2. APPLICATION OF PRESCRIPTION DRUG INFLATION**
2 **REBATES TO DRUGS FURNISHED IN THE**
3 **COMMERCIAL MARKET.**

4 (a) PART B DRUGS.—

5 (1) APPLICATION OF PRESCRIPTION DRUG IN-
6 FLATION REBATES TO DRUGS FURNISHED IN THE
7 COMMERCIAL MARKET.—Section 1847A(i) of the So-
8 cial Security Act (42 U.S.C. 1395w–3a(i)) is amend-
9 ed—

10 (A) in paragraph (1)(A)(i), by striking
11 “units” and inserting “billing units”;

12 (B) in paragraph (2)(A), by striking “for
13 which payment is made under this part” and
14 inserting “that would be payable under this
15 part if such drug were furnished to an indi-
16 vidual enrolled under this part”;

17 (C) in paragraph (3)—

18 (i) in subparagraph (A)(i), by striking
19 “units” and inserting “billing units”; and

20 (ii) by striking subparagraph (B) and
21 inserting the following:

22 “(B) TOTAL NUMBER OF BILLING
23 UNITS.—For purposes of subparagraph (A)(i),
24 the total number of billing units with respect to
25 a part B rebatable drug is determined as fol-
26 lows:

1 “(i) Determine the total number of
2 units equal to—

3 “(I) the total number of units, as
4 reported under subsection (c)(1)(B)
5 for each National Drug Code of such
6 drug during the calendar quarter that
7 is two calendar quarters prior to the
8 calendar quarter as described in sub-
9 paragraph (A), minus

10 “(II) the total number of units
11 with respect to each National Drug
12 Code of such drug for which payment
13 was made under a State plan under
14 title XIX (or waiver of such plan), as
15 reported by States under section
16 1927(b)(2)(A) for the rebate period
17 that is the same calendar quarter as
18 described in subclause (I).

19 “(ii) Convert the units determined
20 under clause (i) to billing units for the bill-
21 ing and payment code of such drug, using
22 a methodology similar to the methodology
23 used under this section, by dividing the
24 units determined under clause (i) for each
25 National Drug Code of such drug by the

1 billing unit for the billing and payment
2 code of such drug.

3 “(iii) Compute the sum of the billing
4 units for each National Drug Code of such
5 drug in clause (ii).”.

6 (2) CHANGE OF BASE YEAR FOR REBATE CAL-
7 CULATION.—Section 1847A(i) of the Social Security
8 Act (42 U.S.C. 1395w–3a(i)) is amended—

9 (A) in paragraph (3)—

10 (i) in subparagraph (D), by striking
11 “July 1, 2021” and inserting “July 1,
12 2016”; and

13 (ii) in subparagraph (E), by striking
14 “January 2021” and inserting “January
15 2016”; and

16 (B) in paragraph (4)—

17 (i) in subparagraph (A)—

18 (I) by striking “December 1,
19 2020” and inserting “December 31,
20 2015”; and

21 (II) by striking “January 2021”
22 and inserting “January 2016”;

23 (ii) in subparagraph (B), by striking
24 “December 1, 2020” and inserting “De-
25 cember 31, 2015”; and

1 (iii) in subparagraph (C), by striking
2 “January 2021” and inserting “January
3 2016”.

4 (3) EFFECTIVE DATE.—The amendments made
5 by this subsection shall apply with respect to cal-
6 endar quarters beginning on or after January 1,
7 2026.

8 (b) COVERED PART D DRUGS.—

9 (1) APPLICATION OF PRESCRIPTION DRUG IN-
10 FLATION REBATES TO DRUGS FURNISHED IN THE
11 COMMERCIAL MARKET.—Section 1860D–14B of the
12 Social Security Act (42 U.S.C. 1395w–114b) is
13 amended—

14 (A) in subsection (b)—

15 (i) in paragraph (1)—

16 (I) in subparagraph (A)(i), by
17 striking “the total number of units”
18 and all that follows through the semi-
19 colon and inserting the following: “the
20 total number of units that are used to
21 calculate the average manufacturer
22 price of such dosage form and
23 strength with respect to such part D
24 rebatable drug, as reported by the
25 manufacturer of such drug under sec-

1 tion 1927 for each month, with re-
2 spect to such period;” and

3 (II) by striking subparagraph (B)
4 and inserting the following:

5 “(B) EXCLUDED UNITS.—For purposes of
6 subparagraph (A)(i), the Secretary shall exclude
7 from the total number of units for a dosage
8 form and strength with respect to a part D
9 rebtable drug, with respect to an applicable pe-
10 riod, the following:

11 “(i) Units of each dosage form and
12 strength of such part D rebtable drug for
13 which payment was made under a State
14 plan under title XIX (or waiver of such
15 plan), as reported by States under section
16 1927(b)(2)(A).

17 “(ii) Units of each dosage form and
18 strength of such part D rebtable drug for
19 which a rebate is paid under section
20 1847A(i).

21 “(iii) Beginning with plan year 2026,
22 units of each dosage form and strength of
23 such part D rebtable drug for which the
24 manufacturer provides a discount under

1 the program under section 340B of the
2 Public Health Service Act.”; and

3 (ii) in paragraph (6), by striking “IN-
4 FORMATION.—The Secretary” and all that
5 follows through “rebtable covered part D
6 drug dispensed” and inserting the fol-
7 lowing: “AMP REPORTS.—The Secretary
8 shall provide for a method and process
9 under which, in the case of a manufacturer
10 of a part D rebatable drug that submits
11 revisions to information submitted under
12 section 1927 by the manufacturer with re-
13 spect to such drug”; and

14 (B) by striking subsection (d) and insert-
15 ing the following:

16 “(d) INFORMATION.—For purposes of carrying out
17 this section, the Secretary shall use information submitted
18 by manufacturers under section 1927(b)(3) and informa-
19 tion submitted by States under section 1927(b)(2)(A).”.

20 (2) CHANGE OF BASE YEAR FOR REBATE CAL-
21 CULATION.—Section 1860D–14B of the Social Secu-
22 rity Act (42 U.S.C. 1395w–114b) is amended—

23 (A) in subsection (b)(5)—

24 (i) in subparagraph (A)—

1 (I) by striking “October 1, 2021”
2 and inserting “October 1, 2016”; and

3 (II) by striking “January 2021”
4 and inserting “January 2016”; and

5 (ii) in subparagraph (C), by striking
6 “January 2021” and inserting “January
7 2016”; and

8 (B) in subsection (g)—

9 (i) in paragraph (3)—

10 (I) by striking “January 1,
11 2021” and inserting “January 1,
12 2016”; and

13 (II) by striking “October 1,
14 2021” and inserting “October 1,
15 2016”; and

16 (ii) in paragraph (4), by striking
17 “January 2021” and inserting “January
18 2016”.

19 (3) EFFECTIVE DATE.—The amendments made
20 by this subsection shall take apply with respect to
21 applicable periods (as defined in section 1860D–
22 14B(g)(7) of the Social Security Act (42 U.S.C.
23 1395w–114b(g)(7))) beginning on or after October
24 1, 2025.