

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.

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IN THE SENATE OF THE UNITED STATES

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

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**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 “rebatable 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.