

111TH CONGRESS
2D SESSION

S. 3957

To establish a medical education trust fund, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 17, 2010

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

A BILL

To establish a medical education trust fund, and for other
purposes.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Graduate Medical Education Reform Act of 2010”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Medicare indirect medical education performance adjustment and pri-
mary care training bonus.

Sec. 3. Payments for graduate medical education to hospitals not otherwise eli-
gible for payments under the Medicare program.

Sec. 4. Increasing graduate medical education transparency.

Sec. 5. Establishment of trust fund.

Sec. 6. Partial financing for trust fund from fees on insured and self-insured health plans.

1 SEC. 2. MEDICARE INDIRECT MEDICAL EDUCATION PER-
2 FORMANCE ADJUSTMENT AND PRIMARY
3 CARE TRAINING BONUS.

4 Section 1886(d)(5)(B) of the Social Security Act (42
 5 U.S.C. 1395ww(d)(1)(B)) is amended—

6 (1) by redesignating the clause (x) as added by
 7 section 5505(b) of the Patient Protection and Af-
 8 fordable Care Act as clause (xi); and

9 (2) by adding at the end the following new
 10 clauses:

11 “(xii) ADJUSTMENT FOR PERFORMANCE.—

12 “(I) IN GENERAL.—The Secretary shall es-
 13 tablish and implement procedures under which
 14 the amount of payments that a hospital would
 15 otherwise receive for indirect medical education
 16 costs under this subparagraph for discharges
 17 occurring during an applicable period is ad-
 18 justed based on the performance of the hospital
 19 on measures of health care work force priorities
 20 specified by the Secretary.

21 “(II) MEASURES.—The measures of health
 22 care workforce priorities specified by the Sec-
 23 retary under this clause shall include the extent
 24 of training provided in—

1 “(aa) primary care (as defined in sub-
2 clause (VII)), excluding fellowships;

3 “(bb) a variety of settings and sys-
4 tems;

5 “(cc) the coordination of patient care
6 across settings;

7 “(dd) the relevant cost and value of
8 various diagnostic and treatment options;

9 “(ee) interprofessional and multidisci-
10 plinary care teams;

11 “(ff) methods for identifying system
12 errors and implementing system solutions;
13 and

14 “(gg) the use of health information
15 technology.

16 “(III) MEASURE DEVELOPMENT PROCE-
17 DURES.—

18 “(aa) IN GENERAL.—The measures of
19 health care workforce priorities specified
20 by the Secretary under this clause shall be
21 measures that have been adopted or en-
22 dored by a consensus organization (such
23 as the Accreditation Council for Graduate
24 Medical Education or the Commission on
25 Osteopathic College Accreditation), that in-

1 clude measures that have been submitted
2 by teaching hospitals and medical schools,
3 and that the Secretary identifies as having
4 used a consensus-based process for devel-
5 oping such measures.

6 “(bb) PROPOSED SET OF MEAS-
7 URES.—Not later than January 1, 2013,
8 the Secretary shall publish in the Federal
9 Register a proposed set of measures for
10 use under this clause. The Secretary shall
11 provide for a period of public comment on
12 such measures.

13 “(cc) FINAL SET OF MEASURES.—Not
14 later than June 30, 2013, the Secretary
15 shall publish in the Federal Register the
16 set of measures to be specified by the Sec-
17 retary for use under this clause.

18 “(IV) ADJUSTMENT.—Subject to subclause
19 (V), the Secretary shall determine the amount
20 of any adjustment under this clause to pay-
21 ments to a hospital under this subparagraph in
22 an applicable period. Such adjustment may not
23 exceed an amount equal to 3 percent of the
24 total amount that the hospital would otherwise
25 receive under this subparagraph in such period.

“(V) BUDGET NEUTRAL.—In making adjustments under this clause, the Secretary shall ensure that the total amount of payments made to all hospitals under this subparagraph for an applicable period is equal to the total amount of payments that would have been made to such hospitals under this subparagraph in such period if this clause and clause (xii)(III) had not been enacted.

“(VI) PRIMARY CARE DEFINED.—In this clause, the term ‘primary care’ means family medicine, general internal medicine, general pediatrics, preventive medicine, obstetrics and gynecology, and psychiatry.

“(VII) APPLICABLE PERIOD DEFINED.—In this clause, the term ‘applicable period’ means the 12-month period beginning on July 1 of each year (beginning with 2013).

“(xiii) BONUS PAYMENT FOR TRAINING IN PRIMARY CARE.—

“(I) IN GENERAL.—Subject to subclause (III), in the case of discharges occurring during an applicable period, in addition to the amount of payments that a hospital receives for indirect medical education costs under this subpara-

graph for such discharges (determined after any adjustment under clause (xii)), there shall also be paid to the hospital an amount equal to 1 percent of such payments if, during such applicable period, at least 33 percent of full-time equivalent residents (excluding fellowships) enrolled in the hospital's medical residency training programs were enrolled in medical residency training programs in primary care (as defined in clause (xii)(VI)).

