

114TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend title XIX of the Social Security Act to require the payment of an additional rebate to the State Medicaid plan in the case of increase in the price of a generic drug at a rate that is greater than the rate of inflation.

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IN THE SENATE OF THE UNITED STATES

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

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**A BILL**

To amend title XIX of the Social Security Act to require the payment of an additional rebate to the State Medicaid plan in the case of increase in the price of a generic drug at a rate that is greater than the rate of inflation.

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 “Medicaid Generic Drug  
5 Price Fairness Act of 2015”.

1 **SEC. 2. APPLYING THE MEDICAID ADDITIONAL REBATE RE-**  
2 **QUIREMENT TO GENERIC DRUGS.**

3 (a) IN GENERAL.—Section 1927(c)(3) of the Social  
4 Security Act (42 U.S.C. 1396r–8(e)(3)) is amended—

5 (1) in subparagraph (A), by striking “The  
6 amount” and inserting “Except as provided in sub-  
7 paragraph (C), the amount”; and

8 (2) by adding at the end the following new sub-  
9 paragraph:

10 “(C) ADDITIONAL REBATE.—

11 “(i) IN GENERAL.—The amount of  
12 the rebate specified in this paragraph for  
13 a rebate period, with respect to each dos-  
14 age form and strength of a covered out-  
15 patient drug other than a single source  
16 drug or an innovator multiple source drug,  
17 shall be increased in the manner that the  
18 rebate for a dosage form and strength of  
19 a single source drug or an innovator mul-  
20 tiple source drug is increased under sub-  
21 paragraphs (A) and (D) of paragraph (2),  
22 except as provided in clause (ii).

23 “(ii) SPECIAL RULES FOR APPLICA-  
24 TION OF PROVISION.—In applying sub-  
25 paragraphs (A) and (D) of paragraph (2)  
26 under clause (i)—

1                   “(I) the reference in subpara-  
2 graph (A)(i) of such paragraph to  
3 ‘1990’ shall be deemed a reference to  
4 ‘2014’;

5                   “(II) subject to clause (iii), the  
6 reference in subparagraph (A)(ii) of  
7 such paragraph to ‘calendar quarter  
8 beginning July 1, 1990’ shall be  
9 deemed a reference to the ‘calendar  
10 quarter in which the average manu-  
11 facturer price for the drug is the low-  
12 est during the 12-calendar quarter pe-  
13 riod ending on September 30, 2014’;  
14 and

15                   “(III) subject to clause (iii), the  
16 reference in subparagraph (A)(ii) of  
17 such paragraph to ‘September 1990’  
18 shall be deemed a reference to ‘the  
19 last month of such calendar quarter’;

20                   “(IV) the references in subpara-  
21 graph (D) of such paragraph to ‘para-  
22 graph (1)(A)(ii)’, ‘this paragraph’,  
23 and ‘December 31, 2009’ shall be  
24 deemed references to ‘subparagraph

1 (A)', 'this subparagraph', and 'De-  
2 cember 31, 2014', respectively; and

3 “(V) any reference in such para-  
4 graph to a ‘single source drug or an  
5 innovator multiple source drug’ shall  
6 be deemed to be a reference to a drug  
7 to which clause (i) applies.

8 “(iii) SPECIAL RULE FOR CERTAIN  
9 NONINNOVATOR MULTIPLE SOURCE  
10 DRUGS.—In applying paragraph  
11 (2)(A)(ii)(II) under clause (i) with respect  
12 to a covered outpatient drug that is first  
13 sold as a drug other than a single source  
14 drug or an innovator multiple source drug  
15 after the date that is 3 years before the  
16 date of the enactment of this subpara-  
17 graph, such paragraph shall be applied—

18 “(I) by substituting ‘the applica-  
19 ble quarter’ for ‘the calendar quarter  
20 beginning July 1, 1990’; and

21 “(II) by substituting ‘the last  
22 month in such applicable quarter’ for  
23 ‘September 1990’.

24 “(iv) APPLICABLE QUARTER DE-  
25 FINED.—In this subsection, the term ‘ap-

1 plicable quarter' means, with respect to a  
2 drug described in clause (iii), the fifth full  
3 calendar quarter in which the drug is sold  
4 as a drug other than a single source drug  
5 or an innovator multiple source drug.”.

6 (b) EFFECTIVE DATE.—The amendments made by  
7 subsection (a) shall apply to rebate periods beginning after  
8 December 31, 2014.