BEGICH) was added as a cosponsor of S. 1547, a bill to amend title 38, United States Code, and the United States Housing Act of 1937 to enhance and expand the assistance provided by the Department of Veterans Affairs and the Department of Housing and Urban Development to homeless veterans and veterans at risk of homelessness, and for other purposes.

S. 1551

At the request of Mr. SPECTER, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1551, a bill to amend section 20 of the Securities Exchange Act of 1934 to allow for a private civil action against a person that provides substantial assistance in violation of such Act.

S. 1552

At the request of Mr. LIEBERMAN, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1552, a bill to reauthorize the DC opportunity scholarship program, and for other purposes.

S. 1567

At the request of Mr. BROWNBACK, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 1567, a bill to provide for the issuance of a Multinational Species Conservation Funds Semipostal Stamp.

S. 1569

At the request of Ms. STABENOW, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1569, a bill to expand our Nation's Advanced Practice Registered Nurse workforce.

S. 1584

At the request of Mr. MERKLEY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1584, a bill to prohibit employment discrimination on the basis of sexual orientation or gender identity.

S. RES. 187

At the request of Mrs. SHAHEEN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. Res. 187, a resolution condemning the use of violence against providers of health care services to women.

S. RES. 210

At the request of Mrs. LINCOLN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 210, a resolution designating the week beginning on November 9, 2009, as National School Psychology Week.

S. RES. 244

At the request of Mr. FEINGOLD, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. Res. 244, a resolution commemorating the 45th anniversary of the Wilderness Act.

AMENDMENT NO. 2301

At the request of Mr. KYL, the names of the Senator from Utah (Mr. BENNETT), the Senator from Kansas (Mr. ROBERTS) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of amendment No. 2301 proposed to H.R. 3435, a bill making supplemental appropriations for fiscal year 2009 for the Consumer Assistance to Recycle and Save Program.

AMENDMENT NO. 2302

At the request of Mr. GREGG, the names of the Senator from Tennessee (Mr. ALEXANDER), the Senator from Tennessee (Mr. CORKER), the Senator from Texas (Mr. CORNYN) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of amendment No. 2302 proposed to H.R. 3435, a bill making supplemental appropriations for fiscal year 2009 for the Consumer Assistance to Recycle and Save Program.

AMENDMENT NO. 2306

At the request of Mr. ISAKSON, the names of the Senator from North Carolina (Mr. BURR), the Senator from Wyoming (Mr. ENZI) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of amendment No. 2306 proposed to H.R. 3435, a bill making supplemental appropriations for fiscal year 2009 for the Consumer Assistance to Recycle and Save Program.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN:

S. 1588. A bill to amend the Internal Revenue Code of 1986 to provide the same tax treatment for both commercial and noncommercial investors in oil and natural gas and related commodities, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, businesses like airlines, trucking companies, and heating oil distributors buy and sell oil and futures contracts because they need to do so to run their day-to-day business and hedge their risk against wild swings in oil prices like consumers saw last year.

But there are also buyers and sellers in the market—financial speculators—who are simply there to try to make a quick dollar on oil as an investment strategy. The explosion of speculators into the marketplace has distorted the oil and gas market and driven up the price of oil for everybody. When commercial businesses see fuel prices go up, they try to consume less. But when speculators see prices go up, they buy more and keep driving up demand. This distorts the normal supply-demand balance of the markets and digs a huge financial hole for average Americans.

In 2000, speculative trading in the oil futures markets accounted for 37 percent of crude oil trading on the New York Mercantile Exchange. By last summer when prices were approaching $150 a barrel, that number had grown to more than 70 percent. I do not think that is a coincidence.

There are a lot of proposals around to fix the regulatory system to prevent trading abuses. Oregon's economy really suffered from abusive energy trading by Enron, and I am all for closing trading loopholes. But my bill is aimed at something different. It is aimed at the giant financial bubble that has been created by people who are simply chasing speculative profits in the commodities markets and creating artificial demand that is driving up prices.

The legislation I am introducing today—Stop Tax-breaks for Oil Profiteering, STOP, Act of 2009—will let some of the air out of this speculative balloon and help create a level playing field among companies participating in the commodity markets.

Under the tax code, commercial traders, those who truly need to buy, sell and hedge their purchases of oil, pay taxes on whatever profits they make on trading at the same rates as ordinary income. Speculators get a much better deal from the TAX CODE. Some, such as pension funds or endowments, do not pay any tax whatsoever when they profit on their oil or futures investments. Others, like hedge or index funds can get lower tax rates by treating some of their trading profits as capital gains. Clearly, the deck is stacked against the businesses who really buy and use oil. That means it is also stacked against the consumer who needs the services and products those businesses provide.

My proposal removes incentives in the tax code that make such investments attractive to both tax-exempt and tax-paying investors. It also makes everyone in the United States who is buying and selling oil and gas or futures contracts play by essentially the same tax rules across the board. Tax-paying entities would lose the ability to treat any of these investments as capital gains and be subject to comparable tax treatment on oil and gas investments as airlines or trucking companies or fuel distributors or other businesses that truly need to be in these markets.

Tax-exempt entities, like pension funds, would be required to pay ''unrelated-business-income-tax'' on their oil and gas trading gains. UBTI already exists as a well-established tax obligation for income that is not directly related to the tax exempt purpose of the organization. UBTI was created precisely to keep tax exempt organizations from competing unfairly with taxpaying businesses, which is what they are doing when they enter the commodity markets solely for investment income purposes. The bill also includes provisions that would prevent tax exempt organizations from investing in off-shore funds to try to avoid the new UBTI tax.

By focusing on tax fairness, my bill would realign the profit incentives that are currently attracting non-commercial actors to the markets. If speculators are truly in the markets and are wrecking havoc with oil and gas prices, this bill will do away with their tax subsidies and cause many to leave. It deflates the speculative balloon of artificially inflated profits that has made this investment arena so attractive.

If speculators are not a problem, then this bill will help prove the theory that the wild swings in oil prices of the past year truly can be blamed on supply and demand.

The bill would only cover the oil and natural gas markets, and related products like gasoline and diesel fuel, and be in effect for the next 4 years. However, after 3 years, it would require the Treasury Department to issue a report analyzing the impact of these changes on these markets, making recommendations on what changes to make.

Other proposals on oil speculation focus on regulation of the market or limiting the amounts of oil traders could purchase. These approaches are ''top down'' efforts to prevent trading abuses and financial investors from swamping the market. This bill approaches the problem from the bottom line up. Willy Sutton, the bank robber was asked why he robbed banks, to which he is said to have replied, ''It's where the money is.'' That is why this bill focuses on the flow of financial investment funds into the oil and gas markets, it's where the speculation is.

In these tough economic times, I believe consumers need protection from people who try to game the system to pad their own pockets. By putting an end to the imbalances in the tax code that currently feed oil profiteers, the STOP Act will be good for American businesses and consumers. I hope my colleagues will join me in protecting our economy and leveling the playing field in the oil and gas markets by voting in favor of the STOP Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1588

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Stop Taxbreaks for Oil Profiteering Act'' or the ''STOP Act''.

SEC. 2. CAPITAL GAIN OR LOSS FROM SALE OR EXCHANGE OF OIL OR NATURAL GAS AND RELATED COMMODITIES TREATED AS SHORT-TERM CAPITAL GAIN OR LOSS.

(a) GAIN OR LOSS ON APPLICABLE COMMODITIES.—

(1) IN GENERAL.—Part IV of subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to special rules for determining capital gains and losses) is amended by adding at the end the following new section:

''SEC. 1261. CAPITAL GAIN OR LOSS FROM SALE OR EXCHANGE OF OIL OR NATURAL GAS AND RELATED COMMODITIES TREATED AS SHORT-TERM CAPITAL GAIN OR LOSS.

''(a) GENERAL RULE.—If a taxpayer has gain or loss from the sale or exchange of any applicable commodity which, without regard to this section, would be treated as long-term capital gain or loss, such gain or loss shall, notwithstanding any other provision of this title, be treated as short-term capital gain or loss.

''(b) APPLICABLE COMMODITY.—For purposes of this section—

''(1) IN GENERAL.—The term 'applicable commodity' means—

''(A) oil or natural gas (or any primary product of oil or natural gas) which is actively traded (within the meaning of section 1092(d)(1)),

''(B) a specified index (within the meaning of section 1221(b)(1)(B)(ii)) a substantial portion of which is, as of the date the taxpayer acquires its position with respect to such specified index, based on 1 or more commodities described in subparagraph (A),

''(C) any notional principal contract with respect to any commodity described in subparagraph (A) or (B), and

''(D) any evidence of an interest in, or a derivative instrument in, any commodity described in subparagraph (A), (B), or (C), including any option, forward contract, futures contract, short position, and any similar instrument in such a commodity.

''(2) EXCEPTION FOR CERTAIN SECTION 1256 CONTRACTS.—Such term shall not include a section 1256 contract (as defined in section 1256(b)) which is required to be marked to market under section 1256(a).

''(c) SPECIAL RULE FOR CERTAIN PARTNERSHIP INTERESTS.—For purposes of this section, if a taxpayer recognizes gain or loss on the sale or exchange of any interest in a partnership, the portion of such gain or loss which is attributable to unrecognized gain or loss with respect to 1 or more applicable commodities shall be treated as short-term capital gain or loss. The preceding sentence shall not apply if the taxpayer is otherwise required to treat such portion of gain or loss as ordinary income or loss.

''(d) APPLICATION.—This section shall apply to any applicable commodity acquired after August 31, 2009, and before January 1, 2014.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1222 of such Code is amended by striking the last sentence thereof.

(B) The table of sections for part IV of subchapter P of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 1261. Capital gain or loss from sale or exchange of oil or natural gas and related commodities treated as short-term capital gain or loss.''.

(b) APPLICATION TO SECTION 1256 CONTRACTS.—

(1) IN GENERAL.—Section 1256(f) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULES FOR CERTAIN COMMODITY CONTRACTS.—

''(A) ALL GAIN OR LOSS FROM COMMODITY CONTRACTS TREATED AS SHORT-TERM GAIN OR LOSS.—In the case of a section 1256 contract which is an applicable commodity, subsection (a)(3) shall be applied to any gain or loss with respect to such contract—

''(i) by substituting '100 percent' for '40 percent' in subparagraph (A) thereof, and

''(ii) without regard to subparagraph (B) thereof.

''(B) TREATMENT OF MIXED STRADDLES.—A taxpayer may not make an election under subsection (d), or an election under the regulations prescribed pursuant to section 1092(b)(2), with respect to any mixed straddle if any position forming a part of such straddle is a section 1256 contract which is an applicable commodity. For purposes of this subparagraph, if any section 1256 contract which is part of a straddle is an applicable commodity, any other section 1256 contract which is part of such straddle shall be treated as an applicable commodity.

''(C) APPLICABLE COMMODITY.—For purposes of this paragraph, the term 'applicable commodity' has the meaning given such term by section 1261(b), except that such section shall be applied without regard to paragraph (2) thereof.

''(D) APPLICATION.—This paragraph shall apply to any applicable commodity acquired after August 31, 2009, and before January 1, 2014.''.

(2) SPECIAL RULE FOR LOSS CARRYBACKS.—Section 1212(c) of such Code (relating to carryback of losses from section 1256 contracts to offset prior gains from such contracts) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) SPECIAL RULE FOR LOSSES ALL OF WHICH ARE TREATED AS SHORT-TERM.—If any portion of the net section 1256 contracts loss for any taxable year is attributable to a net loss from contracts to which section 1256(f)(6) applies—

''(A) this subsection shall be applied first to such portion of such net section 1256 contracts loss and then to the remainder of such loss, and

''(B) in applying this subsection to such portion—

''(i) notwithstanding paragraph (1)(B), all of the loss attributable to such portion and allowed as a carryback shall be treated as a short-term capital loss, and

''(ii) notwithstanding paragraph (6)(A), all of the loss attributable to such portion and allowed as a carryback shall be treated for purposes of applying paragraph (6) as a short-term capital gain for the loss year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to applicable commodities acquired after August 31, 2009, in taxable years ending after such date.

SEC. 3. GAINS AND LOSSES FROM OIL AND NATURAL GAS AND RELATED COMMODITIES TREATED AS UNRELATED BUSINESS TAXABLE INCOME.

(a) IN GENERAL.—Section 512(b) of the Internal Revenue Code of 1986 (relating to modifications to unrelated business taxable income) is amended by adding at the end the following new paragraph:

''(20) TREATMENT OF GAINS OR LOSSES FROM COMMODITIES.—

''(A) IN GENERAL.—Notwithstanding paragraph (5) or any other provision of this part—

''(i) income, gain, or loss of an organization with respect to any applicable commodity shall not be excluded but shall be taken into account as income, gain, or loss from an unrelated trade or business, and

''(ii) all deductions directly connected with such income or gain shall be allowed.

''(B) EXCEPTION FOR ORDINARY INCOME AND LOSSES.—Subparagraph (A) shall not apply to any income, gain, or loss of an organization which, if not excluded under this title and without regard to subparagraph (A), would be treated as ordinary income or loss.

''(C) LOOK-THRU IN THE CASE OF FOREIGN CORPORATIONS.—

''(i) IN GENERAL.—If an organization owns directly or indirectly stock in a foreign corporation, the organization's pro rata share of any income, gain, or loss of such corporation (and any deductions directly connected with such income or gain) with respect to 1 or more applicable commodities shall be taken into account under subparagraph (A) in the same manner as if such commodities were held directly by the organization. Any such item shall be taken into account for the taxable year of the organization in which the item arises without regard to whether there was an actual distribution to the organization with respect to the item. For purposes of this clause, the rule under section 1261(c) shall apply in determining the income, gain,

or loss of the foreign corporation with respect to applicable commodities.

''(ii) SALE OF INTERESTS IN CORPORATION.—If a taxpayer recognizes gain or loss on the sale or exchange of any share of stock in a foreign corporation, the portion of such gain or loss which is attributable to unrecognized gain or loss with respect to 1 or more applicable commodities shall be taken into account under subparagraph (A) in the same manner as if such commodities were sold or exchanged directly by the organization.

''(iii) NO DOUBLE COUNTING.—The Secretary shall prescribe such rules as are necessary to ensure that any item of income, gain, loss, or deduction described in clause (i) or (ii) is taken into account only once for purposes of this paragraph.

''(D) APPLICABLE COMMODITY.—For purposes of this paragraph, the term 'applicable commodity' has the meaning given such term by section 1261(b), except that such section shall be applied without regard to paragraph (2) thereof.

''(E) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this paragraph, including regulations—

''(i) to prevent the avoidance of the purposes of this paragraph through the use of pass-thru entities or tiered structures, and

''(ii) to provide that this paragraph shall not apply to ownership interests of organizations in foreign corporations in cases where the income or gain of the foreign corporation from any applicable commodity is otherwise subject to tax imposed by this chapter.

''(F) APPLICATION.—This paragraph shall apply to any applicable commodity acquired after August 31, 2009, and before January 1, 2014.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applicable commodities acquired after August 31, 2009, in taxable years ending after such date.

SEC. 4. STUDY OF TAX TREATMENT OF COMMODITIES AND SECTION 1256 CONTRACTS.

(a) STUDY.—The Secretary of the Treasury, or the Secretary's delegate, shall conduct a study of the Federal income tax treatment of section 1256 contracts under section 1256 of the Internal Revenue Code of 1986 and of applicable commodities under sections 1261, 1256(f)(6), and 512(b)(20) of such Code. Such study shall include an analysis of—

(1) the average annual number of sales or exchanges of such contracts and commodities, including the number of sales and exchanges involving organizations exempt from Federal income taxation under such Code,

(2) whether the amendments made by this Act have had any effect on the number or type of such sales and exchanges,

(3) the effect of tax policy on the operation of the commodities exchanges and on the demand for, and price of, commodities, particularly with respect to oil and natural gas, and

(4) such other matters with respect to such tax treatment as the Secretary determines appropriate.

(b) REPORT.—The Secretary shall, not later than January 1, 2012, report the results of the study conducted under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, together with such legislative recommendations as the Secretary determines appropriate with respect to the Federal income tax treatment of section 1256 contracts and applicable commodities.

By Ms. CANTWELL (for herself and Mr. GRASSLEY):

S. 1589. A bill to amend the Internal Revenue Code of 1986 to modify the incentives for the production of biodiesel; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I am pleased to join with my colleague, Senator GRASSLEY, and introduce an important piece of legislation that will modernize the tax incentive for domestic biodiesel production. The Biodiesel Tax Incentive Reform and Extension Act of 2009 will provide predictability to investors, to producers, and to researchers so we can move forward and continue to displace imported fossil fuels with low carbon, renewable biodiesel that is produced here in the United States.

Last year, we all saw the devastating effects that $140 per barrel oil had on our economy and our constituents. For economic reasons, national security reasons, and environmental reasons, we cannot allow ourselves to remain dependent on foreign oil. We have to redouble our efforts to deploy alternative fuels that can be produced in the United States and that can help us address the growing crisis of climate change.

Biodiesel is a diesel replacement fuel that is produced from vegetable oils, animal fats and waste oils. It is refined to meet a commercial fuel specification that is readily accepted in the marketplace. Typically biodiesel is blended with conventional diesel fuel, and it is not necessary to modify a vehicle's engine to use the fuel.

There are compelling public policy benefits associated with the production and use of biodiesel. It is an extremely efficient fuel that can be produced domestically so we do not have to rely on imported fuel. Biodiesel creates 3.2 units of energy for every unit of fuel that is required to produce the fuel and the 690 million gallons of biodiesel produced in the U.S. in 2008 displaced 38.1 million barrels of petroleum.

Replacing fossil fuel use with biodiesel also can play a constructive role in addressing the issue of climate change. When compared to conventional diesel fuel, pure biodiesel reduces direct carbon lifecycle emissions by 78 percent, which in 2008 was the equivalent of removing 980,000 passenger vehicles from the road.

Congress first enacted a tax incentive for biodiesel in 2004 and since that time, this tax credit has helped encourage the production and use of this alternative fuel. U.S. production of biodiesel increased from 25 million gallons in 2004 to 690 million gallons last year, and the industry has built the commercial scale production capacity. There currently are 176 plants in operation with the capacity to produce more than 2.61 billion gallons of biodiesel.

The 39 new plants that are either under construction or being expanded would add nearly 849.9 million gallons of production capacity. We have to be sure these plans for expansion go forward. Unfortunately, limited access to capital, uncertainty surrounding the Federal commitment to biodiesel, and the current state of the economy threaten to undermine the progress the U.S. biodiesel industry has made to build the production capacity and infrastructure needed to aggressively displace petroleum diesel fuel with renewable, low-carbon biodiesel. Right now, less than one-third of the industry's facilities are currently producing fuel.

The 51,893 jobs that are currently supported by the U.S. biodiesel industry show there is real job growth potential in this industry. Much of that job growth and economic activity will happen in our rural communities who continue to be hard hit right now.

The current law tax credit will expire at the end of this year and Congress must act or we will threaten the future of this promising domestic industry. The National Biodiesel Board estimates that if Congress does not provide some predictability to the industry, U.S. production will likely fall from 690 million gallons in 2008 to 300–350 million gallons in 2009. This could cost the U.S. economy more than 29,000 jobs. These are not jobs we can afford to lose.

In addition to the looming expiration, the current structure of the tax credit has administrative problems and is subject to abuse that makes it difficult to ensure that that only qualified fuel benefits from the incentive. We owe it to taxpayers to make sure that we are getting the results we want from the tax incentives we enact so in addition to extending the tax credit we need to make the structural changes that Sen. GRASSLEY and I are proposing today.