“(II) PAYMENTS FROM MEDICAL EDUCATION TRUST FUND.—Payments to hospitals under subclause (I) shall be made from the Medical Education Trust Fund under section 9512 of the Internal Revenue Code of 1986.

“(III) LIMITATION.—The total of the payments made to eligible hospitals under subclause (I) with respect to an applicable period shall not exceed an amount equal to the funds appropriated to such Trust Fund under subsection (b)(1) of such section 9512 for the fiscal year ending on September 30 of such applicable period.”.

1 **SEC. 3. PAYMENTS FOR GRADUATE MEDICAL EDUCATION**
 2 **TO HOSPITALS NOT OTHERWISE ELIGIBLE**
 3 **FOR PAYMENTS UNDER THE MEDICARE PRO-**
 4 **GRAM.**

5 Title XVIII of the Social Security Act (42 U.S.C.
 6 1395 et seq.) is amended by adding at the end the fol-
 7 lowing new section:

8 “GRADUATE MEDICAL EDUCATION PAYMENTS FOR
 9 HOSPITALS NOT OTHERWISE ELIGIBLE

10 “SEC. 1899B. (a) PROGRAM.—

11 “(1) IN GENERAL.—The Secretary shall estab-
 12 lish a program under which payments are made to
 13 eligible hospitals for each applicable period for direct
 14 expenses and indirect expenses associated with oper-
 15 ating approved graduate medical residency training
 16 programs.

17 “(2) REQUIREMENTS.—Under the program
 18 under paragraph (1), the provisions of section 340E
 19 of the Public Health Service Act shall apply to pay-
 20 ments to eligible hospitals in a similar manner as
 21 such provisions apply to payments to children’s hos-
 22 pitals under such section 340E, except that—

23 “(A) payments to eligible hospitals under
 24 the program shall be made from the Medical
 25 Education Trust Fund under section 9512 of
 26 the Internal Revenue Code of 1986; and

1 “(B) the total of the payments made to eli-
 2 gible hospitals under the program in an applica-
 3 ble period shall not exceed an amount equal
 4 to—

5 “(i) the funds appropriated to such
 6 Trust Fund under subsection (b)(1) of
 7 such section 9512 for the fiscal year end-
 8 ing on September 30 of such applicable pe-
 9 riod; minus

10 “(ii) the total amount of payments
 11 made to hospitals under section
 12 1886(d)(5)(B)(xiii) in applicable period.

13 “(b) ELIGIBLE HOSPITAL DEFINED.—In this sec-
 14 tion, the term ‘eligible hospital’ means the following hos-
 15 pitals:

16 “(1) A children’s hospital (as defined in section
 17 340E(g)(2) of the Public Health Service Act).

18 “(2) A freestanding psychiatric hospital that
 19 has—

20 “(A) 90 percent or more inpatients under
 21 the age of 18;

22 “(B) its own Medicare provider number as
 23 of December 6, 1999; and

24 “(C) an accredited residency program.

25 “(3) A hospital—

1 “(A) that annually has at least 3,000
2 births;

3 “(B) for which less than 4 percent of the
4 total annual discharges from the hospital are
5 Medicare discharges of individuals who, as of
6 the time of the discharge—

7 “(i) were entitled to, or enrolled for,
8 benefits under part A; and

9 “(ii) were not enrolled in—

10 “(I) a Medicare Advantage plan
11 under part C;

12 “(II) an eligible organization
13 under section 1876; or

14 “(III) a PACE program under
15 section 1894;

16 “(C) that has its own Medicare provider
17 number; and

18 “(D) that has an accredited residency pro-
19 gram.

20 “(c) APPLICABLE PERIOD DEFINED.—In this sec-
21 tion, the term ‘applicable period’ has the meaning given
22 that term in section 1886(d)(5)(B)(xii)(VII).

23 “(d) REGULATIONS.—The Secretary shall promul-
24 gate regulations to carry out this section.”.

1 **SEC. 4. INCREASING GRADUATE MEDICAL EDUCATION**
2 **TRANSPARENCY.**

3 (a) IN GENERAL.—Not later than 2 years after the
4 date of the enactment of this Act, and annually thereafter,
5 the Secretary of Health and Human Services shall submit
6 to Congress and the National Health Care Workforce
7 Commission under section 5101 of the Patient Protection
8 and Affordable Care Act a report on the graduate medical
9 education payments that hospitals receive under the Medi-
10 care program. The report shall include the following infor-
11 mation with respect to each hospital that receives such
12 payments:

13 (1) The direct graduate medical education pay-
14 ments made to the hospital under section 1886(h) of
15 the Social Security Act (42 U.S.C. 1395ww(h)).

