To amend the Internal Revenue Code of 1986 to establish a stewardship fee on the production and importation of opioid pain relievers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 2, 2017

Mr. MANCHIN (for himself, Ms. KLOBUCHAR, Ms. HEITKAMP, Mr. NELSON, Mr. KING, Mr. MURPHY, Ms. BALDWIN, Ms. WARREN, Ms. HASSAN, and Mrs. SHAHEEN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to establish a stewardship fee on the production and importation of opioid pain relievers, 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
4 SECTION 1. SHORT TITLE.
5 This Act may be cited as the “Budgeting for Opioid Addiction Treatment Act”.

SEC. 2. STEWARDSHIP FEE ON OPIOID PAIN RELIEVERS.

(a) IN GENERAL.—Subchapter E of chapter 32 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 4192. OPIOID PAIN RELIEVERS.

“(a) IN GENERAL.—There is hereby imposed on the sale of any active opioid by the manufacturer, producer, or importer a fee equal to 1 cent per milligram so sold.

“(b) ACTIVE OPIOID.—For purposes of this section—

“(1) IN GENERAL.—The term ‘active opioid’ means any controlled substance (as defined in section 102 of the Controlled Substances Act, as in effect on the date of the enactment of this section) which is opium, an opiate, or any derivative thereof.

“(2) EXCLUSION FOR CERTAIN PRESCRIPTION MEDICATIONS.—Such term shall not include any prescribed drug which is used exclusively for the treatment of opioid addiction as part of a medically assisted treatment effort.

“(3) EXCLUSION OF OTHER INGREDIENTS.—In the case of a product that includes an active opioid and another ingredient, subsection (a) shall apply only to the portion of such product that is an active opioid.”.

(b) CLERICAL AMENDMENTS.—
(1) The heading of subchapter E of chapter 32 of the Internal Revenue Code of 1986 is amended by striking “Medical Devices” and inserting “Other Medical Products”.

(2) The table of subchapters for chapter 32 of such Code is amended by striking the item relating to subchapter E and inserting the following new item:

“SUBCHAPTER E. OTHER MEDICAL PRODUCTS”.

(3) The table of sections for subchapter E of chapter 32 of such Code is amended by adding at the end the following new item:

“Sec. 4192. Opioid pain relievers.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales on or after the date that is 1 year after the date of the enactment of this Act.

(d) REBATE OR DISCOUNT PROGRAM FOR CERTAIN CANCER AND HOSPICE PATIENTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with patient advocacy groups and other relevant stakeholders as determined by such Secretary, shall establish a mechanism by which—

(A) any amount paid by an eligible patient in connection with the stewardship fee under section 4192 of the Internal Revenue Code of
1986 (as added by this section) shall be rebated to such patient in as timely a manner as possible, or

(B) amounts paid by an eligible patient for active opioids (as defined in section 4192(b) of such Code) are discounted at time of payment or purchase to ensure that such patient does not pay any amount attributable to such fee, with as little burden on the patient as possible. The Secretary shall choose whichever of the options described in subparagraph (A) or (B) is, in the Secretary’s determination, most effective and efficient in ensuring eligible patients face no economic burden from such fee.

(2) ELIGIBLE PATIENT.—For purposes of this section, the term “eligible patient” means—

(A) a patient for whom any active opioid (as so defined) is prescribed to treat pain relating to cancer or cancer treatment;

(B) a patient participating in hospice care; and

(C) in the case of the death or incapacity of a patient described in subparagraph (A) or (B) or any similar situation as determined by the Secretary of Health and Human Services,
the appropriate family member, medical proxy, or similar representative or the estate of such patient.

SEC. 3. BLOCK GRANTS FOR PREVENTION AND TREATMENT OF SUBSTANCE ABUSE.

(a) Grants to States.—Section 1921(b) of the Public Health Service Act (42 U.S.C. 300x–21(b)) is amended by inserting “, and, as applicable, for carrying out section 1923A” before the period.

(b) Nonapplicability of Prevention Program Provision.—Section 1922(a)(1) of the Public Health Service Act (42 U.S.C. 300x–22(a)(1)) is amended by inserting “except with respect to amounts made available as described in section 1923A,” before “will expend”.

(c) Opioid Treatment Programs.—Subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.) is amended by inserting after section 1923 the following:

“SEC. 1923A. ADDITIONAL SUBSTANCE ABUSE TREATMENT PROGRAMS.

“A funding agreement for a grant under section 1921 is that the State involved shall provide that any amounts made available by any increase in revenues to the Treasury in the previous fiscal year resulting from the enactment of section 4192 of the Internal Revenue Code of
1986, reduced by any amounts rebated or discounted under section 2(d) of the Budgeting for Opioid Addiction Treatment Act (as described in section 1933(a)(1)(B)(i)) be used exclusively for substance abuse (including opioid abuse) treatment efforts in the State, including—

“(1) treatment programs—

“(A) establishing new addiction treatment facilities, residential and outpatient, including covering capital costs;

“(B) establishing sober living facilities;

“(C) recruiting and increasing reimbursement for certified mental health providers providing substance abuse treatment in medically underserved communities or communities with high rates of prescription drug abuse;

“(D) expanding access to long-term, residential treatment programs for opioid addicts (including 30-, 60-, and 90-day programs);

“(E) establishing or operating support programs that offer employment services, housing, and other support services to help recovering addicts transition back into society;

“(F) establishing or operating housing for children whose parents are participating in sub-
stance abuse treatment programs, including
capital costs;

“(G) establishing or operating facilities to
provide care for babies born with neonatal ab-
stinence syndrome, including capital costs; and

“(H) other treatment programs, as the
Secretary determines appropriate; and

“(2) recruitment and training of substance use
disorder professionals to work in rural and medically
underserved communities.”.

(d) ADDITIONAL FUNDING.—Section
1933(a)(1)(B)(i) of the Public Health Service Act (42
U.S.C. 300x–33(a)(1)(B)(i)) is amended by inserting “,
plus any increase in revenues to the Treasury in the pre-
vious fiscal year resulting from the enactment of section
4192 of the Internal Revenue Code of 1986, reduced by
any amounts rebated or discounted under section 2(d) of
the Budgeting for Opioid Addiction Treatment Act” be-
fore the period.

SEC. 4. REPORT.

Not later than 2 years after the date described in sec-
tion 2(c), the Secretary of Health and Human Services
shall submit to Congress a report on the impact of the
amendments made by sections 2 and 3 on—
(1) the retail cost of active opioids (as defined in section 4192 of the Internal Revenue Code of 1986, as added by section 2);

(2) patient access to such opioids, particularly cancer and hospice patients, including the effect of the discount or rebate on such opioids for cancer and hospice patients under section 2(d);

(3) how the increase in revenue to the Treasury resulting from the enactment of section 4192 of the Internal Revenue Code of 1986 is used to improve substance abuse treatment efforts in accordance with section 1923A of the Public Health Service Act (as added by section 3); and

(4) suggestions for improving—

(A) access to opioids for cancer and hospice patients; and

(B) substance abuse treatment efforts under such section 1923A.