The centerpiece of the bill is changing the incentive from a blender credit to a production tax credit so that we focus the benefits of the incentive on building the domestic production industry. Under current law, the credit was targeted at the blending of biodiesel with petroleum diesel. While this was helpful in getting us to the point we are now, it is time we move even farther in the direction of promoting the production of petroleum fuel alternatives.

In addition, the legislation we are introducing today will simplify administration of the incentive for both taxpayers and the Internal Revenue Service, IRS, and will eliminate any remaining opportunity for abuse of the tax credit through schemes like ''splash and dash'' in which oil companies add a few drops of biodiesel to their petroleum diesel just to qualify for the tax credits.

Under our bill, the $1 per gallon tax credit will be provided for the production of biodiesel, renewable diesel and aviation jet fuel that complies with established fuel standards and Clean Air Act requirements.

For small producers, those with an annual production capacity of less than 60 million gallons, we increase the $1 to $1.10 for the first 15 million gallons of biodiesel produced.

We simplify the definition of biodiesel so that we encourage production

from any biomass-based feedstock or recycled oils and fats. Hopefully this will unleash even more research and commercialization of alternative fuel sources.

The bill also simplifies the coordination between the income tax credit and the excise tax liability to, again, tighten up compliance and reduce administrative burdens on taxpayers. Most importantly, our bill would extend this tax credit for 5 years, giving needed financial predictability to the industry.

I thank Senator GRASSLEY for joining with me on this bill and look forward to working with our colleagues on the Finance Committee to adopt this worthwhile, commonsense proposal that is consistent with sound energy and sound tax policy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1589

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Biodiesel Tax Incentive Reform and Extension Act of 2009''.

SEC. 2. REFORM OF BIODIESEL INCOME TAX INCENTIVES.

(a) IN GENERAL.—Section 40A of the Internal Revenue Code of 1986 is amended to read as follows:

''SEC. 40A. BIODIESEL PRODUCTION.

''(a) IN GENERAL.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is $1.00 for each gallon of biodiesel produced by the taxpayer which during the taxable year—

''(1) is sold by such producer to another person—

''(A) for use by such other person's trade or business (other than casual off-farm production),

''(B) for use by such other person as a fuel in a trade or business, or

''(C) who sells such biodiesel at retail to another person and places such biodiesel in the fuel tank of such other person, or

''(2) is used or sold by such producer for any purpose described in paragraph (1).

''(b) INCREASED CREDIT FOR SMALL PRODUCERS.—

''(1) IN GENERAL.—In the case of any eligible small biodiesel producer, subsection (a) shall be applied by increasing the dollar amount contained therein by 10 cents.

''(2) LIMITATION.—Paragraph (1) shall only apply with respect to the first 15,000,000 gallons of biodiesel produced by any eligible small biodiesel producer during any taxable year.

''(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BIODIESEL.—The term 'biodiesel' means liquid fuel derived from biomass which meets—

''(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(B) the requirements of the American Society of Testing and Materials D6751.

Such term shall not include any liquid with respect to which a credit may be determined under section 40.

''(2) BIODIESEL NOT USED FOR A QUALIFIED PURPOSE.—If—

''(A) any credit was determined with respect to any biodiesel under this section, and

''(B) any person does not use such biodiesel for the purpose described in subsection (a),

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (a) and the number of gallons of such biodiesel.

''(3) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(4) LIMITATION TO BIODIESEL PRODUCED IN THE UNITED STATES.—No credit shall be determined under this section with respect to any biodiesel unless such biodiesel is produced in the United States from raw feedstock. For purposes of this paragraph, the term 'United States' includes any possession of the United States.

''(5) BIODIESEL TRANSFERS FROM AN IRS REGISTERED BIODIESEL PRODUCTION FACILITY TO AN IRS REGISTERED TERMINAL OR REFINERY.—The credit allowed under subsection (a) shall be allowed to the terminal or refinery referred to in section 4081(a)(1)(B)(i) in instances where section 4081(a)(1)(B)(iii) is applicable. The credit allowed under subsection (a) cannot be claimed by a terminal or refinery on fuel upon which the credit was previously claimed by a biodiesel producer.

''(e) DEFINITIONS AND SPECIAL RULES FOR SMALL BIODIESEL PRODUCERS.—

''(1) ELIGIBLE SMALL BIODIESEL PRODUCER.—The term 'eligible small biodiesel producer' means a person who at all times during the taxable year has a productive capacity for biodiesel not in excess of 60,000,000 gallons.

''(2) AGGREGATION RULE.—For purposes of the 15,000,000 gallon limitation under subsection (b)(2) and the 60,000,000 gallon limitation under paragraph (1), all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b) but determined by treating an interest of more than 50 percent as a controlling interest) shall be treated as 1 person.

''(3) PARTNERSHIP, S CORPORATION, AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, the limitations contained in subsection (b)(2) and paragraph (1) shall be applied at the entity level and at the partner or similar level.

''(4) ALLOCATION.—For purposes of this subsection, in the case of a facility in which more than 1 person has an interest, productive capacity shall be allocated among such persons in such manner as the Secretary may prescribe.

''(5) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary—

''(A) to prevent the credit provided for in subsection (b) from directly or indirectly benefitting any person with a direct or indirect productive capacity of more than 60,000,000 gallons of biodiesel during the taxable year, or

''(B) to prevent any person from directly or indirectly benefitting with respect to more than 15,000,000 gallons during the taxable year.

''(6) ALLOCATION OF SMALL BIODIESEL CREDIT TO PATRONS OF COOPERATIVE.—

''(A) ELECTION TO ALLOCATE.—

''(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the increase determined under subsection (b) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

''(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year. Such election shall not take effect unless the organization designates the apportionment as such in a written notice mailed to its patrons during the payment period described in section 1382(d).

''(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—

''(i) ORGANIZATIONS.—The amount of the credit not apportioned to patrons pursuant to subparagraph (A) shall be included in the amount determined under subsection (b) for the taxable year of the organization.

''(ii) PATRONS.—The amount of the credit apportioned to patrons pursuant to subparagraph (A) shall be included in the amount determined under such subsection for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

''(iii) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of the organization determined under such subsection for a taxable year is less than the amount of such credit shown on the return of the organization for such year, an amount equal to the excess of—

''(I) such reduction, over

''(II) the amount not apportioned to such patrons under subparagraph (A) for the taxable year, shall be treated as an increase in tax imposed by this chapter on the organization.

Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

''(f) RENEWABLE DIESEL.—For purposes of this title—

''(1) TREATMENT IN THE SAME MANNER AS BIODIESEL.—Renewable diesel shall be treated in the same manner as biodiesel.

''(2) RENEWABLE DIESEL DEFINED.—The term 'renewable diesel' means liquid fuel derived from biomass which meets—

''(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(B) the requirements of the American Society of Testing and Materials D975 or D396, or other equivalent standard approved by the Secretary.

Such term shall not include any liquid with respect to which a credit may be determined under section 40. Such term does not include any fuel derived from coprocessing biomass with a feedstock which is not biomass. For purposes of this paragraph, the term 'biomass' has the meaning given such term by section 45K(c)(3).

''(3) CERTAIN AVIATION FUEL.—Except as provided in the last 3 sentences of paragraph (2), the term 'renewable diesel' shall include fuel derived from biomass which meets the requirements of a Department of Defense specification for military jet fuel or an

American Society of Testing and Materials specification for aviation turbine fuel.

''(g) TERMINATION.—This section shall not apply to any sale or use after December 31, 2014.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 40A and inserting the following new item:

''Sec. 40A. Biodiesel production.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to biodiesel sold or used after December 31, 2009.

SEC. 3. REFORM OF BIODIESEL EXCISE TAX INCENTIVES.

(a) IN GENERAL.—Subsection (c) of section 6426 of the Internal Revenue Code of 1986 is amended to read as follows:

''(c) BIODIESEL CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the biodiesel credit is $1.00 for each gallon of biodiesel produced by the taxpayer and which—

''(A) is sold by such producer to another person—

''(i) for use by such other person's trade or business (other than casual off-farm production),

''(ii) for use by such other person as a fuel in a trade or business, or

''(iii) who sells such biodiesel at retail to another person and places such biodiesel in the fuel tank of such other person, or

''(B) is used or sold by such producer for any purpose described in subparagraph (A).

''(2) DEFINITIONS.—Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

''(3) BIODIESEL TRANSFERS FROM AN IRS REGISTERED BIODIESEL PRODUCTION FACILITY TO AN IRS REGISTERED TERMINAL.—The credit allowed under this subsection can be claimed by a registered terminal or refinery in instances where section 4081(a)(1)(B)(iii) is applicable. The credit allowed under this subsection cannot be claimed by a terminal or refinery on fuel upon which the credit was previously claimed by a biodiesel producer.

''(4) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2014.''.

(b) PAYMENT OF CREDIT.—Subsection (e) of section 6427 of such Code is amended—

(1) by striking ''or the biodiesel mixture credit'' in paragraph (1),

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively, and by inserting after paragraph (2) the following new paragraph:

''(3) BIODIESEL CREDIT.—If any person produces biodiesel and sells or uses such biodiesel as provided in section 6426(c), the Secretary shall pay (without interest) to such person an amount equal to the biodiesel credit with respect to such biodiesel.'',

(3) by striking ''paragraph (1) or (2)'' each place it appears in paragraphs (4) and (6), as redesignated by paragraph (2), and inserting ''paragraph (1), (2), or (3)'',

(4) by striking ''alternative fuel'' each place it appears in paragraphs (4) and (6), as redesignated by paragraph (2), and inserting ''fuel'', and

(5) by striking ''biodiesel mixture (as defined in section 6426(c)(3))'' in paragraph (7)(B), as so redesignated, and inserting ''biodiesel (within the meaning of section 40A)''.

(c) EXEMPTION FOR BIODIESEL TRANSFERRED FROM A REGISTERED PRODUCER TO A REGISTERED TERMINAL.—Subparagraph (B) of section 4081(a)(1) of such Code is amended—

(1) by striking ''clause (ii)'' in clause (i) and inserting ''clauses (ii) and (iii)'', and

(2) by adding at the end the following new clause:

''(iii) EXEMPTIONS FOR BIODIESEL TRANSFERRED FROM A REGISTERED PRODUCER TO A REGISTERED TERMINAL.—The tax imposed by this paragraph shall not apply to any removal or entry of biodiesel (as defined in section 40A(d)(1)) transferred in bulk (without regard to the manner of such transfer) to a terminal or refinery if—

''(I) such biodiesel was produced by a person who is registered under section 4101 as a producer of biodiesel and who provides reporting under the ExStars fuel reporting system of the Internal Revenue Service, and

''(II) the operator of such terminal or refinery is registered under section 4101.''.

(d) PRODUCER REGISTRATION REQUIREMENT.—Subsection (a) of section 6426 of such Code is amended by striking ''subsections (d) and (e)'' in the flush sentence at the end and inserting ''subsections (c), (d), and (e)''.

(e) RECAPTURE.—Subsection (f) of section 6426 of such Code is amended to read as follows:

''(f) RECAPTURE.—

''(1) ALCOHOL FUEL MIXTURES.—If—

''(A) any credit was determined under this section with respect to alcohol used in the production of any alcohol fuel mixture, and

''(B) any person—

''(i) separates the alcohol from the mixture, or

''(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol.

''(2) BIODIESEL.—If any credit was determined under this section with respect to the production of any biodiesel and any person does not use such biodiesel for a purpose described in subsection (c)(1), then there is hereby imposed on such person a tax equal to $1 for each gallon of such biodiesel.

''(3) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) or (2) as if such tax were imposed by section 4081 and not by this section.''.

(f) CLERICAL AMENDMENT.—The heading of section 6426 of such Code (and the item relating to such section in the table of sections for subchapter B of chapter 65 of such Code) is amended by striking ''alcohol fuel, biodiesel, and alternative fuel mixtures'' and inserting ''alcohol fuel mixtures, biodiesel production, and alternative fuel mixtures''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to biodiesel sold or used after December 31, 2009.

SEC. 4. BIODIESEL TREATED AS TAXABLE FUEL.

(a) BIODIESEL TREATED AS TAXABLE FUEL.—Clause (i) of section 4083(a)(3)(A) of such Code is amended by inserting '', including biodiesel (as defined in section 6426(c)(3)),'' after ''(other than gasoline)''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to biodiesel removed, entered, or sold after the date which is 6 months after the date of the enactment of this Act.

By Mrs. MURRAY (for herself and Mr. DURBIN):

S. 1591. A bill to amend the Foreign Assistance Act of 1961, to establish the Health Technology Program in the United States Agency for International Development to research and develop technologies to improve global health, and for other purposes; to the Committee on Foreign Relations.

Mrs. MURRAY. Mr. President, for a child in a developing country, very simple tools, like safe injection technologies for vaccination, can mean the difference between life and death. But the fact is that many countries are simply unable to afford such critical health technologies. Research has given us many promising early-stage technologies that could make a difference, but tragically, in many cases the promise of such technologies goes unrealized.

I know that it is sometimes tempting to think of global health as a distant goal, far removed from the lives of everyday Americans. But, as the emergence of new pandemic threats such as H1N1 flu reminds us, global health is public health—and it affects Americans right here at home. It is impossible to pick up a paper today, watch TV, or use the internet without realizing that we are more connected than ever before to people around the world.

As I speak with scientists and leaders in my State, they are excited about finding new ways to tackle tough global health problems. I hear the same enthusiasm when I speak with young people who are passionate about helping others. Of course, this growing support for global health can be seen not only in my home state, but throughout our country, in our universities and in community organizations. I know that many of my colleagues in the Senate are dedicated, tireless advocates for global health. Last year, the Congress demonstrated its strong commitment by reauthorizing the President's Emergency Plan for AIDS Relief, PEPFAR, a huge victory for global health and a strong foundation for future efforts.

In May, President Obama announced a new, comprehensive global health strategy, renewing the longstanding U.S. commitment to global health and building on the successes of programs begun during the Bush administration like PEPFAR and the President's Malaria Initiative, programs that have saved countless lives. President Obama has called for us to continue these efforts and to focus on improving the health of mothers and children and strengthening health systems in developing countries.

Developing countries urgently need technologies that will work for their health care systems, technologies that are easy-to-use, culturally appropriate, and above all affordable.

Today I am introducing the 21st Century Global Health Technology Act to support these goals by applying our country's traditional strengths in research, innovation, and entrepreneurship to global health. My bill will encourage the development of appropriate global health technologies by authorizing efforts at the US Agency for International Development, USAID, to make sure that promising health technologies are not left to sit on the shelf, but instead are developed and delivered to those in need.

Developing global health technologies is not easy or glamorous and the financial incentives for business

are few. But for many years, the USAID has supported global health technology development through an innovative model that encourages the public, non-profit, and private sectors to work together.

I urge my colleagues to support this bill because the USAID has a long and inspiring track record of success in technology development. For example, the USAID's HealthTech program meets a wide range of needs from developing tools to rapidly diagnose infectious diseases to designing safe delivery kits that keep mothers and newborns healthy. Working with nonprofit and commercial-sector partners, HealthTech has investigated over 100 technologies, licensed or transferred 21 life-saving technologies designed for use in low-resource settings, and moved 10 technologies into global use.

The HealthTech program helps the USAID leverage Federal money to encourage the private sector to become involved in the fight to improve global health. In an average year, HealthTech matches the USAID's funding with cash and in-kind contributions from the private sector. The average ratio of private sector investment to USAID funding in HealthTech-developed technologies that have reached commercialization is about 9 to 1. It's a win-win model that increases the number of affordable global health technologies and provides new opportunities for U.S. companies.

Technology development at the USAID is a smart investment. However, the agency's technology development efforts currently are not authorized, so funding is often uncertain. That uncertainty prevents the USAID from pursuing many promising technologies. My bill will provide $5 million per year over 5 years to support technology development at the USAID—a small, but steady source of funding that will bring greater stability to technology development efforts and encourage more private sector partners to get involved.

Investing in global health technology is the right thing for the U.S., for our companies, for our bright young people who are pursuing careers in global health, and for our security since our well-being is linked to our ability to prevent global pandemics and to reach out to people around the world. But, most importantly, investing in global health and in affordable health technologies will save millions of lives. It is simply the right thing to do.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1591

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''21st Century Global Health Technology Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States has committed to the United Nations Millennium Development Goals of—

(A) reducing child mortality;

(B) improving maternal health; and

(C) combating HIV/AIDS, malaria, and other diseases.

(2) The goals described in paragraph (1) cannot be reached without health technologies and devices to diagnose infectious diseases and reduce disease transmission.

(3) The development, advancement, and introduction of affordable and appropriate technologies are essential to efforts by the United States to reduce deaths among the world's most vulnerable populations, particularly children and women in the developing world.

(4) A recent report by the Institute of Medicine on the commitment of the United States to global health—

(A) recommends that United States institutions share existing knowledge to address prevalent health problems in low- and middle-income countries;

(B) recommends continued support for partnerships between the public and private sectors to develop and deliver health products in low- and middle-income countries; and

(C) urges the United States Government to continue its support for innovative research models to address unmet health needs in poor countries.

(5) Investments by the United States in affordable, appropriate health technologies, such as medical devices for maternal and child care, vaccine delivery tools, safe injection devices, diagnostic tests for infectious diseases, and innovative disease prevention strategies—

(A) reduce the risk of disease transmission; and

(B) accelerate access to life-saving global health interventions for the world's poor.

(6) Through a cooperative agreement, known as the Technologies for Health program (referred to in this section as ''HealthTech''), USAID supports the development of technologies that—

(A) maximize the limited resources available for global health; and

(B) ensure that products and medicines developed for use in low-resource settings reach the people that need such products and medicines.

(7) The HealthTech cooperative agreement—

(A) facilitates public-private collaboration in the development of global health technologies;

(B) leverages public sector support for early stage research and development of health technologies to encourage private sector investment in late-stage technology development and product introduction in developing countries;

(C) benefits the United States economy by investing in the growing United States global health technology sector, which—

(i) provides skilled jobs for American workers; and

(ii) enhances United States competitiveness in the increasingly technological and knowledge-based global economy; and

(D) enhances United States national security by—

(i) reducing the risk of pandemic disease; and

(ii) contributing to economic development and stability in developing countries.

SEC. 3. PURPOSE.

The purpose of this Act is to authorize a health technology development program that supports coordinated, long-term research and development of appropriate global health technologies—

(1) to improve global health;

(2) to reduce maternal and child mortality rates; and

(3) to reverse the incidence of HIV/AIDS, malaria, and other diseases.

SEC. 4. ESTABLISHMENT OF THE HEALTH TECHNOLOGY PROGRAM.

Section 107 the Foreign Assistance Act of 1961 (22 U.S.C. 2151e) is amended by adding at the end the following:

''(c) HEALTH TECHNOLOGY PROGRAM.—(1) There is established in the United States Agency for International Development (referred to in this section as 'USAID') the Health Technology Program, which shall—

''(A) coordinate and lead research and development efforts;

''(B) be funded by USAID on a competitive basis; and

''(C) serve as a national laboratory and technology development program for global health.

''(2) The Health Technology Program shall develop, advance, and introduce affordable, available, and appropriate technologies specifically designed—

''(A) to improve the health and nutrition of developing country populations;

''(B) to reduce maternal and child mortality; and

''(C) to improve the diagnosis, prevention and reduction of disease, especially HIV/AIDS, malaria, tuberculosis, and other major diseases.

''(3) The Health Technology Program shall be located at an institution with a successful record of—

''(A) advancing the technologies described in paragraph (2); and

''(B) integrating practical field experience into the research and development process in order to introduce the most appropriate technologies.

