

118TH CONGRESS  
1ST SESSION

# S. 1589

To provide for transparency of funds appropriated for purposes of implementing part E of title XI of the Social Security Act.

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IN THE SENATE OF THE UNITED STATES

MAY 11, 2023

Mr. TILLIS (for himself, Mr. McCONNELL, Mr. CRAPO, Mr. DAINES, and Mrs. BLACKBURN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To provide for transparency of funds appropriated for purposes of implementing part E of title XI of the Social Security Act.

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 “Safeguarding Patients  
5 and Taxpayers Act”.

1 **SEC. 2. OVERSIGHT OF USE OF IMPLEMENTATION FUNDING**  
2 **FOR DRUG PRICE NEGOTIATION PROGRAM.**

3 Part E of title XI of the Social Security Act (42  
4 U.S.C. 1320f) is amended by adding at the end the fol-  
5 lowing new section:

6 **“SEC. 1199. REPORTS ON USE OF IMPLEMENTATION FUND-**  
7 **ING.**

8 “(a) REPORTS.—

9 “(1) IN GENERAL.—Not later than 180 days  
10 after the date of enactment of this section and not  
11 less frequently than annually thereafter for as long  
12 as funding is available under section 11004 of Pub-  
13 lic Law 117–169, the Secretary shall submit to the  
14 Committees on Energy and Commerce, Ways and  
15 Means, and Appropriations of the House of Rep-  
16 resentatives and the Committees on Finance and  
17 Appropriations of the Senate a comprehensive report  
18 on the amounts expended, the use of such funds,  
19 and the projected and actual unused funds, from  
20 amounts appropriated under such section 11004  
21 during the preceding year. Each report under this  
22 subsection shall include—

23 “(A) any relevant information with respect  
24 to contracting relationships and entities, includ-  
25 ing associated contracts, criteria for selection of  
26 contracts, and procedures for monitoring the

1 use of funds and compliance with program re-  
2 quirements by contractors and subcontractors;

3 “(B) a description of efforts the Secretary  
4 has undertaken to prevent fraud, waste, and  
5 abuse related to accessing maximum fair prices,  
6 including any violations involving entities or in-  
7 dividuals not eligible to have access to the max-  
8 imum fair price for a selected drug, violations  
9 related to dispensing or administering a se-  
10 lected drug to an individual who is not a max-  
11 imum fair price eligible individual, and viola-  
12 tions of duplicate discounts such as the non-  
13 duplication provisions under section 1193(d);

14 “(C) the identification of any entity the  
15 Secretary is contracting with to implement the  
16 program, the extent to which contractors con-  
17 duct health technology assessments, the types  
18 of clinical and economic outcomes and stand-  
19 ards used in such assessments, and the use of  
20 such assessments by the Secretary;

21 “(D) a description of the average amount  
22 of funds, full-time equivalent employees, and  
23 contractor staffing and support expended under  
24 the program for negotiation of the final max-  
25 imum fair price established for a selected drug,

1 including a breakdown of expenditures dedi-  
2 cated to employees as well as to contractors,  
3 and how those expenditures are apportioned  
4 across various activities;

5 “(E) the amount expended on development  
6 and maintenance of a data confidentiality policy  
7 for proprietary data as required under section  
8 1193(c);

9 “(F) the amount expended on conducting  
10 research and analysis or evaluating data and re-  
11 search from external sources, including external  
12 stakeholders;

13 “(G) the amount expended to establish and  
14 maintain safeguards to prevent fraud, waste,  
15 and abuse in the program as described in para-  
16 graph (B); and

17 “(H) the amount of staff time and funds  
18 expended under the program on resolving dis-  
19 putes with manufacturers or other stakeholders  
20 over the accuracy of data used by the Secretary  
21 and how such data is interpreted by the Sec-  
22 retary.

23 “(2) LIMITATION.—The Secretary shall ensure  
24 that reports under paragraph (1) do not disclose  
25 trade secrets or other proprietary information.

1       “(b) LIMITATION ON USE OF FUNDING.—Except as  
2 otherwise provided in this part, none of the funds provided  
3 under section 11004 of Public Law 117–169 shall be  
4 available for obligation or expenditure through a re-  
5 programming or transfer of funds that—

6               “(1) creates a new program;

7               “(2) eliminates a program, project, or activity;

8               “(3) increases funds or personnel for any pro-  
9 gram, project, or activity for which funds have been  
10 denied or restricted by the Congress;

11              “(4) proposes to use funds directed for a spe-  
12 cific activity by this part for a different purpose;

13              “(5) creates or reorganizes offices, programs, or  
14 activities not otherwise authorized under such sec-  
15 tion 11004; or

16              “(6) tests a model under section 1115A.

17       “(c) USE OF EXISTING FUNDING FOR REPORTS.—

18 The Secretary shall use funds appropriated under section  
19 11004 of Public Law 117–169 to carry out subsection  
20 (a).”.

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