16 (2) The indirect medical education payments
17 made to the hospital under section 1886(d)(5)(B) of
18 such Act (42 U.S.C. 1395ww(d)(1)(B)).

19 (3) The number of residents counted for pur-
20 poses of making the payments described in para-
21 graph (1).

22 (4) The number of residents counted for pur-
23 poses of making the payments described in para-
24 graph (2).

1 (5) The number of residents, if any, that are
2 not counted for purposes of making payments de-
3 scribed in paragraph (1).

4 (6) The number of residents, if any, that are
5 not counted for purposes of making payments de-
6 scribed in paragraph (2).

7 (7) The percent that the payments described in
8 paragraphs (1) and (2) that are made to the hos-
9 pital make up of the total costs that the hospital in-
10 curs in providing graduate medical education, in-
11 cluding salaries, benefits, operational expenses, and
12 all other patient care costs.

13 **SEC. 5. ESTABLISHMENT OF TRUST FUND.**

14 (a) IN GENERAL.—Subchapter A of chapter 98 of the
15 Internal Revenue Code of 1986 (relating to establishment
16 of trust funds) is amended by adding at the end the fol-
17 lowing new section:

18 **“SEC. 9512. MEDICAL EDUCATION TRUST FUND.**

19 “(a) CREATION OF TRUST FUND.—There is estab-
20 lished in the Treasury of the United States a trust fund
21 to be known as the ‘Medical Education Trust Fund’ (here-
22 after in this section referred to as the ‘Trust Fund’), con-
23 sisting of such amounts as may be appropriated or cred-
24 ited to such Trust Fund as provided in this section and
25 section 9602(b).

1 “(b) TRANSFERS TO FUND.—

2 “(1) APPROPRIATIONS.—There are hereby ap-
3 propriated to the Trust Fund in each fiscal year (be-
4 ginning with fiscal year 2013) the sum of an amount
5 equivalent to one-half (or, in the case of fiscal year
6 2013, two-thirds) of the net revenues received in the
7 Treasury from the fees imposed under subchapter B
8 of chapter 34 (relating to fees on health insurance
9 and self-insured plans).

10 “(2) LIMITATION ON TRANSFERS.—No amount
11 may be appropriated or transferred to the Trust
12 Fund on and after the date of any expenditure from
13 the Trust Fund which is not an expenditure per-
14 mitted under this section. The determination of
15 whether an expenditure is so permitted shall be
16 made without regard to—

17 “(A) any provision of law which is not con-
18 tained or referenced in this chapter or in a rev-
19 enue Act; and

20 “(B) whether such provision of law is a
21 subsequently enacted provision or directly or in-
22 directly seeks to waive the application of this
23 paragraph.

24 “(c) TRUSTEE.—The Secretary of Health and
25 Human Services shall be a trustee of the Trust Fund.

1 “(d) EXPENDITURES FROM TRUST FUND.—
 2 Amounts in the Trust Fund are available, without further
 3 appropriation, to the Secretary of Health and Human
 4 Services for making payments under sections
 5 1886(d)(5)(B)(xiii) and 1899B of the Social Security Act.

6 “(e) NET REVENUES.—For purposes of this section,
 7 the term ‘net revenues’ means the amount estimated by
 8 the Secretary of the Treasury based on the excess of—

9 “(1) the fees received in the Treasury under
 10 subchapter B of chapter 34, over

11 “(2) the decrease in the tax imposed by chapter
 12 1 resulting from the fees imposed by such sub-
 13 chapter.”.

14 (b) CLERICAL AMENDMENT.—The table of sections
 15 for subchapter A of chapter 98 of the Internal Revenue
 16 Code of 1986 is amended by adding at the end the fol-
 17 lowing new item:

 “Sec. 9512. Medical Education Trust Fund.”.

18 **SEC. 6. PARTIAL FINANCING FOR TRUST FUND FROM FEES**
 19 **ON INSURED AND SELF-INSURED HEALTH**
 20 **PLANS.**

21 (a) IMPOSITION OF FEE.—Section 4375(a) of the In-
 22 ternal Revenue Code of 1986 is amended—

23 (1) by striking “\$2” and inserting “\$4”; and

24 (2) by striking “\$1” and inserting “\$3”.

1 (b) CONFORMING AMENDMENT TO THE PATIENT-
2 CENTERED OUTCOMES RESEARCH TRUST FUND.—Sec-
3 tion 9511(b)(1)(E) of the Internal Revenue Code of 1986
4 is amended by inserting “one-half (or, in the case of fiscal
5 year 2013, one-third) of” after “equivalent to”.

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