''(4) The Administrator of USAID, in collaboration with the Health Technology Program, shall submit an annual report to Congress and all relevant Federal agencies that describes—

''(A) the relevant activities of the Health Technology Program that are in the incubation phase;

''(B) the progress made on such activities and on other projects carried out through the Health Technology Program; and

''(C) the outlook for future health technology efforts evaluated by the Health Technology Program to have significant growth potential.

''(5) There are authorized to be appropriated $5,000,000 for each of the fiscal years 2010 through 2014 to carry out the Health Technology Program under this subsection.''.

By Ms. SNOWE (for herself and Mr. CARDIN):

S. 1592. A bill to establish a Federal Board of Certification to enhance the transparency, credibility, and stability of financial markets, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Ms. SNOWE. Mr. President, I rise today to reintroduce legislation that will increase the trustworthiness of our Nation's mortgage security market by creating the Federal Board of Certification for mortgage securities. I would like to thank Senator CARDIN for cosponsoring this vital measure.

The necessity of enacting last fall's Troubled Asset Relief Program, along with the collapse of Lehman Brothers,

and the bailouts of American International Group, Fannie Mae, Freddie Mac, and Bear Stearns, combined with the huge losses suffered throughout the financial industry, demonstrates a catastrophic failure to accurately assess the dangers of imprudently made subprime mortgages to the American public and our financial markets. In hindsight, it appears that it was the inability to gauge risk in mortgage-backed securities that caused much of this financial turmoil. For markets to operate properly, it is imperative that they have effective metrics for calculating the level of risk securities pose to investors.

The secondary mortgage market has been a largely unregulated playground where poorly underwritten, low-quality loans were sold as high-quality investment products. Although mortgage-backed securities can be a positive market force, which increases the available pool of credit for borrowers, without an accurate picture of the risk involved in each mortgage security, buyers have no idea whether they are purchasing a high-risk investment or a safe, secure investment. The legislation that I am reintroducing today would work to curb the excesses of the secondary market, combat future attempts at deception, and protect investors by making scrutinized mortgage investments more reliable and trustworthy.

The inability of major corporations to properly assess the risk of the mortgage securities they were trading is a problem whose effects have not been confined to Wall Street. To put it simply: when big banks sneeze, the rest of America gets a cold. This year, more than $1 trillion of the subprime mortgages originated during the housing boom will reset to higher interest rates.

In my home State of Maine, we are struggling with falling home prices and a record number of foreclosures. During the first half of 2009 alone, there were 1,696 filings in Maine, a number putting the State on pace to surpass the 2,851 foreclosure filings registered in 2008. Moreover, some Maine borrowers, with rising monthly payments, are unable to refinance out of their predatory loans. Small business owners, many already hurt by the economic downturn, are also finding credit tight. Finally, despite gains in recent weeks, the poor economic climate caused by the subprime credit crunch has also roiled the stock market, causing Americans to lose billions in their IRAs and retirement funds.

We must address crisis and make sure it never happens again. Turning to specifics, my bill creates the Federal Board of Certification, which would certify that the mortgages within a security instrument meet the underlying standards they claim in regards to documentation, loan to value ratios, debt service to income ratios, and borrowers' credit standards. The purpose of the certification process is to increase the transparency, predictability, and reliability of securitized mortgage products. Certification would aid in creating settled investor expectations and increase transparency by ensuring that the mortgages within a mortgage security conform to the claims made by the mortgage product's sellers.

The proposed Federal Board of Certification would not override any current regulations and would not in any way stifle any attempts by private business to rate mortgage securities. This legislation would, however, create incentives for improving industry rating practices. Open publication of the Board's certification criteria would augment the efforts of private ratings agencies by providing incentives for increased transparency in the ratings process. The Board's certification would also serve as a check on the industry to ensure that ratings agencies carefully scrutinize the content of mortgage products before issuing evaluations of mortgage backed securities.

Significantly, the Federal Board of Certification would also be voluntary and funded by an excise tax. Users could choose to pay the costs for the Board to rate their security, or they could elect not to submit their product to the Board.

We must quickly restore confidence in mortgage securities if we are to stabilize our housing markets. To do so, we must certify the quality and content of our mortgage securities to enable housing markets to generate liquidity and spur lending. This is why it is urgent to create the Federal Board of Certification for mortgage securities. This legislation would create a ''good housekeeping seal of approval'' for the mortgage security industry and certify that the mortgage products are in fact what they claim to be. Accordingly, I call on Congress to take up and pass this commonsense legislation as expeditiously as possible, particularly as part of a comprehensive overhaul of our financial markets that Congress must consider in short order to ensure that the calamitous events of the past year are never again repeated.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1592

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Board of Certification Act of 2009''.

SEC. 2. PURPOSE.

It is the purpose of this Act to establish a Federal Board of Certification, which shall certify that the mortgages within a security instrument meet the underlying standards they claim to meet with regards to mortgage characteristics including but not limited to: documentation, loan to value ratios, debt service to income ratios, and borrower credit standards and geographic concentration. The purpose of this certification process is to increase the transparency, predictability and reliability of securitized mortgage products.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term ''Board'' means the Federal Board of Certification established under this Act;

(2) the term ''mortgage security'' means an investment instrument that represents ownership of an undivided interest in a group of mortgages;

(3) the term ''insured depository institution'' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1803); and

(4) the term ''Federal financial institutions regulatory agency'' has the same meaning as in section 1003 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3302).

SEC. 4. VOLUNTARY PARTICIPATION.

Market participants, including firms that package mortgage loans into mortgage securities, may elect to have their mortgage securities evaluated by the Board.

SEC. 5. STANDARDS.

The Board is authorized to promulgate regulations establishing enumerated security standards which the Board shall use to certify mortgage securities. The Board shall promulgate standards which shall certify that the mortgages within a security instrument meet the underlying standards they claim to meet with regards to documentation, loan to value ratios, debt service to income rations and borrower credit standards. The standards should protect settled investor expectations, and increase the transparency, predictability and reliability of securitized mortgage products.

SEC. 6. COMPOSITION.

(a) ESTABLISHMENT; COMPOSITION.—There is established the Federal Board of Certification, which shall consist of—

(1) the Comptroller of the Currency;

(2) the Secretary of Housing and Urban Development;

(3) a Governor of the Board of Governors of the Federal Reserve System designated by the Chairman of the Board;

(4) the Undersecretary of the Treasury for Domestic Finance; and

(5) the Chairman of the Securities and Exchange Commission.

(b) CHAIRPERSON.—The members of the Board shall select the first chairperson of the Board. Thereafter the position of chairperson shall rotate among the members of the Board.

(c) TERM OF OFFICE.—The term of each chairperson of the Board shall be 2 years.

(d) DESIGNATION OF OFFICERS AND EMPLOYEES.—The members of the Board may, from time to time, designate other officers or employees of their respective agencies to carry out their duties on the Board.

(e) COMPENSATION AND EXPENSES.—Each member of the Board shall serve without additional compensation, but shall be entitled to reasonable expenses incurred in carrying out official duties as such a member.

SEC. 7. EXPENSES.

The costs and expenses of the Board, including the salaries of its employees, shall be paid for by excise fees collected from applicants for security certification from the Board, according to fee scales set by the Board.

SEC. 8. BOARD RESPONSIBILITIES.

(a) ESTABLISHMENT OF PRINCIPLES AND STANDARDS.—The Board shall establish, by rule, uniform principles and standards and report forms for the regular examination of mortgage securities.

(b) DEVELOPMENT OF UNIFORM REPORTING SYSTEM.—The Board shall develop uniform

reporting systems for use by the Board in ascertaining mortgage security risk. The Board shall assess, and publicly publish, how it evaluates and certifies the composition of mortgage securities.

(c) AFFECT ON FEDERAL REGULATORY AGENCY RESEARCH AND DEVELOPMENT OF NEW FINANCIAL INSTITUTIONS SUPERVISORY AGENCIES.—Nothing in this Act shall be construed to limit or discourage Federal regulatory agency research and development of new financial institutions supervisory methods and tools, nor to preclude the field testing of any innovation devised by any Federal regulatory agency.

(d) ANNUAL REPORT.—Not later than April 1 of each year, the Board shall prepare and submit to Congress an annual report covering its activities during the preceding year.

(e) REPORTING SCHEDULE.—The Board shall determine whether it wants to evaluate mortgage securities at issuance, on a regular basis, or upon request.

SEC. 9. BOARD AUTHORITY.

(a) AUTHORITY OF CHAIRPERSON.—The chairperson of the Board is authorized to carry out and to delegate the authority to carry out the internal administration of the Board, including the appointment and supervision of employees and the distribution of business among members, employees, and administrative units.

(b) USE OF PERSONNEL, SERVICES, AND FACILITIES OF FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES, AND FEDERAL RESERVE BANKS.—In addition to any other authority conferred upon it by this Act, in carrying out its functions under this Act, the Board may utilize, with their consent and to the extent practical, the personnel, services, and facilities of the Federal financial institutions regulatory agencies, and Federal Reserve banks, with or without reimbursement therefor.

(c) COMPENSATION, AUTHORITY, AND DUTIES OF OFFICERS AND EMPLOYEES; EXPERTS AND CONSULTANTS.—The Board may—

(1) subject to the provisions of title 5, United States Code, relating to the competitive service, classification, and General Schedule pay rates, appoint and fix the compensation of such officers and employees as are necessary to carry out the provisions of this Act, and to prescribe the authority and duties of such officers and employees; and

(2) obtain the services of such experts and consultants as are necessary to carry out this Act.

SEC. 10. BOARD ACCESS TO INFORMATION.

For the purpose of carrying out this Act, the Board shall have access to all books, accounts, records, reports, files, memorandums, papers, things, and property belonging to or in use by Federal financial institutions regulatory agencies, including reports of examination of financial institutions, their holding companies, or mortgage lending entities from whatever source, together with work papers and correspondence files related to such reports, whether or not a part of the report, and all without any deletions.

SEC. 11. REGULATORY REVIEW.

(a) IN GENERAL.—Not less frequently than once every 10 years, the Board shall conduct a review of all regulations prescribed by the Board, in order to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions.

(b) PROCESS.—In conducting the review under subsection (a), the Board shall—

(1) categorize the regulations described in subsection (a) by type; and

(2) at regular intervals, provide notice and solicit public comment on a particular category or categories of regulations, requesting commentators to identify areas of the regulations that are outdated, unnecessary, or unduly burdensome.

(c) COMPLETE REVIEW.—The Board shall ensure that the notice and comment period described in subsection (b)(2) is conducted with respect to all regulations described in subsection (a), not less frequently than once every 10 years.

(d) REGULATORY RESPONSE.—The Board shall—

(1) publish in the Federal Register a summary of the comments received under this section, identifying significant issues raised and providing comment on such issues; and

(2) eliminate unnecessary regulations to the extent that such action is appropriate.

(e) REPORT TO CONGRESS.—Not later than 30 days after carrying out subsection (d)(1) of this section, the Board shall submit to the Congress a report, which shall include a summary of any significant issues raised by public comments received by the Board under this section and the relative merits of such issues.

SEC. 12. LIABILITY.

Any publication, transmission, or webpage containing an advertisement for or invitation to buy a mortgage security shall include the following notice, in conspicuous type: ''Certification by the Federal Board of Certification can in no way be considered a guarantee of the mortgage security. Certification is merely a judgment by the Federal Board of Certification of the degree of risk offered by the security in question. The Federal Board of Certification is not liable for any actions taken in reliance on such judgment of risk.''.

By Mr. MERKLEY:

S. 1595. A bill to amend the Truth in Lending Act to prohibit the distribution of any check or other negotiable instrument as part of a solicitation by a creditor for an extension of credit, to limit the liability of consumers in conjunction with such solicitations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. MERKLEY. Mr. President, in recent years, consumer credit has gone from providing convenience and short-term financing to a game of tricks and traps that strips families of hard earned resources and locks the middle class into a vicious cycle of debt. Today, I introduce legislation to end one of those deceptive practices—the unsolicited mailing of ''live'' loan checks.

Deceptive loan checks have afflicted consumers, especially seniors, for far too long. In these schemes, financial institutions send unsuspecting customers checks made out to them for some amount. Customers often assume that their financial institutions have sent refunds or some other business-related sum and unknowingly deposit the checks. However, fine print on these checks actually makes them high-cost loans.

Bank regulators have failed for years to rein in these deceptive products. In Oregon, one of my elderly constituents—a veteran of the Korean war—ended up in a subprime mortgage because he unknowingly deposited a deceptive loan check that he never requested. Sadly, instead of being able to cancel the loan, he was pushed into rolling this unwanted loan into his mortgage, which was then transformed from a safe, fixed rate mortgage that had nearly been paid off, into a brand new, subprime mortgage. As this case shows, deceptive products and practices lead our consumers into dangerous, high cost debt. If individuals wish to take out high cost loans, they should have every right to do so, but financial institutions should make those transactions plain and straightforward, not tricky and deceptive.

To address this situation, I am introducing the Deceptive Loan Check Elimination Act. Under the act, financial institutions would be prohibited from sending a ''live'' loan check unless the consumer requested such a check in writing. Consumers would not be liable for any debt incurred in violation of the act. This common sense solution protects consumers without constricting credit for those who want it. The legislation is endorsed by Consumer Action, Consumers Federation of America, Consumers Union, the National Consumer Law Center, on behalf of its low income clients, and the U.S. Public Interest Research Group.

I am hopeful that the Senate will act quickly to address this problem. In addition, the next step in restoring a fair playing field for working families is to move ahead quickly to create the Consumer Financial Protection Agency, a body with the authority to review and regulate financial tricks and traps like ''live'' loan checks.

I urge my colleagues to join me in this and future efforts to restore honesty and plain dealing to our consumer credit markets.

By Mrs. BOXER:

S. 1596. A bill to authorize the Secretary of the Interior to acquire the Gold Hill Ranch in Coloma, California; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, I rise to discuss the Gold Hill-Wakamatsu Preservation Act. This legislation would authorize the Bureau of Land Management to acquire and manage the Gold Hill Ranch near Coloma, California. This site was the location of the Wakamatsu Tea and Silk Colony from 1869 to 1871, recognized by the State of California and Japanese American Citizens League as the first Japanese settlement in the United States.

After Commodore William Perry opened Japanese ports to U.S. trade, the weakness of Japan's shoguns was exposed, leading to a revolution and return to imperial rule under the Meiji emperor. In 1869, seven Japanese individuals and a European expatriate fled the turmoil in Japan and sailed across the Pacific to San Francisco aboard a side wheeler called the ''China.'' The group made their way eastwards and purchased land in Gold Hill. Within 2 years, the colony grew to 22 Japanese settlers and began producing traditional Japanese crops such as tea, silk, rice, and bamboo. The Japanese colonists and surrounding community

learned about each others' culture and agricultural techniques. Local and San Francisco newspapers wrote about the colony, and the settlers began to receive acceptance in American society.

Unfortunately, the colony was short-lived—drought and financial problems forced the group to disperse and settle throughout California beginning in 1871. The Veerkamp family, which owned neighboring lands, purchased the property in 1875. Despite the short history of the colony, it was an important milestone that helped bridge Japanese and American cultures and paved the way for large-scale emigration of Japanese settlers to the United States. It also contributed to major Japanese influences on the agricultural economy of California.

Many of the original structures on the site remain intact, including a farmhouse, the grave of a young girl named Okei, numerous artifacts, and agricultural plantings. Japanese-Americans and other visitors come to see the site and place offerings on Okei's grave. As a testament to the cultural exchanges that occurred at this site, the Gold Trail Middle School, located on an in-holding carved out of this site, now maintains an exchange program with a sister school in Wakamatsu, Japan. Governor Reagan recognized the property as a State historic site in 1969, and the site is currently being considered for listing on the National Register of Historic Places.

The 272-acre ranch encompassing the original colony site has been passed down for generations through the Veerkamp family. Thanks to the hard work of the American River Conservancy and Wakamatsu Gold Hill Colony Foundation as well as the generous accommodation of the Veerkamp family, the site has been preserved for visitors to come and learn about the history of the Wakamatsu colonists and Japanese-American culture. The site provides multiple other benefits, including wildlife habitat, open space with hiking trails and picnic areas, and grazing and pastureland. The family and non-profit partners agree that federal acquisition would help guarantee that the site's cultural history, agricultural character, and open space are permanently preserved for generations to come. The Bureau of Land Management is well-suited to manage this site since it has an excellent relationship with the local community and manages several other sites nearby.

This project is supported by the Japanese American Citizens League, the National Japanese American Historical Society, the Consul General of Japan, the Governor of Fukishima Prefecture and the Mayor of Wakamatsu in Japan, People-to-People International, the El Dorado County Board of Supervisors, the El Dorado County Chamber of Commerce, numerous elected officials including Assemblyman Ted Gaines, who represents this district, and numerous other members of the local community.

The significance of this site for Japanese Americans has been compared to the significance of the Mayflower journey and Plymouth Rock landing for European Americans. This site is testament to Japanese history, California's agricultural economy, and the American tradition of bringing together people of diverse cultures in the common pursuit of freedom and prosperity. I look forward to working with my Senate colleagues to move this legislation and preserve the story of the Wakamatsu colonists for future generations.

By Mr. LEAHY (for himself, Mr. CHAMBLISS, and Mr. PRYOR):

S. 1599. A bill to amend title 36, United States Code, to include in the Federal charter of the Reserve Officers Association leadership positions newly added in its constitution and bylaws; to the Committee on Armed Services.

Mr. LEAHY. Mr. President, today, I am pleased to introduce the Reserve Officers Association Modernization Act of 2009. I want to thank Senators CHAMBLISS and PRYOR for joining me to introduce this legislation. As the co-chairs of the United States Senate Reserve Caucus, Senators CHAMBLISS and PRYOR have worked hard for the brave men and women of the United States Reserves.

Over the past decade, our country has relied on the National Guard and Reserves more than at any other time in recent history. The Guard and Reserves provide an invaluable contribution to our Nation's military, our national security, and disaster relief efforts. In recent years the National Guard and Reserves have demonstrated their position as a keystone to our military operations, particularly in Iraq and Afghanistan, and stepped forward repeatedly to answer the call-to-duty at a tempo not seen in decades. At the same time, the support from the Guard and Reserves for homeland duties has been at an all time high. The Guard and Reserves have provided crucial support to our Governors and States during natural disasters such as the aftermath of Hurricane Katrina. In addition, they have assumed additional roles in homeland security as our country has adopted new policies following the attacks of September 11, 2001. This new era for the Guard and Reserves prompted Congress and the Department of Defense to review many existing and but outdated policies.

The 95-member U.S. Senate National Guard Caucus, which I cochair along with Senator BOND, plays an integral role in the review and implementation of new policies. I have worked closely with groups like the Reserve Officers Association, ROA, to ensure that the National Guard and Reserves have access to more affordable health care, a greater influence in the military, adequate training facilities and supplies, and shorter troop deployments in Iraq and Afghanistan.

Since its founding in 1922, the ROA has worked on behalf of the National Guard and Reserves and their families. For over 85 years, ROA has remained committed to its original mission, to ''support and promote the development and execution of a military policy for the United States that will provide adequate National security.'' The Reserve Officers Association represents the Reserve Components officers for the Army, Air Force, Navy, Marine Corps, Coast Guard, the Air and Army National Guard, Public Health Service, and the officers of the National Oceanic and Atmospheric Administration.

This legislation would update the Reserve Officers Association's Federal Charter to reflect two recent changes in the organization. First, it would add the position of ''president elect'' to its constitution and bylaws. Second, it would expand the ROA from only three national executive committee members to include three representatives from each of the seven branches of the uniformed services. The Reserve Officers Association's charter has not been modified since 1998 and this legislation would update it to correctly reflect the current operation of the organization and enable ROA to continue its good work.

The Reserve Officers Association has provided a voice to the men and women that serve our country in the National Guard and Reserves. I urge Senators on both sides of the aisle to show their support for the brave members of the National Guard and Reserves by enacting this legislation swiftly.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1599

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Reserve Officers Association Modernization Act of 2009''.

SEC. 2. INCLUSION OF NEW LEADERSHIP POSITIONS IN THE FEDERAL CHARTER OF THE RESERVE OFFICERS ASSOCIATION.

(a) NATIONAL EXECUTIVE COMMITTEE.—Section 190104(b)(2) of title 36, United States Code, is amended—

(1) by inserting ''the president elect,'' after ''the president,'';

(2) by inserting ''a minimum of'' before ''3 national executive committee members,''; and

(3) by striking ''except the executive director,'' and inserting ''except the president elect and the executive director,''.

(b) OFFICERS.—Section 190104(c) of such title is amended—

(1) in paragraph (1)—

(A) by inserting ''a president elect,'' after ''a president,'';

(B) by inserting ''a minimum of'' before ''3 national executive committee members,'';

(C) by striking ''a surgeon, a chaplain, a historian, a public relations officer,''; and

(D) by striking ''as decided at the national convention'' and inserting ''specified in the constitution of the corporation''; and

(2) in paragraph (2)—

(A) by inserting ''and take office'' after ''be elected'' ; and

(B) by striking ''and the national public relations officer,'' and inserting ''the judge advocate, and any other national officers specified in the constitution of the corporation,''.

(c) VACANCIES.—Section 190104(d)(1) of such title is amended by striking ''president and last past president,'' and inserting ''president, president elect, and last past president,''.

(d) RECORDS AND INSPECTION.—Section 190109(a)(2) of such title is amended by striking ''national council;'' and inserting ''other national entities of the corporation;''.

Mr. UDALL of Colorado:

S. 1601. A bill to provide for the release of water from the marketable yield pool of water stored in the Ruedi Reservoir for the benefit of endangered fish habitat in the Colorado River, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. UDALL of Colorado. Mr. President, today I am introducing along with my friend and colleague, Senator BENNET, the Ruedi Reservoir Water Allocation for Recovery of Endangered Fish Act. This bill will help address endangered fish issues in the Colorado River on Colorado's western slope by allowing the U.S. Bureau of Reclamation to release the remaining un-marketed water in Ruedi Reservoir for recovery purposes.

The Ruedi Reservoir is a component of the Fryingpan-Arkansas Project, a U.S. Bureau of Reclamation project, located on the Fryingpan River in western Colorado. The primary purposes of Ruedi are to provide storage of replacement water that allows out-of-priority diversions by the project to Colorado's east slope, and to provide marketable water for Colorado's west slope uses. A little more than one-third of Ruedi's marketable yield is currently under contract with limited prospects for foreseeable future contracting.

In 1999, the U.S. Fish and Wildlife Service, FWS, issued a programmatic biological opinion, PBO, for a critical reach of the Colorado River in Colorado related to recovery efforts for four fish species listed as endangered under the Endangered Species Act, ESA. The PBO provides ESA compliance for five Reclamation projects: the Fryingpan-Arkansas Project, including Ruedi Reservoir, the Colorado-Big Thompson Project, the Colbran Project, the Grand Valley Project, and the Silt Project.

The PBO also provides ESA compliance for all existing non-federal water projects and water users of the Colorado River upstream of the Gunnison River depleting approximately 1 million acre-feet per year and for 120,000 acre-feet per year of new depletions. As part of the PBO, Colorado water users agreed to provide 10,825 acre-feet per year for fish recovery from interim water sources until 2010, by which time permanent sources of water must be identified and agreements completed between water users and the FWS to provide the permanent source or sources of water.

Water users have identified the required permanent sources of water for endangered fish. Half of the 10,825 acre-feet per year requirement will be met from converting a historical agricultural water right and half from uncontracted, unobligated Ruedi Reservoir water. Reclamation has initiated NEPA compliance on Federal actions related to providing 10,825 acre-feet per year for endangered fish. This bill provides that the NEPA process be completed before authorizing Reclamation to apply the marketable yield to ESA benefits.

In regards to costs, the reimbursable capital costs for the Ruedi Reservoir were assigned separately in the authorizing legislation to east and west slope beneficiaries of the project. The east slope's obligation of $7.6 million was assigned to Southeastern Colorado Water Conservancy District under a conventional Reclamation master contract for the 28,000 acre-feet replacement pool. The obligation to repay Ruedi Reservoir's $9.3 million cost was assigned to the marketable yield for the west slope's benefit, and this was to be re-paid by water contracts from this pool for west slope uses. There is no traditional, master contract with a west slope project ''sponsor'' for this portion of the project's cost recovery. A little more than one-third of the available marketable yield pool is currently under contract. Given that there are limited prospects for foreseeable future contracting, permanent assignment of 5,412.5 acre-feet of water for endangered fish recovery is prudent and appropriate.

To effectuate this new arrangement, the bill would amend Public Law 106–392 to permanently assign 5,412.5 acre-feet of water in Ruedi Reservoir from the west slope's marketable yield pool to endangered fish recovery and associated cost reallocation to non-reimbursable purposes. In so doing, the bill would accomplish a number of goals such as ensure continued ESA compliance for all east and west slope Colorado River main stem water users upstream of the Gunnison River, provide water from Ruedi Reservoir at affordable rates for potential future contracting, and provide consistency with long-standing Congressional policy and Reclamation law that water dedicated to fish and wildlife purposes from Reclamation projects is a non-reimbursable cost. The bill would also ensure compliance with Colorado law regarding the purposes of Ruedi Reservoir, namely that the marketable yield pool is available for the benefit of west slope water users by providing ESA compliance for uses of this water.

As with most issues related to water in the west, and especially in Colorado, one facility like the Ruedi Reservoir can affect many interests and values. This bill would provide mutual benefits to water users throughout the Colorado River. It is an example where we can reach consensus to continue to provide needed water to communities while also preserving fish species.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1601

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENDANGERED FISH RECOVERY IMPLEMENTATION PROGRAMS.

(a) DEFINITIONS.—Section 2 of Public Law 106–392 (114 Stat. 1602) is amended by adding at the end the following:

''(11) MARKETABLE YIELD POOL.—The term 'marketable yield pool' means the portion of the regulatory capacity that, as of the date of enactment of this paragraph, is dedicated to marketing purposes.

''(12) REGULATORY CAPACITY.—The term 'regulatory capacity' has the meaning given the term in the publication entitled 'Operating Principles, Fryingpan-Arkansas Project, Adopted by the State of Colorado, April 30, 1959 (as amended December 30, 1959, and December 9, 1960)', as printed as House Document No. 130 in accordance with House Resolution 91, 87th Congress, agreed to March 15, 1961.

''(13) RUEDI RESERVOIR.—The term 'Ruedi Reservoir' means the component of the Fryingpan-Arkansas Project of the Bureau of Land Management that is located—

''(A) on the Fryingpan River; and

''(B) in western Colorado.''.

(b) AUTHORIZATION TO FUND RECOVERY PROGRAMS.—Section 3 of Public Law 106–392 (114 Stat. 1603) is amended—

(1) by redesignating subsections (e) through (h) as subsections (f) through (i), respectively; and

(2) by inserting after subsection (d) the following:

''(e) ALLOCATION OF RUEDI RESERVOIR MARKETABLE YIELD POOL.—

''(1) RELEASE OF WATER.—For fiscal year 2013, and each fiscal year thereafter, at the request of the Director of the United States Fish and Wildlife Service (referred to in this subsection as the 'Director'), 5,412.5 acre-feet of water shall be released from the marketable yield pool of water stored in the Ruedi Reservoir for the benefit of endangered fish habitat in the Colorado River.

''(2) TIMING OF RELEASE.—To the maximum extent practicable, and unless otherwise requested by the Director, the release of water under paragraph (1) shall occur during the late summer months to enhance low water flows in areas that comprise the endangered fish habitat in the Colorado River.

''(3) NO REQUIREMENT FOR CONTRACT OR OTHER AGREEMENT.—The release of water under paragraph (1) may be carried out without the formation or execution of any contract or other agreement.

''(4) REIMBURSEMENT.—The capital, operational, maintenance, and replacement costs that arise from the release of water under paragraph (1) shall not be reimbursable.

''(5) EFFECT.—The release of water under paragraph (1) shall satisfy 50 percent of the obligation of certain water users to provide 10,825 acre-feet of water, as described in the document—

''(A) entitled 'Final Programmatic Biological Opinion for Bureau of Reclamation's Operations and Depletions, Other Depletions, and Funding and Implementation of Recovery Program Actions in the Upper Colorado River above the Confluence with the Gunnison River'; and

''(B) published by the Director on December 20, 1999.

''(6) EFFECTIVE DATE.—This subsection shall take effect on the date on which the Secretary complies with the National Environmental Policy Act of 1969 (42 U.S.C. 4321

et seq.) regarding the release of water under paragraph (1).''.

By Mr. UDALL, of Colorado (for himself and Mr. BENNET):

S. 1602. A bill to amend title 10, United States Code, to ensure that excess oil and gas lease revenues are distributed in accordance with the Mineral Leasing Act, and for other purposes; to the Committee on Armed Services.

Mr. UDALL of Colorado. Mr. President, today I am introducing a revised version of the Naval Oil Shale Reserve Mineral Royalty Revenue Allocation Act that I previously introduced on August 4, 2009. This bill is the same as the one I previously introduced, but it corrects an error regarding the allocation of outstanding mineral royalties to four counties in Colorado instead of two—those four counties being Garfield, Rio Blanco, Mesa and Moffat. This revised version also makes it clear that the mineral royalty allocated to these four counties would not affect the normal allocations to those counties under the ''payment in lieu of taxes'' program. In all other respects, the bill and its purposes remain the same. It is a bill designed to release mineral royalty receipts to Colorado where the receipts were generated from gas development within this reserve on the western slope near Rifle, Colorado.

By way of background, in 1997, Congress transferred the federal Naval Oil Shale Reserve lands in western Colorado from the U.S. Department of Energy, DOE, to the U.S. Bureau of Land Management, BLM, and directed the BLM to begin leasing the oil and gas resources under these lands. The Transfer Act also directed that the royalties recouped from this leasing program be set aside and the state portion not disbursed to Colorado until the Interior Department and the DOE certified that enough money from the royalty receipts accrued to satisfy two purposes.

The first was to provide funding to clean up the Anvil Points site on these lands. Anvil Points was an oil shale research facility that operated within the Naval Oil Shale Reserve for about 40 years. The facility was operated by DOE at one point, and private industry performed research there under contract. Waste material was produced at this facility from oil shale mining and processing. That waste accumulated in a pile of about 300,000 cubic yards of spent oil shale and other material—including arsenic and other heavy metals—which rests on slopes below the facility.

The second purpose was for the reimbursement of certain costs related to the transfer.

Following the transfer to the BLM, this area experienced significant natural gas leasing and, as a result, significant royalty revenue was generated.

On August 8, 2008, the DOI and DOE certified that adequate funds had accrued to accomplish the goals of cleanup and cost reimbursement and subsequently allocated all royalty revenue generated after this date according to the Mineral Leasing Act, which establishes that Colorado receive a proportionate share.

However, considerably more revenue accrued than was necessary to accomplish the cleanup and cost reimbursement goals. This bill would direct that this additional royalty revenue be allocated to Colorado according to the formulas and processes established for the disbursement of federal mineral royalties under the Mineral Leasing Act.

The bill also directs that the Colorado share of this remaining royalty revenue be allocated to the four Counties directly impacted by oil and gas leasing on the Naval Oil Shale Reserve lands—specifically, Garfield, Rio Blanco, Mesa, and Moffat Counties. Finally, this bill makes it clear that these royalty payments shall not affect the funds that these Counties normally receive under the ''payment in lieu of taxes''—or PILT—program.

Based on figures provided by the BLM, there remains approximately $17 million in these accounts for Colorado's royalty revenue share. This bill would make Colorado whole and provide it with its rightful share of the remaining royalty revenue to address critical local needs and impacts from the very leasing that produced the royalty revenue.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1602

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF OIL SHALE RESERVE RECEIPTS.

Section 7439(f) of title 10, United States Code, is amended by adding at the end the following:

''(3)(A) The moneys deposited in the Treasury under paragraph (1) that exceed the amounts described in subparagraphs (A) and (B) of paragraph (2) shall be transferred by the Secretary of the Treasury in accordance with section 35 of the Mineral Leasing Act (30 U.S.C. 191) to the State of Colorado for use in accordance with subparagraph (B).

''(B)(i) Of the amounts to be distributed under subparagraph (A), the Secretary of the Treasury shall transfer—

''(I) 40 percent to Garfield County, Colorado;

''(II) 40 percent to Rio Blanco County, Colorado;

''(III) 10 percent to Moffat County, Colorado; and

''(IV) 10 percent to Mesa County, Colorado.

''(ii) The amounts provided to the counties under clause (i) shall be used by the counties, or any cities or political subdivisions within the counties to which the funds are transferred by the counties, to mitigate the effects of oil and gas development activities within the affected counties, cities, or political subdivisions.

''(iii) Amounts provided to the counties under clause (i) shall not be considered for the purpose of calculating payments for the counties under chapter 69 of title 31, United States Code.''.

By Mr. WHITEHOUSE (for himself, Mr. DURBIN, and Mr. SESSIONS):

S. 1606. A bill to require foreign manufacturers of products imported into the United States to establish registered agents in the United States who are authorized to accept service of process against such manufacturers, and for other purposes; to the Committee on Finance.

Mr. WHITEHOUSE. I rise to speak in support of the Foreign Manufacturers Legal Accountability Act of 2009, which I am introducing today with the ranking member of the Judiciary Committee, Senator SESSIONS, and Senator DURBIN. This bipartisan bill is an important step in protecting American consumers and businesses from injuries caused by defective products manufactured outside the United States. Those products hurt American consumers—they lead to serious injuries, and even death—and they hurt the American businesses that must deal with angry customers, product recalls, and unusable inventory.

The list of recent examples of Americans injured by defective foreign products is shocking. Last year, a contaminated blood thinner from a foreign manufacturer caused severe medical reactions and contributed to numerous deaths. In 2006, a foreign-made, lead-tainted charm bracelet claimed the life of a 4-year-old. The autopsy demonstrated that the charm was 99 percent lead, 1,650 times more than the 0.06 percent lead limit specified in enforcement guidelines for children's jewelry. Imported food products from seafood to honey have been contaminated with unthinkable chemicals, including veterinary drugs banned in domestic production, potentially harmful antibiotics, and unapproved food additives. Sixty million packages of pet food contaminated with tainted wheat gluten have been recalled in the last two years. Substandard tires have failed, leading to fatalities. Most recently, defective drywall imported from China has been found to contain excessively high levels of sulfur, causing houses to smell like rotten eggs, corroding copper wiring, and making expensive appliances fail. Thousands of homes may be affected.

At a hearing that I chaired in May, the Subcommittee on Administrative Oversight and the Courts explored the legal hurdles facing consumers who are injured by defective foreign products and by businesses that find that their foreign partners refuse to honor their contracts. These hurdles allow foreign manufacturers to continue to injure American businesses and consumers, and also put American manufacturers at a competitive disadvantage since they allow foreign manufacturers to offer cheaper products that do not comply with American safety requirements. Two major hurdles to proper accountability are the inability to serve

process on the foreign manufacturer and the ability of that foreign manufacturer, even if served, to evade the jurisdiction of American courts. As the witnesses testified at the hearing, legislation that addresses these issues is necessary and appropriate. The Foreign Manufacturers Legal Accountability Act addresses both concerns.

The first problem, the inability to serve process on a manufacturer, essentially means that it is difficult for an American to give a foreign manufacturer the documents necessary to give it the legally required notice that it is the subject of a lawsuit. This sounds like a simple step, and it should be. Unfortunately, however, it is very hard to serve process on foreign companies abroad. As witnesses explained at the hearing in May, service abroad is complicated by the Hague Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil and Commercial Matters, to which the United States is a signatory. Under that convention, a complaint must be translated into the foreign language, transmitted to the Central Authority in the foreign country, and then delivered according to the rules of service in the home country of the defendant. This can cause months and even years of delay, not to mention great expense for Americans.

The Foreign Manufacturers Legal Accountability Act will allow Americans to overcome that procedural hurdle by serving legal papers inside the United States on registered agents of foreign manufacturers. The bill requires the heads of federal government agencies such as the Food and Drug Administration to pass regulations requiring that foreign manufacturers of products regulated by their agencies register an agent who will accept service of process. It allows regulators to exclude manufacturers who only import a minimal amount of products into the United States. It imposes a minimal burden on foreign manufacturers, since they would only have to appoint one agent to accept service of process for all state and federal regulatory and civil actions anywhere in the United States. The bill allows the manufacturer to choose any location for that agent with a ''substantial connection to the importation, distribution, or sale of the products of such foreign manufacturer or producer.'' This clear and straightforward system will allow Americans to commence their lawsuits fairly and promptly, and ensure that foreign manufacturers have proper and fair notice of the proceedings brought against them. It will not conflict with American obligations under the Hague convention, since that convention applies to service of process on foreign manufacturers in their home countries, not in the United States.

The second hurdle, the inability to establish personal jurisdiction over foreign manufacturers, can end a lawsuit against a foreign manufacturer before it even begins. Think about how unfair this is. A foreign manufacturer sells its defective products in the United States, injures American consumers and businesses, and then argues that it is not subject to the courts in the state where the American was injured—in legal parlance, that the courts do not have personal jurisdiction over it. As witnesses explained at the hearing, foreign manufacturers raise this technical legal defense to avoid liability even when serious injuries or even death have been caused by their products—their defective tires, fireworks, exercise equipment, bikes, and toys.

The Foreign Manufacturers Legal Accountability Act will enable injured Americans to surmount this hurdle. It will make clear to foreign manufacturers that by importing their products into the United States and by registering an agent in the United States, they are consenting to the jurisdiction of the courts in the state where their agent is located. By consenting to jurisdiction, the manufacturers will avert unnecessary and expensive legislation about technical legal issues and allow courts to settle the merits of disputes. This approach is fair to foreign manufacturers since all American manufacturers are subject to the jurisdiction of the courts of at least one state. This bill therefore complies with the trade principle that we should not subject foreign manufacturers to burdens not already imposed on domestic manufacturers.

Indeed, the Foreign Manufacturers Legal Accountability Act is ultimately about fairness. We all know American manufacturers comply with regulations that ensure the safety of American consumers and businesses. When they fail to do so, they must answer to regulators and are held accountable through the American tort system. Unfortunately, however, foreign manufacturers are not being held to the same standards—injuring American consumers and businesses, and putting American manufacturers at a competitive disadvantage. We must level the playing field for all manufacturers and provide justice for American consumers and businesses. The Foreign Manufacturers Legal Accountability Act will allow us to make a major step in that direction. It covers major product categories including consumer goods, drugs, cosmetics, and chemicals, and it requires relevant agencies to study workable approaches to ensure that foreign food producers also are brought within the ambit of the American legal system.

Protecting Americans and holding foreign manufacturers accountable when their products harm American consumers and businesses is a bipartisan issue. Everyone agrees that we should do what we can to keep Americans safe from defective products. So too, I think, do we all agree that American companies should not be at a competitive disadvantage to their foreign counterparts. The Foreign Manufacturers Legal Accountability Act builds on those fundamental agreements. I am grateful to my colleagues Senator SESSIONS and Senator DURBIN for their hard work on this bill and look forward to working with my colleagues on both sides of the aisle to see it passed into law.

Mr. SESSIONS. Mr. President, Senator WHITEHOUSE's legislation would help American consumers bring civil claims against foreign manufacturers who produce faulty goods and send them into the U.S. market. Currently, it is nearly impossible for harmed American consumers to bring a tort action against foreign manufacturers of products that are flawed or even dangerous. Foreign manufacturers are often difficult to identify or locate and even if found, the process of seeking damages against them is extremely costly and burdensome. Without the threat of litigation, foreign manufacturers have little to no accountability to their American consumers, resulting in lower quality and often defective products. Furthermore, American companies who unknowingly buy shoddy products from foreign manufacturers and then resell them to consumers become the sole defendant in tort cases filed against them when foreign defendants cannot be located. According to the Consumer Product Safety Commission, Chinese manufacturers were responsible for 69 percent of all product recalls in 2007 and 53 percent in 2008. These numbers demonstrate the need for Congress to take action to protect American consumers. Senator WHITEHOUSE's proposal is a positive step in the right direction.

I have witnessed the effects of this problem firsthand in my State. Mr. Chuck Stefan from Alabama testified before the Subcommittee on Administrative Oversight and the Courts, which Senator WHITEHOUSE chairs and I serve as ranking member, about the hardships his business has faced in seeking damages against a foreign manufacturer. Mr. Stefan is a Senior Executive Vice President at the The Mitchell Company, a homebuilder in Alabama, Florida, and Mississippi. Forty-five of the houses he built have been identified as containing a defective type of Chinese sheetrock, which produces corrosive gases. These gases are not merely unpleasant. They damage the copper found in piping and wiring systems. When the problem was first discovered, The Mitchell Company could not even determine who manufactured the drywall as it was only stamped ''made in China.'' When the manufacturing parties were finally identified as both Chinese and German-based, it was a substantial and costly burden to serve them properly even though the companies had extensive operations in the United States. Mr. Stefan emphasized the fact that when foreign manufacturers cannot be held accountable, it hurts his company's bottom line and harms U.S. consumers.

Stores such as Mr. Stefan's are becoming all too common and it is incumbent upon Congress to work towards ameliorating the burdens that U.S. businesses and consumers face when seeking damages against foreign manufacturers. This issue is one that affects consumers nationwide. I am grateful to Senator WHITEHOUSE for taking the initiative to ensure that Congress does its part in solving this problem.

By Ms. CANTWELL (for herself, Mrs. MURRAY, Ms. MURKOWSKI, and Mr. BEGICH):

S. 1609. A bill to authorize a single fisheries cooperative for the Bering Sea Aleutian Islands longline catcher processor subsector, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. CANTWELL. Mr. President, today I introduce the Longline Catcher Processor Subsector Single Cooperative Act.

In Washington State, our history is based on a rich maritime tradition that contributes billions of dollars to the state's economy each year. There are 3,000 vessels in Washington's fishing fleet that employ 10,000 fishermen. Seafood processors employ another 3,800 Washingtonians. And fish wholesalers employ an additional 1,000 people.

For many communities along this nation's coastlines, the economy literally ebbs and flows with the tide. It is important to remember that the ocean resources these communities depend on are a public trust and a resource to be both treasured and protected.

As guardians of the ocean and its plentiful resources, it is necessary that we examine all issues of ''ownership'' with care, transparency, and fairness. The issue of fishery cooperatives has proved to be an issue that demands nothing less.

In July of 2008, I chaired a hearing in the Commerce Committee's Subcommittee on Oceans, Atmosphere, Fisheries and Coast Guard, examining the impact of fishery management regimes on fishing safety and conservation. Following that hearing and numerous meetings with stakeholders to discuss the policy, safety, economic, and environmental implications of fishing cooperatives, I am here today to introduce the Longline Catcher Processor Subsector Single Cooperative Act, legislation that would allow for the formation of a single fishing cooperative in the Pacific cod catcher processor fleet.

Instead of fishermen racing against each other and the elements to catch as much as they can, this bill would allow the fishermen to bring some sanity back to their livelihoods. Under this legislation, the Pacific cod catcher processor fishery can allocate the catch among their members, putting an end to the very dangerous ''race for fish.''

The cooperative would empower commercial fishermen with the framework and incentives to police themselves while still preserving the crucial regulatory and oversight responsibilities of the federal government and the North Pacific Fishery Management Council.

By adopting this bill, we can improve fishing safety in the Pacific cod catcher processor fishery by putting an end to the ''race for fish.'' Doing so would lessen the fishery's environmental footprint, and give these fishermen the financial certainty that has worked for others across this Nation.

Fishing safety is a real concern that must be addressed at the federal level. In 2006, the Coast Guard reported that in the decade from 1994 to 2004, 1,398 fishing vessels were lost tragic—reminders of what can go wrong at sea.

Most of these fishing-related fatalities occur in the North Pacific, where the fishermen from my home state of Washington make their living. The difficult waters equate to the highest casualty rates in the nation, and highest rates of fatality and injury among fisherman.

But the North Pacific's rough waters are not the only factor these fishermen have to cope with.

It is a tough business—tough for those who work the boats and those who make the business-end decisions. It's a business that is driven by incentives and dangerous conditions that work in tandem to place countless numbers of fishermen at risk.

When things go wrong, it is usually because of failures at multiple levels. You see, it's not always about vessels. Nor is it all about inspections, safety equipment, or training. Fishing safety is closely related to how fisheries are managed and the very foundation fishing has come to be built upon: competition.

Without legislation such as this, the fisheries will continue to operate on a foundation of destructive competition, or a ''race for fish.'' And this race for fish is a very dangerous race.

According to Lieutenant Christopher Woodley, the former fishing Vessel Safety Coordinator of the 13th U.S. Coast Guard District based in Seattle:

> This race encourages fishermen to operate in all weather and sea conditions, to operate without rest, and encourages risk-taking behaviors.

But we can change that.

By instituting a cooperative style of fishery management through this legislation, we dramatically change the incentives. And by changing the incentives to put a new premium on safety, we can change the way people fish and hopefully prevent future tragedies at sea.

Safety is not the only goal of this legislation. This legislation aims to make environmental and economic improvements to the process of fishing.

By eliminating the ''race for fish,'' as I mentioned before, we effectively slow the pace of fishing meaning commercial fishermen can optimize onboard processing facilities. The result is an increase in the product recovery rate per pound of fish caught, meaning they can use more parts of the fish and make wiser and more efficient use of our precious ocean resources. A slower pace also decreases bycatch and promotes ownership of the fishery, which will facilitate a conservation mindset in the fishermen.

We have once again shifted the incentive from reckless speed to doing things slower, better, smarter, and more environmentally conscious.

Furthermore, the Longline Catcher Processor Subsector Fisheries Cooperative Act means greater job stability for the Pacific cod freezer longliner fleet's workers.

When fishermen no longer race, the fishing season lasts longer. This means more stability and predictability for crew members, and eliminates the boom and bust cycle that often prevails today.

I want to be clear that this bill is not yet a finished product. I welcome comments, suggestions, and criticisms to help make this bill good public policy for everyone involved.

As we discuss issues like safety of our fisherman and environmental implications to our oceans, it's imperative that we commit to an open and transparent process that shines the light of accountability.

Both in fisheries management, fishing safety, and those areas where the two intersect, transparency must be the rule.

We owe it to our coastal communities, our fisherman, and the American public collectively as stewards of one of our greatest public resources—our oceans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1609

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Longline Catcher Processor Subsector Single Fishery Cooperative Act''.

SEC. 2. AUTHORITY TO APPROVE AND IMPLEMENT A SINGLE FISHERY COOPERATIVE FOR THE LONGLINE CATCHER PROCESSOR SUBSECTOR IN THE BSAI.

(a) IN GENERAL.—Upon the request of eligible members of the longline catcher processor subsector holding at least 80 percent of the licenses issued for that subsector, the Secretary is authorized to approve a single fishery cooperative for the longline catcher processor subsector in the BSAI.

(b) LIMITATION.—A single fishery cooperative approved under this section shall include a limitation prohibiting any eligible member from harvesting a total of more than 20 percent of the Pacific cod available to be harvested in the longline catcher processor subsector, the violation of which is subject to the penalties, sanctions, and forfeitures under section 308 of the Magnuson-Stevens Act (16 U.S.C. 1858), except that such limitation shall not apply to harvest amounts from quota assigned explicitly to a

CDQ group as part of a CDQ allocation to an entity established by section 305(i) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)).

(c) CONTRACT SUBMISSION AND REVIEW.—The longline catcher processor subsector shall submit to the Secretary—

(1) not later than November 1 of each year, a contract to implement a single fishery cooperative approved under this section for the following calendar year; and

(2) not later than 60 days prior to the commencement of fishing under the single fishery cooperative, any interim modifications to the contract submitted under paragraph (1).

(d) DEPARTMENT OF JUSTICE REVIEW.—Not later than November 1 before the first year of fishing under a single fishery cooperative approved under this section, the longline catcher processor sector shall submit to the Secretary a copy of a letter from a party to the contract under subsection (c)(1) requesting a business review letter from the Attorney General and any response to such request.

(e) IMPLEMENTATION.—The Secretary shall implement a single fishery cooperative approved under this section not later than 2 years after receiving a request under subsection (a).

(f) STATUS QUO FISHERY.—If the longline catcher processor subsector does not submit a contract to the Secretary under subsection (c) then the longline catcher processor subsector in the BSAI shall operate as a limited access fishery for the following year subject to the license limitation program in effect for the longline catcher processor subsector on the date of enactment of this Act or any subsequent modifications to the license limitation program recommended by the Council and approved by the Secretary.

SEC. 3. HARVEST AND PROHIBITED SPECIES ALLOCATIONS TO A SINGLE FISHERY COOPERATIVE FOR THE LONGLINE CATCHER PROCESSOR SUBSECTOR IN THE BSAI.

A single fishery cooperative approved under section 2 may, on an annual basis, collectively—

(1) harvest the total amount of BSAI Pacific cod total allowable catch, less any amount allocated to the longline catcher processor subsector non-cooperative limited access fishery;

(2) utilize the total amount of BSAI Pacific cod prohibited species catch allocation, less any amount allocated to a longline catcher processor subsector non-cooperative limited access fishery; and

(3) harvest any reallocation of Pacific cod to the longline catcher processor subsector during a fishing year by the Secretary.

SEC. 4. LONGLINE CATCHER PROCESSOR SUBSECTOR NON-COOPERATIVE LIMITED ACCESS FISHERY.

(a) IN GENERAL.—An eligible member that elects not to participate in a single fishery cooperative approved under section 2 shall operate in a non-cooperative limited access fishery subject to the license limitation program in effect for the longline catcher processor subsector on the date of enactment of this Act or any subsequent modifications to the license limitation program recommended by the Council and approved by the Secretary.

(b) HARVEST AND PROHIBITED SPECIES ALLOCATIONS.—Eligible members operating in a non-cooperative limited access fishery under this section may collectively—

(1) harvest the percentage of BSAI Pacific cod total allowable catch equal to the combined average percentage of the BSAI Pacific cod harvest allocated to the longline catcher processor sector and retained by the vessel or vessels designated on the eligible members license limitation program license or licenses for 2006, 2007, and 2008, according to the catch accounting system data used to establish total catch; and

(2) utilize the percentage of BSAI Pacific cod prohibited species catch allocation equal to the percentage calculated under paragraph (1).

SEC. 5. AUTHORITY OF THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL.

(a) IN GENERAL.—Nothing in this Act shall supersede the authority of the Council to recommend for approval by the Secretary such conservation and management measures, in accordance with the Magnuson-Stevens Act (16 U.S.C. 1801 et seq.) as it considers necessary to ensure that this Act does not diminish the effectiveness of fishery management in the BSAI or the Gulf of Alaska Pacific cod fishery.

(b) LIMITATIONS.—

(1) Notwithstanding the authority provided to the Council under this section, the Council is prohibited from altering or otherwise modifying—

(A) the methodology established under section 3 for allocating the BSAI Pacific cod total allowable catch and BSAI Pacific cod prohibited species catch allocation to a single fishery cooperative approved under this Act; or

(B) the methodology established under section 4 of this Act for allocating the BSAI Pacific cod total allowable catch and BSAI Pacific cod prohibited species catch allocation to the non-cooperative limited access fishery.

(2) No sooner than 7 years after approval of a single fisheries cooperative under section 2 of this Act, the Council may modify the harvest limitation established under section 2(b) if such modification does not negatively impact any eligible member of the longline catcher processor subsector.

(c) PROTECTIONS FOR THE GULF OF ALASKA PACIFIC COD FISHERY.—The Council may recommend for approval by the Secretary such harvest limitations of Pacific cod by the longline catcher processor subsector in the Western Gulf of Alaska and the Central Gulf of Alaska as may be necessary to protect coastal communities and other Gulf of Alaska participants from potential competitive advantages provided to the longline catcher processor subsector by this Act.

SEC. 6. RELATIONSHIP TO THE MAGNUSON-STEVENS ACT.

(a) IN GENERAL.—Consistent with section 301(a) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)), a single fishery cooperative approved under section 2 of this Act is intended to enhance conservation and sustainable fishery management, reduce and minimize bycatch, promote social and economic benefits, and improve the vessel safety of the longline catcher processor subsector in the BSAI.

(b) TRANSITION RULE.—A single fishery cooperative approved under section 2 of this Act is deemed to meet the requirements of section 303A(i) of the Magnuson-Stevens Act (16 U.S.C. 1853a(i)) as if it had been approved by the Secretary within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, unless the Secretary makes a determination, within 30 days after the date of enactment of this Act, that application of section 303A(i) of the Magnuson-Stevens Act to the cooperative approved under section 2 of this Act would be inconsistent with the purposes for which section 303A was added to the Magnuson-Stevens Act.

(c) COST RECOVERY.—Consistent with section 304(d)(2) of the Magnuson-Stevens Act (16 U.S.C. 1854(d)(2)), the Secretary is authorized to recover reasonable costs to administer a single fishery cooperative approved under section 2 of this Act.

SEC. 7. COMMUNITY DEVELOPMENT QUOTA PROGRAM.

Nothing in this Act shall affect the western Alaska community development program established by section 305(i) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)), including the allocation of fishery resources in the directed Pacific cod fishery.

SEC. 8. DEFINITIONS.

In this Act:

(1) BSAI.—The term ''BSAI'' has the meaning given that term in section 219(a)(2) of the Department of Commerce and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2886).

(2) BSAI PACIFIC COD TOTAL ALLOWABLE CATCH.—The term ''BSAI Pacific cod total allowable catch'' means the Pacific cod total allowable catch for the directed longline catcher processor subsector in the BSAI as established on an annual basis by the Council and approved by the Secretary.

(3) BSAI PACIFIC COD PROHIBITED SPECIES CATCH ALLOCATION.—The term ''BSAI Pacific cod prohibited species catch allocation'' means the prohibited species catch allocation for the directed longline catcher processor subsector in the BSAI as established on an annual basis by the Council and approved by the Secretary.

(4) COUNCIL.—The term ''Council'' means the North Pacific Fishery Management Council established under section 302(a)(1)(G) of the Magnuson-Stevens Act (16 U.S.C. 1852(a)(1)(G)).

(5) ELIGIBLE MEMBER.—The term ''eligible member'' means a holder of a license limitation program license, or licenses, eligible to participate in the longline catcher processor subsector.

(6) GULF OF ALASKA.—The term ''Gulf of Alaska'' means that portion of the Exclusive Economic Zone contained in Statistical Areas 610, 620, and 630.

(7) LONGLINE CATCHER PROCESSOR SUBSECTOR.—The term ''longline catcher processor subsector'' has the meaning given that term in section 219(a)(6) of the Department of Commerce and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2886).

(8) MAGNUSON-STEVENS ACT.—The term ''Magnuson-Stevens Act'' means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

By Ms. CANTWELL (for herself, Mr. VITTER, Ms. LANDRIEU, Mrs. MURRAY, and Mr. MARTINEZ):

S. 1610. A bill to amend the Internal Revenue Code of 1986 to repeal the shipping investment withdrawal rules in section 955 and to provide an incentive to reinvest foreign shipping earnings in the United States; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I am pleased to join with my colleagues Senators VITTER, LANDRIEU, MURRAY, and MARTINEZ and introduce the American Shipping Reinvestment Act of 2009. This legislation will build on work Congress started in 2004 to strengthen the U.S. merchant marine, create needed jobs in U.S. ship building, and stimulate economic activity in our maritime sector.

Since our Nation's founding, the maritime sector has been integral to U.S. national security and economic

security. American companies own and operate both U.S. flag ships and a significant number of vessels under international registries. The U.S. flag fleets of these companies generally are built in the United States and are manned with U.S. seafarers. These U.S. flag fleets support not only the shipbuilding industrial base in this country and the pool of qualified seafarers, but they also create the shipping assets that are needed for military sealift in time of war or national emergency.

Most people understand commercial shipping and understand that we maintain a fleet of ships for military purposes. What may not be as well known is that the international ships of some American-owned companies are part of what is called the effective U.S.-controlled fleet, EUSC fleet. The EUSC is the fleet of merchant vessels registered in certain foreign nations that are available for requisition, use, or charter by the U.S. Government in the event of war or national emergency.

For example, U.S. flag commercial vessels and their American crews transported the majority of the cargo—more than 25 million measurement tons of cargo—in support of Operations Enduring Freedom and Iraqi Freedom during the period of 2002–2008.

What people also may not know is that the EUSC fleet has been in decline for the past quarter century, largely because of U.S. tax policy. Following enactment of certain 1986 tax law changes, there was a precipitous decline in American-owned international shipping. To remain competitive, many American-owned shipping companies either became foreign companies or simply divested themselves of their foreign assets.

A 2002 study commissioned by the Department of Defense and performed by professors at the Massachusetts Institute of Technology found that the EUSC fleet dropped by 38 percent in terms of numbers of ships and nearly 55 percent in terms of deadweight tonnage between 1986 and 2000. Perhaps more importantly, these declines have been largely experienced in militarily-useful vessel types. For example, the results of a 2002 DOD study found that if the EUSC fleet continues its present decline, DOD's ability to support U.S. military tanker requirements will diminish over time.

Fortunately, Congress recognized this problem in 2004 and addressed it by enacting the tonnage tax regime as part of the American Jobs Creation Act. Our legislation today builds on that policy by correcting an oversight in the 2004 act that has continued to stymie the ability of U.S. shipbuilding companies to invest in new ships in the United States.

We have very strong economic and national security reasons to support U.S. owned shipowning companies and to maintain a vibrant maritime industry in this country. We also have to continue to support needed changes in our tax code so that we provide operators of U.S. flag vessels in international trade the opportunity to be competitive with their tax-advantaged foreign competitors.

Notwithstanding the significant competitive disadvantages between 1986 and 2004 for American companies operating international ships, there continues to be several U.S. owned shipping companies with foreign operations, and our legislation is directed as helping them sustain and grow their U.S. flag fleets and to maintain their EUSC fleets. This bill will help these companies make needed investment in the U.S. economy, and create jobs in a way that also will enhance national security.

Specifically, The American Shipping Reinvestment Act of 2009 would repeal an outdated section of the Internal Revenue Code and allow U.S. shipping companies with foreign income earned prior to 1986 to reinvest it into the U.S. for the purpose of growing their U.S. flag operations.

Congress first included foreign shipping income in Subpart F in 1975, which meant that all shipping income was taxable at the full U.S. corporate tax rate no matter whether it was invested abroad or in the United States. However, a temporary rule, applicable to foreign shipping income earned from 1975 to 1986, continued to allow for deferral in cases where this income was reinvested in qualifying shipping activities. Section 955 of the Internal Revenue Code provided that this income would be included in gross income, i.e., taxed, immediately under Subpart F in the event of any net decrease in qualified shipping investments.

The American Jobs Creation Act of 2004 restored for shipping income the normal tax rule under which non-Subpart F income of foreign subsidiaries is not taxed by the United States until it is repatriated, generally as a dividend. In restoring the potential for deferral for certain shipping income, Congress in 2004 returned the treatment of shipping income to where it was prior to 1975.

Unfortunately, Congress did not address the rules under IRC Section 955 that apply to income earned between 1975 and 1986, thus creating a situation that this income is permanently stranded offshore. Our bill would repeal IRC Section 955 and will allow these stranded assets to be reinvested in the United States under the favorable tax terms that were in effect for other companies and industries in 2004. Specifically, the legislation provides a one-time opportunity for American-owned shipping companies to bring foreign source income back into the United States at a discounted tax rate for the purpose of expanding and growing our domestic maritime industry. Without the commonsense change in our legislation, these old, stranded assets will never return to the United States and never be subject to U.S. taxation.

The bill is guaranteed to create jobs for American workers with the funds being brought back into the U.S. economy—on the ships, in the shipyards building the ships, and in supporting businesses. The bill contains a provision that would recapture any tax benefits if a shipping company reduces its full-time U.S. employment levels.

This bill also would enhance U.S. national security interests by supporting shipyards that are vital to our defense industrial base, by enabling new U.S. flag tanker capacity to transport our Nation's energy products, and by providing DOD with critical assets—manpower and ships—necessary to help sustain military sealift.

The bill is strongly supported by maritime labor, shipyards, and ship owners and operators and can provide a boost to the U.S. maritime industry at a time when the U.S. is struggling to find its economic footing. The jobs created by this legislation are well-paying, long-term jobs in a crucial sector of our Nation's economy. I urge my colleagues to join me and my other original cosponsors in supporting this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1610

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Shipping Reinvestment Act of 2009''.

SEC. 2. REPEAL OF QUALIFIED SHIPPING INVESTMENT WITHDRAWAL RULES.

(a) IN GENERAL.—Section 955 of the Internal Revenue Code of 1986 (relating to withdrawal of previously excluded subpart F income from qualified investment) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 951(a)(1)(A) of the Internal Revenue Code of 1986 is amended by adding ''and'' at the end of clause (i) and by striking clause (iii).

(2) Section 951(a)(1)(A)(ii) is amended by striking '', and'' at the end and inserting '', except that in applying this clause amounts invested in less developed country corporations described in section 955(c)(2) (as so in effect) shall not be treated as investments in less developed countries.''.

(3) Section 951(a)(3) of such Code (relating to the limitation on pro rata share of previously excluded subpart F income withdrawn from investment) is hereby repealed.

(4) Section 964(b) of such Code is amended by striking '', 955,''.

(5) The table of sections for subpart F of part III of subchapter N of chapter 1 of such Code is amended by striking the item relating to section 955.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of controlled foreign corporations ending on or after the date of the enactment of this Act, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.

SEC. 3. ONE-TIME TEMPORARY DIVIDENDS RECEIVED DEDUCTION FOR PREVIOUSLY UNTAXED FOREIGN BASE COMPANY SHIPPING INCOME.

(a) IN GENERAL.—In the case of a corporation which is a United States shareholder and for which an election under this section is made for the taxable year, for purposes of the Internal Revenue Code of 1986, there shall be allowed as a deduction in computing taxable income under section 63 of such Code an amount equal to 85 percent of the cash distributions which are received during such taxable year by such shareholder from controlled foreign corporations to the extent that the distributions are attributable to income—

(1) which was derived by the controlled foreign corporation in taxable years beginning before January 1, 2005, and

(2) which would, without regard to the year earned, be described in section 954(f) (as in effect before the enactment of the American Jobs Creation Act of 2004).

(b) INDIRECT DIVIDENDS.—A rule similar to the rule of section 965(a)(2) of the Internal Revenue Code of 1986 shall apply, determined by treating cash distributions which are so attributable as cash dividends.

(c) LIMITATION.—The amount of dividends taken into account under this section shall not exceed the amount permitted to be taken into account under paragraphs (1), (3) (determined by substituting ''December 31, 2008'' for ''October 3, 2004''), and (4) of section 965(b) of the Internal Revenue Code of 1986, determined as if such paragraphs applied to this section.

(d) TAXPAYER ELECTION AND DESIGNATION.—For purposes of subsection (a), a taxpayer may, on its return for the taxable year to which this section applies—

(1) elect to apply paragraph (3) of section 959(c) of the Internal Revenue Code of 1986 before paragraphs (1) and (2) thereof, and

(2) designate the extent, if any, to which a cash distribution reduces a controlled foreign corporation's earnings and profits attributable to—

(A) foreign base company shipping income (determined under section 954(f) of the Internal Revenue Code of 1986 as in effect before the enactment of the American Jobs Creation Act of 2004), or

(B) other earnings and profits.

(e) ELECTION.—

(1) IN GENERAL.—The taxpayer may elect to apply this section to—

(A) the taxpayer's last taxable year which begins before the date of the enactment of this Act, or

(B) the taxpayer's first taxable year which begins during the 1-year period beginning on such date.

(2) TIMING OF ELECTION AND ONE-TIME ELECTION.—Such election may be made for a taxable year—

(A) only if made on or before the due date (including extensions) for filing the return of tax for such taxable year, and

(B) only if no election has been made under this section or section 965 of the Internal Revenue Code of 1986 with respect to the same distribution for any other taxable year of the taxpayer.

(f) REDUCTION IN BENEFITS FOR FAILURE TO MAINTAIN EMPLOYMENT LEVELS.—

(1) IN GENERAL.—If, during the period consisting of the calendar month in which the taxpayer first receives a distribution described in subsection (a) and the succeeding 23 calendar months, the taxpayer does not maintain an average employment level at least equal to the taxpayer's prior average employment, an additional amount equal to $25,000 multiplied by the number of employees by which the taxpayer's average employment level during such period falls below the prior average employment (but not exceeding the aggregate amount allowed as a deduction pursuant to subsection (a)) shall be taken into account as income by the taxpayer during the taxable year that includes the final day of such period.

(2) PRIOR AVERAGE EMPLOYMENT.—For purposes of this paragraph, the taxpayer's ''prior average employment'' shall be the average number of full time equivalent employees of the taxpayer during the period consisting of the 24 calendar months immediately preceding the calendar month in which the taxpayer first receives a distribution described in subsection (a).

(3) AGGREGATION RULES.—In determining the taxpayer's average employment level and prior average employment, all domestic members of a controlled group (as defined in section 264(e)(5)(B) of the Internal Revenue Code of 1986) shall be treated as a single taxpayer.

(g) SPECIAL RULES.—Rules similar to the rules of subsections (d) and (e) and paragraphs (3), (4), and (5) of subsection (c) of section 965 of the Internal Revenue Code of 1986 shall apply for purposes of this section.

(h) EFFECTIVE DATE.—This section shall apply to taxable years ending on or after the date of the enactment of this Act.

By Mr. GREGG (for himself, Mr. KENNEDY, Ms. COLLINS, Mr. DODD, Mr. MARTINEZ, Mr. HARKIN, Ms. SNOWE, and Ms. MIKULSKI):

S. 1611. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, this morning, 660,000 police officers and 300,000 firefighters across the country will get up and go to work to protect our homes, our families, and our communities. They will go into burning buildings, patrol our streets, and put their lives on the line, because they believe in the importance of what they are doing.

These dedicated workers are in the trenches every day making life-or-death decisions, and their experiences give them tremendous knowledge about how to protect our country. We need to listen to their recommendations and consider their advice. Unfortunately, however, all too often, our first responders have no voice in the decisions that affect their lives and their livelihoods. Their input is disregarded because they don't have the same rights as other workers.

Workers in the private sector who want a voice on the job have the right to form and join a union. They can fight for a safer, fairer workplace. But 300,000 police and 70,000 firefighters live in States in which their State governments deny them the fundamental right to a voice on the job. Even if these workers overwhelmingly agree that they want to form and join a union, their State government says they can't have one.

That is not fair. We are asking these workers to do so much for their communities—the least we can do in return is give them a voice at the table in the life-and-death discussions and decisions that affect their families and their futures. They deserve the opportunity to choose for themselves whether they want the advantages that unions bring.

That is why it is an honor to join Senator GREGG and Senator DODD in sponsoring the Public Safety Employer-Employee Cooperation Act to guarantee that our first responders will have a path they can use to decide if they want a union. If the workers don't want a union, they don't have to follow that path. But the State has to make it available and let the workers choose.

It won't be difficult for States to create this path. All they have to do is provide four basic rights: the right to form and join a union; the right to sit down at the table and talk; the right to sign a contract if both parties agree; and the right to go to a neutral third party when there are disputes.

Apart from these four rights, all the other details of the collective bargaining system are left up to the States. They have the flexibility to decide whether to exempt small communities. They decide how workers can select a union. They can also decide how workers and employers should resolve disputes—through arbitration, mediation, factfinding, or some other mechanism.

This bipartisan bill has been carefully drafted to preserve a balance between the interests of State and local governments and the rights of the workers they employ. It has been the product of years of careful negotiations, including a hearing and two markups in the HELP Committee. It was passed by the House of Representatives in the last Congress with an overwhelming bipartisan margin, including 98 Republican votes. No it is time to get it across the finish line and give our dedicated first responders the fair treatment they deserve. It is a matter of fundamental fairness and an urgent matter of public safety.

I commend Senator GREGG for his leadership on this very important issue, and I urge my colleagues to show these heroes the respect they deserve by supporting the Public Safety Employer-Employee Cooperation Act.

By Mr. BENNET:

S. 1613. A bill to reduce the Federal budget deficit in a responsible manner; to the Committee on the Budget.

Mr. BENNET. Mr. President, I cannot tell you how much I appreciated your remarks—I was sitting in the chair—and those of Chairman DODD as well. The hour is late. The idea that you would be here at that hour to talk about something as important as health care is appreciated, I know, by the people in your State, but also by the people in my State as well. So I say thank you for that.

I also want to talk about health care. I want to talk about health care in the context of fiscal discipline in this country. As you know, our Nation's annual deficits are staggering, and our

national debt is absolutely unsustainable. For the future of our country and for our children's sake, as we recover from this devastating blow to our economy, we have to stand together and begin to start the difficult, but essential, work of putting our fiscal house in order.

Health care reform must help solve this Nation's fiscal problems, not make them worse. To accomplish this, effective reform must bend the cost curve in health care spending both in the private and public sectors.

In part because of years of neglect and inaction, this Congress has reached a defining moment of reckoning. Rising health care costs, especially Medicare costs, are now the largest driver of our deficits. Our Nation's health care spending, as you were just saying, is 17 percent of our Nation's gross domestic product and is expected to grow to over 20 percent of GDP in 10 years, on its way, as you said, to 35 percent.

Health care alone—just health care—will soon account for one-fifth of our economy. This represents a greater share of the GDP than our manufacturing, agricultural, forestry, mining, and construction industries combined.

As we emerge from this terrible recession, the worst since the Great Depression, we cannot commit one-fifth of our economy to health care and expect to compete effectively in the global marketplace.

Adding to the urgency of the problem, this recession has made rocketing health care costs even more painful for families and businesses in the last 15 months. Both large businesses and small businesses have cut some 5.1 million jobs, and 2.4 million of these newly unemployed workers have lost the health coverage their jobs once provided. Now the same people must try to find insurance in the individual market where they can be rejected by private insurance companies for preexisting conditions such as asthma, diabetes, or even cancer.

Health care costs are strangling opportunities for working families and small businesses all over my State and the country. As health care costs rise, families are forced to make choices no one should have to make between insuring their families or their employees and sending their kids to college, taking lower paying jobs with less responsibility just for the medical benefits and defaulting on their mortgage payments to pay for their medical bills.

Every one of these examples springs from the experiences of people in my State. And it is no mystery why people are having to make these terrible choices. Middle-class wages are not even close to keeping up with these rising insurance costs. While median family income in this country fell by $300 during the last decade—staggering, by the way; over a decade in real dollars, median family income in the United States actually declined by $300—health care costs increased over the same period by 80 percent.

The cost of health insurance is eating into family budgets faster and faster. Over the past decades, premiums for Colorado families, as this chart shows us, have more than doubled, growing four times faster than wage increases. The cost of premiums for a Colorado family is over $13,000 today. If we do nothing, by 2016, Colorado families will be spending over $25,000 on their premiums, a 90-percent increase. We have come out of a period with an 85-percent increase, and if we do nothing, we are going to end up in a period with a 90-percent increase, with no real increase in wages.

Left unaddressed, this imbalance, which is the creation of our catastrophically inefficient health care system, will destroy the middle class in this country. If we do nothing, if we continue on with the status quo, by 2016, just 7 years from now—and I believe these numbers are very similar to the ones you quoted for Rhode Island—by 2016, 40 cents of every dollar a typical Colorado family earns will be eaten up by health care costs, leaving just 60 cents for everything else.

Think about it. That is almost half an average family's income. Money spent not to educate their children, not to feed them or house them, but just to cover the cost of the family health care plan. And that is just paying for coverage. Never mind if you actually get sick.

In 2007, 62 percent of the personal bankruptcies in this country were due to medical costs. Traditionally, most people's employers help pay for cost increases. That has been the case for over many years. But I heard from employers all over Colorado having to make tough choices—cutting back on benefits and laying off more costs to their employees.

In the coming years, copays for Coloradans will go up double digits. More Coloradans are being forced into health plans with higher deductibles, and more employers are getting out of the business of providing health insurance for their employees altogether.

Mr. President, we won't be able to completely flatten the health care cost curve in the short run, and we should be careful not to overpromise, but we have to make the rising cost of health care something our economy can plausibly absorb.

Part of the solution is reducing waste and curbing overpayments to insurance companies, and part of the answer is encouraging patients to seek preventive care. Small businesses may not see health costs go down immediately, but we sure can slow their rise. And we have to work hard to make sure they do not rise this quickly. Reforming our health care system could save over 100,000 small business jobs in the coming years that would otherwise be lost if we do nothing.

I agree with bipartisan voices saying that our first health care goal has to be to drive down costs, and we must start with Medicare. As I travel throughout Colorado, I have met countless physicians, nurses, and hospital workers who tell me about the perverse incentives in Medicare. Instead of being paid to spend time with patients and produce better quality care, doctors and nurses are paid for the number of patients they see in the shortest amount of time and the number of procedures they perform. This is no way to produce patient-centered care, and it is no way to reduce cost.

Medicare doesn't just influence, as you know, the care of the elderly and disabled. As the largest health care program in the United States, Medicare influences every level of health care. Private insurance and employer-based health care look to Medicare as they make decisions on what to pay doctors, nurses, and hospitals. Owing to the perverse incentives in Medicare, however, since 1970—since 1970—every year for almost 40 years, year-in and year-out, Medicare spending per person has risen by over 8 percent each year, and private insurance spending per person has risen by over 9 percent each year.

If we expect reform to begin to gain any traction, we must drive cost down at the Federal level first. We can start by paying doctors and nurses to actually do what they are supposed to do and what they want to do—be focused on patients. We have to reform the system so that we are paying for quality and not volume. We must improve care, produce savings, and slow down cost growth by bundling payments, paying for performance and outcomes, and providing better coordinated care for patients and providers.

The burden is on us to meet the public expectation that we will drive down costs in the health care system and make it more efficient, that we will make the health care marketplace more competitive, and that we will provide affordable, stable health care coverage to the American people that can't be taken away because they lose a job, have a preexisting condition, or have reached some arbitrary cap.

Controlling health care costs would help our fiscal situation a great deal, and that is one of the fundamental reasons health care reform is needed. But this alone will not be enough to fill the deepening hole of national debt that threatens America's prosperity. The fiscal decisions we make today matter so much because they will dictate the well-being and range of choices of the generations that follow us.

Sometimes, with the daily hail of press clippings, these issues may seem overly complex, but I like to use a pretty simple analogy. The way we run our government is not different than if you or I were to buy a house—probably a bigger one than we reasonably could afford—and then we tell the bank to please send the mortgage documents to our kids. Imagine how that burden—paying for mom and dad's house—would constrain our children's choices. What dreams would they have to defer

because their first obligation was a debt they didn't even incur.

My three daughters, ages 9, 8 and 5, have never had an economics class, but I can tell you that as much as they love their mom and dad, if asked, they would never do that deal—especially my 5-year-old, Anne. Whether we are taking her blanket away or telling her to stop sucking her thumb or putting a mountain of debt on her, she knows a raw deal when she sees one.

We in Congress owe the next generation much more than this, as the chairman, Senator DODD, was saying. We ought to be able to build on our roles as parents and community leaders to respect our children, come together, and plan America's way back to fiscal health. The longer we wait, the more difficult the choices become. If we wait 10 years, we will face a massive gap between our spending and the revenue the government collects. If we wait 10 years to take action, we would have to increase individual income taxes by almost 90 percent to keep pace. That is an unacceptable outcome for Colorado's families. If you don't like tax increases, fine, then we would have to slash Federal spending by almost one-half. That would mean massive cuts to Medicare, our Nation's defense, and other critical initiatives that keep our country strong. No one wants to be put in a position to make those kinds of choices either. These outcomes are unacceptable, yet we can see them coming. That is why inaction is so unacceptable on health care and also on returning to policies of fiscal discipline. It is long past time to put in place the policies that will reverse this condition. And as with any deep hole, the first order of business is to stop digging.

The good news is that we have a tried-and-true way to stop making matters worse. In the 1990s, we had Pay-Go, which effectively forced the shovel from Congress's hands and made Congress stop digging. Pay-Go means that before Congress can create new spending on permanent programs, it needs to figure out how to pay for that new spending, just as every family in the States we represent.

Pay-Go helped turn 1980s deficits into 1990s surpluses, and we actually began to pay down our debt. Pay-Go is commonsense budgeting. It is not any different, as I just said, than what a family does when its spending gets out of hand. When that bad credit card statements comes in the mail, a parent knows it is time to sit down at the kitchen table and plan how to stop the spending. Pay-Go is what Congress and President Clinton did to respond to Washington's bad credit card bill.

Pay-Go was smart lawmaking because it imposed a culture of fiscal responsibility—and I would say discipline—on the Congress. Yet, for some reason, early in this decade a new administration let Pay-Go expire. That played a part in how these surpluses all of a sudden turned back into big annual deficits. This is how America incurred years of new debt.

The frustrating reality is that we are not getting enough out of borrowing all this money in the end—fighting an expensive war with tremendous unseen long-term costs to follow, ignoring the staggering costs of our health care system and entitlements, paying huge interest costs on our debt, in large part to foreign countries. These are hardly worthy uses of deficit spending.

In 2003, the Bush administration and Congress passed a new entitlement program called Medicare Part D. It is very popular, but we never paid a dime for it. They also chose two tax cuts for people who needed them least over fiscal discipline. They ignored sky-rocketing mandatory spending. They created a brandnew bureaucracy and just saddled all of this heavy new weight on America's national debt.

In short, Washington was unwilling to ask the American people to pay for any of its investments—they put it on our children's shoulders instead.

And the tragedy of this incredible mismanagement is, it didn't work. Our economy plunged into its deepest hole since the Great Depression.

Fortunately, earlier this year, the House rightly passed new statutory Pay-Go. The Senate should pass Pay-Go too. That's why today, Senator MCCASKILL and I introduced Pay-Go. We believe that Pay-Go is one important way to make sure that our fiscal situation doesn't get any worse. Pay-Go is not a magic bullet, but it is part of the answer to our fiscal woes.

Once Pay-Go is in place though, we cannot stop there. Pay-Go will help us stop digging. But we also need to budget for the future, stop running large deficits and fill this fiscal hole completely. I am optimistic that this can be done, and it will take bipartisan commitment and discipline.

One place to start is with the growth of our yearly spending. Like Pay-Go, the yearly spending of Congress has also been done before, and it has worked.

That is why today I am introducing separate legislation, the Deficit Reduction Act of 2009, that would create yearly limits on discretionary spending. By pairing these discretionary spending limits with Pay-Go, we can start to make a substantial change in how Washington does business.

But it is not enough just to limit new spending across the board. Much of the reason that we are running such large deficits, is that we have made long-term spending commitments, called mandatory spending. To truly reverse the totality of our disastrous fiscal course, we must be willing to address rapidly expanding mandatory commitments too.

The best way—you know, it is funny, when you use the word ''mandatory.'' It is the word that should be used to express what this debt burden is we are putting on our kids. It will be mandatory that they pay that back before they make decisions about how to educate their own children; before they make decisions about how to provide individual health care in this country or make other kinds of investments all across the United States, in transportation or in new economies. What will be mandatory as we fall farther and farther behind in this global economy—what will be mandatory for them is to pay the bill left behind by their mothers and fathers.

The best way to get Congress to take a hard look at mandatory spending, is to place a flexible cap on our annual deficits. That's the other main component of what my new legislation would do. The cap in the Deficit Reduction Act is realistic—it would impose limits that are consistent with what economists believe we can sustain. This deficit limit is flexible—providing an exception when we are in a recession.

Here is how the deficit limit would work. Whatever the gross domestic product is in a given year, Congress must limit the deficit to 3 percent of the GDP or less. Economists tell us that this 3 percent number is sustainable over time, and that is a reasonably healthy ceiling. Now of course we should push to do better than running a deficit that is 3 percent of GDP. But this is a good starting point at setting and adhering to a budget. We would all clap if the deficits of today—12 or 13 percent of GDP—were 3 percent, and no one would clap louder than our children.

Under my legislation, if Congress failed to meet these deficit control requirements, the government would have to impose an across the board cut called a sequestration. Certain programs such as Social Security and veterans programs would not be subject to cuts. Yet most of the government's functions would be. The goal, of course, is to avoid this drastic measure by forcing Congress to plan ahead, and forcing Congress to pay attention to the deficit when it makes its spending choices.

Deficit limits make perfect sense during most years. But, as we have learned during this recession, an infusion of public funds can jolt a frozen economy and help turn that economy around. Running temporary deficits can kickstart a stagnant economy. But this only works if during healthy economic times, you also reduce government spending. The deficit limits I am proposing in this legislation would put Congress on a gradual track back to solid fiscal footing.

We should immediately enact budget reform proposals like Pay-Go discretionary spending limits and deficit limits. The CBO has concluded that after 2019, the rate at which we accumulate debt will continue to accelerate due to the aging of the population and increased health care costs. As angry as we all are with the excessive leverage in the private marketplace over the past decade that contributed to the market crashing, it is also obvious that Washington set a very bad example.

Let's put an end to these unsound fiscal practices. Let's not put our kids in the kind of situation we have inherited. Let's not make matters even worse, and the policy decisions regarding the national debt even harder for our kids.

What we need now is leadership and cooperation; not more shifting costs to our kids. The Congressional Budget Office estimates that if we remain on our current course, the total debt owed by the public will stand at over $17 trillion by the end of fiscal year 2019—only 10 years from today.

The point is that linked with our growing debt are the dreams and the plans of millions of American families. There is nothing fun about tightening our belt and cutting popular programs. I don't like it any more than anyone else who is here. Yet there are plenty of encouraging signs that this Congress and this President can stand together and do exactly that. Recently, just a couple of weeks ago, the Senate stood with the President for fiscal discipline and slashed nearly $2 billion from an outdated weapons system. That is a good start that I gladly supported. But so much more is left to do.

Coloradans already know we are in a bad way. People in my State are well aware that the excesses in recent years are catching up to us, and they know that Congress and the President have to make hard fiscal choices, reform health care before it eats up our entire budget, and pay for our reform efforts.

This challenging outlook may be just what it takes to bring both political parties to the negotiating table. Paired with Pay-Go, it is my hope that this new legislation can be a real starting point for meaningful fiscal negotiations. It is time we come up with an intelligent framework of fiscal management, that keeps Congress thinking ahead each time it makes a decision, and each time it puts together an annual budget, and each time it is faced with America's long-term fiscal trajectory.

Washington's fiscal mess was created over many years, and we won't solve the problem overnight. But this bill would give Congress and the President a guidepost to make the decisions necessary to get our budget under control. It would set a strong and binding standard for us to act responsibly.

We must start with what unites us. When I worry about what type of country we will leave my daughters and all of our young people, I know that others who vote differently than I do have the same worries. We owe more to our kids than to leave them a huge national debt and no plan to get out of it.

If we don't start making difficult decisions soon, we will be limiting our children's ability to make our country a better place, before they even get started. We will be limiting their ability to invest in education, life-saving scientific research, or new technologies that form the foundation of economic growth. We will be limiting their ability to defend the Nation during future times of war that we can't even think of today. And we will be limiting their chances of having a quality of life even better than what our parents and grandparents left to us.

If we fail to confront the tough issues so we can control the cost of health care, we will have squandered this narrow window of opportunity. If we fail to step up to the plate and pass a fiscally sound health care reform bill, this Congress will be remembered for years to come as having let down the country. If we fail—not just to stop digging this deep fiscal hole, but to put a process in place for climbing back up to solid fiscal footing—we will have failed to perform as the stewards of our children's dreams.

Let's stand together, with our President and with American families. Let's get health care reform done responsibly, let's take action to reduce the deficit and debt, and let's put this economy back on track.

By Ms. SNOWE:

S. 1615. A bill to amend the Small Business Act and the Small Business Investment Act of 1958 to stop the small business credit crunch, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, the state of small business lending in the United States is still dire, as was shown during CIT's recent close brush with bankruptcy. One area of lending which has historically helped small firms has been Small Business Administration backed lending, but while the SBA traditionally guarantees $20 billion in loans annually, before the passage of the stimulus, new lending this year was on track to fall below $10 billion. In fact, in the first quarter of fiscal year 2009, the number of SBA 7(a) loans dropped by 57 percent when compared with the first quarter of fiscal year 2008.

Last year, to help address the frozen credit market and the drop in SBA lending I introduced the 10 Steps for a Main Street Economic Recovery Act. Many of the provisions in 10 Steps were included in the American Recovery and Reinvestment Act and several have already been credited with helping to increase SBA volume. These include fee reductions for 7(a) and 504 loans and allowing for the refinancing of 504 loans. To ensure that SBA lending remains a critical source of capital for small businesses, we must continue to bolster this program and help it to evolve and grow.

In order to maintain this momentum we must take steps to further reform and improve SBA-backed lending. The legislation I am introducing, the Next Step, builds on the 10 Steps for a Main Street Economic Recovery Act and makes the SBA's lending programs more vital and responsive to the needs of today's small business borrower.

The Next Step includes provisions that would allow borrowers to take out larger 7(a) and 504 loans up to $5 million. This bill would help satisfy the capital needs of small businesses, looking to start or expand their operations. The bill would also allow for the refinancing of 7(a) loans. Finally, SBA borrowers must have the ability to shop and compare SBA loan rates online. My legislation would establish an online platform through the SBA that would allow borrowers to compare SBA loan rates and make an informed choice, giving borrowers a chance to save time and money.

These targeted reforms included in the Next Step for Main Street Credit Availability Act of 2009 will help bring SBA lending into the future, make the SBA's lending programs competitive with traditional small businesses' borrowing, and help to increase SBA lending volume.

I urge my colleagues to support this critical legislation to help improve small business lending.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1615

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Next Step for Main Street Credit Availability Act of 2009''.

SEC. 2. MAXIMUM AMOUNTS FOR 7(a) LOANS.

Section 7(a)(3)(A) of the Small Business Act (15 U.S.C. 636(a)(3)(A)) is amended by striking ''$1,500,000 (or if the gross loan amount would exceed $2,000,000'' and inserting ''$4,000,000 (or if the gross loan amount would exceed $5,000,000''.

SEC. 3. REFINANCING EXISTING 7(a) LOANS.

(a) IN GENERAL.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

''(34) REFINANCING EXISTING LOANS.—A borrower that has received a loan under this subsection may refinance the balance of the loan by applying for a loan from the lender that made the original loan or with another lender.''.

(b) TECHNICAL AMENDMENT.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by striking ''(32) INCREASED'' and inserting ''(33) INCREASED''.

SEC. 4. MAXIMUM LOAN AMOUNTS UNDER 504 PROGRAM.

Section 502(2)(A) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)(A)) is amended—

(1) in clause (i), by striking ''$1,500,000'' and inserting ''$4,000,000'';

(2) in clause (ii), by striking ''$2,000,000'' and inserting ''$5,000,000''; and

(3) in clause (iii), by striking ''$4,000,000'' and inserting ''$5,500,000''.

SEC. 5. MAXIMUM LOAN LIMITS UNDER MICROLOAN PROGRAM.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(B)(iii), by striking ''$35,000'' and inserting ''$50,000'';

(2) in paragraph (3)(E), by striking ''$35,000'' each place it appears and inserting ''$50,000''; and

(3) in paragraph (11)(B), by striking ''$35,000'' and inserting ''$50,000''.

SEC. 6. ONLINE LENDING PLATFORM.

It is the sense of the Congress that the Administrator of the Small Business Administration should establish a website that—

(1) lists each lender that makes loans guaranteed by the Small Business Administration and provides information about the loan rate of each such lender; and

(2) allows prospective borrowers—

(A) to compare rates on loans guaranteed by the Small Business Administration; and

(B) to apply online for loans guaranteed by the Small Business Administration.

By Ms. CANTWELL:

S. 1616. A bill to authorize assistance to small- and medium-sized businesses to promote exports to the People's Republic of China, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Ms. CANTWELL. Mr. President, I rise today to introduce the U.S.-China Market Engagement and Export Promotion Act of 2009. For many small- and medium-sized businesses across this country, some of which are in my home State of Washington, getting access to the Chinese market proves difficult at best. However, to establish a foothold in the ever expanding Chinese market can prove pivotal in achieving financial success. China is a tremendous market for U.S. goods and services. According to the U.S.-China Business Council, despite the global economic downturn, 85 percent of congressional districts increased their exports to China in 2008. In addition, exports to China in almost every congressional district grew more than exports to anywhere else from 2000 to 2008.

In 2008, U.S. total exports to China equaled $71.5 billion. During the same time, however, our imports from China equaled $337.8 billion. That means our trading balance with China in 2008 was a $266.3 billion deficit. This bill would help States establish export promotion offices in China and create a new China Market Advocate Program at U.S. Export Assistance Centers around the Nation. The bill also provides assistance to small businesses for China trade missions and authorizes grants for Chinese business education programs.

I support this bill because of the enormous role that small businesses play in our economy. Small- and medium-sized businesses are a great potential engine of growth. Between 2004 and 2005, small businesses created 78.9 percent of the Nation's net new jobs, and with expanded export opportunities that number will be able to increase in the near future. Considering the huge impact that small- and medium-sized businesses have on our economy, I urge all my colleagues to support this bill and give the business owners the assistance they need to succeed in the Chinese export market.

The U.S.-China Market Engagement and Promotion Act will build the infrastructure necessary to connect American small- and medium-sized businesses with export opportunities in China.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1616

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''United States-China Market Engagement and Export Promotion Act''.

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

Sec. 1. Short title and table of contents.

TITLE I—PROGRAMS OF THE DEPARTMENT OF COMMERCE

Sec. 101. Grants to States to establish and operate offices to promote exports to China.

Sec. 102. Program to establish China market advocate positions in United States Export Assistance Centers.

Sec. 103. Assistance to small- and medium-sized businesses for trade missions to China.

Sec. 104. Plan to consolidate fees for Gold Key matching services in China.

TITLE II—PROGRAMS OF THE SMALL BUSINESS ADMINISTRATION

Sec. 201. Trade outreach at the Office of International Trade of the Small Business Administration.

Sec. 202. Grants for Chinese business education programs.

TITLE I—PROGRAMS OF THE DEPARTMENT OF COMMERCE

SEC. 101. GRANTS TO STATES TO ESTABLISH AND OPERATE OFFICES TO PROMOTE EXPORTS TO CHINA.

(a) GRANTS.—The Secretary of Commerce, acting through the Assistant Secretary for Trade Promotion and Director of the United States and Foreign Commercial Service, shall provide grants to States to establish and operate State offices in the People's Republic of China to provide assistance to United States exporters for the promotion of exports to China, with a particular focus on establishment of offices in locations in addition to Beijing and Shanghai.

(b) AMOUNT.—The amount of a grant under subsection (a) shall not exceed 33 percent of the total costs to establish and operate a State office described in such subsection.

(c) REGULATIONS.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Commerce shall promulgate such regulations as may be necessary to carry out this section.

(d) DEFINITIONS.—In this section:

(1) STATE.—The term ''State'' has the meaning given the term in section 2301(j)(5) of the Export Enhancement Act of 1988 (15 U.S.C. 4721(j)(5)).

(2) UNITED STATES EXPORTER.—The term ''United States exporter'' has the meaning given the term in section 2301(j)(3) of the Export Enhancement Act of 1988 (15 U.S.C. 4721(j)(3)).

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce $10,000,000 for each of the fiscal years 2010 through 2014 to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) shall remain available until expended.

SEC. 102. PROGRAM TO ESTABLISH CHINA MARKET ADVOCATE POSITIONS IN UNITED STATES EXPORT ASSISTANCE CENTERS.

(a) PROGRAM AUTHORIZED.—The Secretary of Commerce, in the Secretary's role as chairperson of the Trade Promotion Coordinating Committee, shall establish a program to provide comprehensive assistance to small- and medium-sized businesses in the United States for purposes of facilitating exports to China.

(b) CHINA MARKET ADVOCATES.—

(1) POSITIONS AUTHORIZED.—

(A) IN GENERAL.—The Secretary of Commerce shall create not fewer than 50 China market advocate positions in United States Export Assistance Centers.

(B) APPOINTMENT AND TRAINING.—The China market advocates authorized under subparagraph (A) shall be appointed by the Secretary from among individuals with expertise in matters relating to trade with China and shall receive the training authorized under paragraph (2).

(C) RATE OF PAY.—China market advocates shall be paid at a rate equal to the rate of basic pay for grades GS–10 through GS–13 of the General Schedule under section 5332 of title 5, United States Code.

(D) GEOGRAPHIC DISTRIBUTION.—To the maximum extent practicable, China market advocates shall be assigned to United States Export Assistance Centers in a manner that achieves an equitable geographic distribution of China market advocates among United States Export Assistance Centers.

(2) TRAINING AUTHORIZED.—The Secretary shall provide training to China market advocates in the business culture of China, the market of China, and the evolving political, cultural, and economic environment in China.

(c) SERVICES PROVIDED BY ADVOCATES.—China market advocates authorized under subsection (b) shall provide comprehensive assistance to small- and medium-sized businesses in the United States for purposes of facilitating exports of United States goods to China. Such assistance may include—

(1) assistance to find and utilize Federal and private resources to facilitate entering into the market of China;

(2) continuous direct and personal contact with businesses that have entered the market of China;

(3) assistance to resolve disputes with the Government of the United States or China relating to intellectual property rights violations, export restrictions, and additional trade barriers; and

(4) to the extent practicable, locating and recruiting businesses to enter the market of China.

(d) ADVERTISING OF PROGRAM.—The Secretary of Commerce shall make available to the public through advertising and other appropriate methods information about services offered by China market advocates under the program authorized under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce to carry out this section $15,000,000 for each of the fiscal years 2010 through 2014, of which—

(1) $5,000,000 are authorized to be appropriated to carry out subsection (b)(2); and

(2) $2,000,000 are authorized to be appropriated to carry out subsection (d).

SEC. 103. ASSISTANCE TO SMALL- AND MEDIUM-SIZED BUSINESSES FOR TRADE MISSIONS TO CHINA.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Commerce, in the Secretary's role as chairperson of the Trade Promotion Coordinating Committee, shall provide assistance through United States Export Assistance Centers to eligible small- and medium-sized businesses in the United States for business-related expenses for trade missions to China.

(b) SELECTION PROCESS.—The Secretary of Commerce shall—

(1) develop a transparent and competitive scoring system for selection of small- and medium-sized businesses to receive assistance authorized under subsection (a) that focuses on the feasibility of exporting goods and services to China; and

(2) develop specific criteria for a definition of ''business-related expenses'', as the term is used in subsection (a), that is compatible with best business practices.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $2,000,000 for each of the fiscal years 2010 through 2014 to carry out this section.

SEC. 104. PLAN TO CONSOLIDATE FEES FOR GOLD KEY MATCHING SERVICES IN CHINA.

(a) PLAN REQUIRED.—As soon as is practicable after the date of the enactment of this Act, the Secretary of Commerce, acting through the Assistant Secretary for Trade Promotion and Director of the United States and Foreign Commercial Service, shall submit to Congress a plan to consolidate fees charged by the Department of Commerce for Gold Key matching services provided to small- and medium-sized businesses that export goods or services produced in the United States to more than one market in China.

(b) GOLD KEY MATCHING SERVICES DEFINED.—In this section, the term ''Gold Key matching services'' means the Gold Key Service program of the Department of Commerce and includes—

(1) the arrangement of business meetings with pre-screened contacts, representatives, distributors, professional associations, government contacts, or licensing or joint venture partners in a foreign country;

(2) customized market and industry briefings with trade specialists of the Department of Commerce;

(3) timely and relevant market research;

(4) appointments with prospective trade partners in key industry sectors;

(5) post-meeting debriefing with trade specialists of the Department of Commerce and assistance in developing appropriate follow-up strategies; and

(6) assistance with travel, accommodations, interpreter service, and clerical support.

TITLE II—PROGRAMS OF THE SMALL BUSINESS ADMINISTRATION

SEC. 201. TRADE OUTREACH AT THE OFFICE OF INTERNATIONAL TRADE OF THE SMALL BUSINESS ADMINISTRATION.

Section 22 of the Small Business Act (15 U.S.C. 649) is amended by adding at the end the following new subsections:

''(h) PROMOTION OF EXPORTS TO CHINA.—The Office shall provide strategic guidance to small business concerns with respect to exporting goods and services to China.

''(i) DIRECTOR OF CHINA PROGRAM GRANTS.—

''(1) IN GENERAL.—There shall be in the Office a Director of China Program Grants (in this subsection referred to as the 'Director').

''(2) APPOINTMENT.—The Director shall be appointed by the Administrator and shall be an individual with demonstrated successful experience in matters relating to international trade and administering government contracts.

''(3) RATE OF PAY.—The Director shall be paid at a rate equal to or greater than the rate of basic pay for grade GS–14 of the General Schedule under section 5332 of title 5, United States Code.

''(4) DUTIES.—The Director shall be responsible for administering the grant program authorized under section 202 of the United States-China Market Engagement and Export Promotion Act (relating to Chinese business education programs) and any other similar or related program of the Office.''.

SEC. 202. GRANTS FOR CHINESE BUSINESS EDUCATION PROGRAMS.

(a) GRANTS AUTHORIZED.—The Administrator of the Small Business Administration, acting through the Director of China Program Grants in the Office of International Trade, shall make grants to institutions of higher education, or combinations of such institutions, to pay the Federal share of the cost of planning, establishing, and operating education programs described in subsection (b) to—

(1) develop and enhance student skills, awareness, and expertise relating to business in China; and

(2) prepare students to promote the competitiveness of and opportunities for United States small business concerns in China.

(b) EDUCATION PROGRAMS DESCRIBED.—Education programs described in this subsection are academic programs of study relating to business in China, including undergraduate and graduate level degrees, courses, or seminars on—

(1) the economy of China;

(2) trade and commerce in China;

(3) new and expanding export opportunities for United States small business concerns in China; and

(4) the economic, commerce, and trade relations between the United States and China.

(c) APPLICATION.—A small business concern desiring a grant under this section shall submit an application at such time, in such manner, and containing such information as the Director of China Program Grants may require.

(d) DURATION OF GRANTS.—A grant under this section shall be for an initial period not to exceed 2 years. The Director of China Program Grants may renew such grant for additional 2-year periods.

(e) FEDERAL SHARE.—

(1) FEDERAL SHARE.—The Federal share of the cost of an education program described in subsection (b) shall not exceed 50 percent of the cost of such program.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of an education program described in subsection (b) may be provided either in cash or in-kind.

(f) DEFINITION.—In this section, the term ''institution of higher education'' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

By Mr. DODD (for himself, Mr. MENENDEZ, Mr. MERKLEY, Mr. BENNET, Mr. AKAKA, and Mr. SCHUMER):

S. 1619. A bill to establish the Office of Sustainable Housing and Communities, to establish the Interagency Council on Sustainable Communities, to establish a comprehensive planning grant program, to establish a sustainability challenge grant program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DODD. Mr. President, I rise to introduce the Livable Communities Act.

Our communities are growing and changing. And the way we plan for their futures needs to evolve, as well. At stake is whether or not we will be able to enjoy the places where we live and work without excessive traffic, skyrocketing fuel costs, and sprawling development patterns that eat up our open space.

As our communities grow, people are living farther from jobs, commuting longer distances on more crowded roadways, paying more at the pump at a time when family budgets are stretched thin and putting more greenhouse gases into the air at a time when climate change has emerged as an urgent threat.

We are losing our rural land and open spaces. Transportation costs are making housing less affordable. Even though our communities are growing in size, we are losing the community spirit that makes American towns and cities so great.

It is clear that current trends simply cannot continue.

Sustainable development will cut down on the traffic that has long plagued my home State of Connecticut and connect people with good-paying jobs. Done right, it will protect the environment and help us meet energy goals; protect rural areas and green spaces; revitalize our Main Streets and urban centers; create and preserve affordable housing; and make our communities better places to live, work, and raise families.

But does that mean sustainable development is a transportation issue? An energy issue? A housing issue? An environmental issue?

The answer, of course, is ''all of the above,'' and unfortunately, that tends to short some circuits here in Washington. Our policy has long been stovepiped within the various agencies responsible for each of the issues affected by planning and development.

In February, I wrote a letter to President Obama urging him to establish a White House Office of Sustainable Development to coordinate housing, transportation, energy, and environmental policies.

I felt confident I would find a partner in the White House. The President has been a strong leader on these issues, and he has shown a willingness to shake up a Federal Government that hasn't always succeeded when it comes to thinking outside the box and addressing related issues in a comprehensive, effective way.

Sure enough, last month I brought together Secretary of Transportation Ray LaHood, Secretary of Housing and Urban Development Shaun Donovan, and Environmental Protection Agency Administrator Lisa Jackson at a Banking Committee hearing—three public servants who don't often find themselves in the same hearing room at the same time.

They brought with them a pledge that the administration would work across agency lines to take a holistic look at development policy—and a firm commitment to livability principles that would serve as the foundation for that policy going forward.

The administration's principles demonstrate a true understanding of the best way forward.

Sustainable development, as grounded in these principles, provides more transportation choices for families, expands access to affordable housing, enhances economic competitiveness by

connecting families with jobs and services, targets funding towards existing communities to spur revitalization and protect our open spaces, values the unique character of both our cities and our small towns, and improves collaboration between different government agencies to better leverage our investments.

As Secretary LaHood said at the hearing, we are now all working off the same playbook. But now it is time to snap the ball and move down the field.

Last month the White House announced the selection of Shelley Poticha to head up these efforts. If the Livable Communities Act becomes law, as I hope it will, Ms. Poticha will head a new HUD Office of Sustainable Housing and Communities.

This new office will serve as a clearinghouse for best practices, so that successful initiatives can be easily replicated. And it will give HUD Secretary Donovan, Deputy Secretary Ron Simms, and Ms. Poticha the tools and authority they need to really dig in and become a partner to our communities in creating a sustainable future.

One successful play from our playbook could be modeled after a project in my home State of Connecticut. It links housing and transportation policy, encourages smart land use, generates economic growth, and will reduce our carbon footprint around what's known as the Tri-City Corridor in Connecticut. This proposal would provide commuter and 110-mile-per-hour intercity rail service between New Haven, Hartford, and Springfield, MA, and feature 12 stops, creating ''transit villages'' and revitalizing local economies.

Already, we are seeing how this proposed service is serving as a catalyst: attracting new business, commuters, and residents, and transforming struggling local economies.

Along the corridor is Meriden, a small city of nearly 60,000 residents located roughly halfway between New Haven and Hartford. In anticipation of a commuter stop on the rail line, the city would like to transform 15 acres of brownfields into new commercial and residential developments, including a public green that doubles as a flood buffer.

Immediately north of that site is the Mills Memorial public housing complex, providing 140 units of affordable housing to low income residents.

By linking transit, housing, and commercial planning, the city of Meriden will be able to transform its downtown into a bustling economic center ready to support a wide range of residents.

The vision of Meriden and so many communities throughout the country needs the support and planning tools to take these initiatives from idea to action.

So, today, I offer for your consideration legislation that encourages communities across the country to begin planning for more prosperous and livable futures.

In addition to creating the new HUD Office of Sustainable Housing and Communities I mentioned earlier, this bill creates a competitive grant program that States and localities can use to better integrate transportation, housing, land use, and economic development when making long-term planning decisions.

In addition, it provides funding for communities to implement these comprehensive regional plans through a challenge grant program. This program will help communities invest in public transportation, affordable housing, complete streets, transit-oriented development, and redeveloping brownfields.

Finally, this bill creates an Interagency Council on Sustainable Communities to break down the ''stovepiping'' that exists within the Federal Government and coordinate Federal policies to encourage sustainable development.

In my home State of Connecticut, integrated planning and sustainable development is critical to growing stronger communities.

We have a state-level program called HOMEConnecticut that provides grants to plan Incentive Housing Zones. In these zones, mixed-income housing is built near jobs and transit centers, in downtowns and in redeveloped brownfields. More than 50 cities and towns have either applied for grants or already received them. The investment will pay off in affordable homes, good jobs, and more livable communities.

Like bragging on Connecticut, but I would love to see this success replicated in communities around the Nation. The Obama administration has indicated its commitment to encouraging sustainable development and helping local authorities build a better future. It is time for us to do the same.

I urge my colleagues to join me in support of this important legislation.

By Mr. BINGAMAN (for himself, Ms. SNOWE, Mr. KERRY, and Mr. LUGAR):

S. 1620. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives and fees for increasing motor vehicle fuel economy, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, as the success of the Cash for Clunkers Program that we are working to extend today makes clear, there is substantial interest among consumers in upgrading the fuel efficiency of their vehicles. In fact, maybe the most surprising thing about the program thus far has been the higher-than-expected appetite by consumers for the most fuel-efficient vehicles.

It is an encouraging sign, but it remains surprising because it is extraordinarily difficult for a consumer to take into account the real benefits, or costs, of fuel economy. The value of fuel efficiency depends on the unknowable fact of what the price of gasoline is likely to be in future years as well as requiring a calculation to make and apples-to-apples comparison of the costs of ownership at different efficiency levels. This explains why study after study demonstrates that consumers don't fully account for the fuel costs of ownership when they make buying decisions. Decisions that many people regretted making only a few years earlier as gas prices climbed near $4 per gallon last fall.

This isn't only a problem for consumers. Improving the fuel economy of a vehicle requires significant engineering and new technologies, often adding hundreds or thousands to the manufacturer price of a vehicle; costs consumers have proved unwilling to bear. Faced with this reality, and the uncertainty of recovering their costs from consumers who are unsure of the value of fuel efficiency, car makers have generally thought it is in their best business interests to meet the fuel economy requirements of CAFE but go no further. Even when manufacturers want to go further than the CAFE requirements and produce more efficient vehicles, they are faced with giving up a cost advantage to their competitors by putting on expensive new technologies. For this reason, and to attempt to take into account the very real costs in oil and climate insecurity by our undervaluation of efficiency, Congress has put in a series of incentives for specific technologies such as hybrids, electric-drive, and hydrogen fuel cell vehicles. We have also recently made significant investments in battery manufacturing and vehicle electrification to try and close the significant gap with our global competitors in these technologies.

Although I support those investments to increase our competitiveness in the clean energy technology manufacturing race, unless the domestic marketplace will support them over the long term, they simply won't be enough. I believe the best path to both support our climate and energy goals and enhance our economic competitiveness is to create a set of clear, technology-neutral incentives that can achieve our goals and then let the market and consumers sort out the best technologies.

The Efficient Vehicle Leadership Act of 2009 that I am introducing today with Senators SNOWE, KERRY, and LUGAR provides a long-term pathway forward that will allow consumers to afford the most fuel efficient vehicles and a clear signal to the manufacturers that they can succeed in the marketplace by incorporating the most advanced fuel efficiency technologies into their new offerings. The bill would provide for fuel performance rebates that would decrease the cost of efficient cars and pay for it by assessing a fuel performance fee to manufacturers for inefficient vehicles to pay for the program.

The rebates and fees would be calculated based on how much more or

less fuel-efficient a vehicle is relative to the CAFE standard. The CAFE standard is based on the size, or ''footprint''—the interior dimensions of the four wheels of the motor vehicle, so each vehicle would compete with other vehicles of a similar size. The CAFE standard itself becomes more stringent over time, based on the ''maximum feasible'' fuel efficiency as determined by NHTSA, so the incentives are recast yearly against a higher target. Calculating the rebates and fees based on the CAFE standard allows them to net out, making the overall system revenue neutral and providing a continuing incentive each subsequent year. Thus, the purchasers of fuel efficiency laggards for each size pay to make the most fuel-efficient equivalent vehicles more affordable. The rebate amount must appear on the fuel efficiency sticker and consumers can choose if they want to receive their rebate directly in their tax returns or they can transfer the credit to dealer, as long as the dealer certifies they have given the rebate to the consumer at the point of purchase.

In sum, this bill provides a long-term structure for the automotive sector that provides certainty to manufacturers that the technologies that they must employ to meet the new fuel efficiency requirements will be valued by consumers and, beyond that, rewards and incentivizes innovation in vehicle efficiency to go beyond the CAFE requirements. The technological acumen of the auto industry will be harnessed, with no net impact on safety or comfort, and without distorting the marketplace. Consumers would benefit for years to come from a smaller hit on their wallet at the pump. The United States would benefit overall as we began to curb our appetite for oil.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1620

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Efficient Vehicle Leadership Act of 2009''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. TAX CREDIT FOR FUEL-EFFICIENT MOTOR VEHICLES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits) is amended by inserting after section 30D the following new section:

''SEC. 30E. FUEL PERFORMANCE REBATE.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount determined under paragraph (2) with respect to any new qualified fuel-efficient motor vehicle placed in service by the taxpayer during the taxable year.

''(2) CREDIT AMOUNT.—With respect to each new qualified fuel-efficient motor vehicle, the amount determined under this paragraph shall be equal to the product of—

''(A) the absolute value of the difference between the fuel-economy rating and the reference fuel-economy rating for such motor vehicle for the model year, and

''(B) 100, and

''(C) the applicable amount.

''(3) APPLICABLE AMOUNT.—For purposes of paragraph (2)(C), the applicable amount is equal to—

''(A) in the case of model year 2011—

''(i) $1,000, or

''(ii) $2,000, if the fuel-economy rating for such motor vehicle is at least 50 percent more efficient than the reference fuel-economy rating for such motor vehicle as determined under paragraph (2)(A), and

''(B) in the case of any succeeding model year—

''(i) $1,500, or

''(ii) $2,500, if the fuel-economy rating for such motor vehicle is at least 50 percent more efficient than the reference fuel-economy rating for such motor vehicle as determined under paragraph (2)(A), or

''(iii) $3,500, if the fuel-economy rating for such motor vehicle is at least 75 percent more efficient than the reference fuel-economy rating for such motor vehicle as determined under paragraph (2)(A).

''(b) NEW QUALIFIED FUEL-EFFICIENT MOTOR VEHICLE.—For purposes of this section, the term 'new qualified fuel-efficient motor vehicle' means a passenger automobile or light truck—

''(1) which is treated as a motor vehicle for purposes of title II of the Clean Air Act,

''(2) which achieves a fuel-economy rating that is more efficient than the reference fuel-economy rating for such motor vehicle for the model year,

''(3) for which standards are prescribed pursuant to section 32902 of title 49, United States Code,

''(4) the original use of which commences with the taxpayer,

''(5) which is acquired for use or lease by the taxpayer and not for resale,

''(6) the purchase price of which, less the amount allowable under subsection (a) with respect to such vehicle, does not exceed $50,000, and

''(7) which is made by a manufacturer beginning with model year 2011.

''(c) APPLICATION WITH OTHER CREDITS.—

''(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

''(2) REFUNDABLE PERSONAL CREDIT.—

''(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart C for such taxable year (and not allowed under subsection (a)).

''(B) REFUNDABLE CREDIT MAY BE TRANSFERRED.—

''(i) IN GENERAL.—A taxpayer may, in connection with the purchase of a new qualified fuel-efficient motor vehicle, transfer any refundable credit described in subparagraph (A) to any person who is in the trade or business of selling new qualified fuel-efficient motor vehicles and who sold such vehicle to the taxpayer, but only if such person clearly discloses to such taxpayer, through the use of a window sticker attached to the new qualified fuel-efficient vehicle—

''(I) the amount of the refundable credit described in subparagraph (A) with respect to such vehicle, and

''(II) a notification that the taxpayer will not be eligible for any credit under section 30, 30B, or 30D with respect to such vehicle unless the taxpayer elects not to have this section apply with respect to such vehicle.

''(ii) CERTIFICATION.—A transferee of a refundable credit described in subparagraph (A) may not claim such credit unless such claim is accompanied by a certification to the Secretary that the transferee reduced the price the taxpayer paid for the new qualified fuel-efficient motor vehicle by the entire amount of such refundable credit.

''(iii) CONSENT REQUIRED FOR REVOCATION.—Any transfer under clause (i) may be revoked only with the consent of the Secretary.

''(iv) REGULATIONS.—The Secretary may prescribe such regulations as necessary to ensure that any refundable credit described in clause (i) is claimed once and not retransferred by a transferee.

''(d) OTHER DEFINITIONS.—For purposes of this section—

''(1) FUEL-ECONOMY RATING.—The term 'fuel-economy rating' means, with respect to any motor vehicle, the combined fuel-economy rating for such motor vehicle, expressed in gallons per mile, determined in accordance with section 32904 of title 49, United States Code.

''(2) MODEL YEAR.—The term 'model year' has the meaning given such term under section 32901(a) of such title 49.

''(3) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

''(4) REFERENCE FUEL-ECONOMY RATING.—The term 'reference fuel-economy rating' means, with respect to any motor vehicle, the fuel economy standard for such motor vehicle, expressed in gallons per mile, calculated by applying the relevant vehicle attributes to the mathematical function published pursuant to section 32902(b)(3)(A) of title 49, United States Code.

''(5) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(e) SPECIAL RULES.—

''(1) BASIS REDUCTION.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (c)).

''(2) NO DOUBLE BENEFIT.—No other credit shall be allowable under this chapter for a new qualified fuel-efficient motor vehicle with respect to which a credit is allowed under this section.

''(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle whose use is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable

under subsection (a) with respect to such vehicle (determined without regard to subsection (c)). For purposes of subsection (c), property to which this paragraph applies shall be treated as of a character subject to an allowance for depreciation.

''(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(5) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

''(6) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(7) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—A motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provisions under a waiver under section 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(8) INFLATION ADJUSTMENT.—In the case of any model year beginning in a calendar year after 2010, each dollar amount in subsection (a)(3)(B) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the model year begins, determined by substituting '2009' for '1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $100.

''(f) REGULATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.''.

(b) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) BUSINESS CREDIT.—Section 38(c)(4)(B) is amended by redesignating clauses (i) through (viii) as clauses (ii) through (ix), respectively, and by inserting before clause (ii) (as so redesignated) the following new clause:

''(i) the credit determined under section 30E,''.

(2) PERSONAL CREDIT.—

(A) Section 24(b)(3)(B) is amended by striking ''and 30D'' and inserting ''30D, and 30E''.

(B) Section 25(e)(1)(C)(ii) is amended by inserting ''30E,'' after ''30D,''.

(C) Section 25B(g)(2) is amended by striking ''and 30D'' and inserting ''30D, and 30E''.

(D) Section 26(a)(1) is amended by striking '' and 30D'' and inserting ''30D, and 30E''.

(E) Section 904(i) is amended by striking ''and 30D'' and inserting ''30D, and 30E''.

(c) DISPLAY OF CREDIT.—Section 32908(b)(1) of title 49, United States Code, is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), nad

(2) by inserting after subparagraph (D) the following new subparagraph:

''(E) the amount of the fuel-efficient motor vehicle credit allowable with respect to the sale of the automobile under section 30E of the Internal Revenue Code of 1986 (26 U.S.C. 30E).''.

(d) CONFORMING AMENDMENTS.—

(1) Section 38(a) is amended by striking ''plus'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting '', plus'', and by adding at the end the following new paragraph:

''(36) the portion of the fuel performance rebate to which section 30E(c)(1) applies.''.

(2) Section 1016(a) is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 30E(e)(1).''.

(3) Section 6501(m) is amended by inserting ''30E(e)(6),'' after ''30D(e)(4),''.

(4) The table of section for subpart C of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30D the following new item:

''Sec. 30E. Fuel performance rebate.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 3. FUEL PERFORMANCE FEE.

(a) IN GENERAL.—Section 4064 is amended to read as follows:

''SEC. 4064. FUEL PERFORMANCE FEE.

''(a) IMPOSITION OF TAX.—

''(1) IN GENERAL.—There is hereby imposed on the sale by the manufacturer of each fuel guzzler motor vehicle a tax equal to the product of—

''(A) the absolute value of the difference between the fuel-economy rating and the reference fuel-economy rating for such motor vehicle for the model year, and

''(B) 100, and

''(C) the applicable amount.

''(2) APPLICABLE AMOUNT.—For purposes of paragraph (1)(C), the applicable amount is equal to—

''(A) $1,500, or

''(B) $2,500, if the fuel-economy rating for such motor vehicle is more than 50 percent less efficient than the reference fuel-economy rating for such motor vehicle as determined under paragraph (1)(A), or

''(C) $3,500, if the fuel-economy rating for such motor vehicle is more than 75 percent less efficient than the reference fuel-economy rating for such motor vehicle as determined under paragraph (1)(A).

''(b) FUEL GUZZLER MOTOR VEHICLE.—For purposes of this section—

''(1) IN GENERAL.—The term 'fuel guzzler motor vehicle' means a passenger automobile or light truck—

''(A) which is treated as a motor vehicle for purposes of title II of the Clean Air Act,

''(B) which achieves a fuel-economy rating that is less efficient than the reference fuel-economy rating for such motor vehicle for the model year,

''(C) which has a gross vehicle weight rating of not more than 8,500 pounds, and

''(D) which is made by a manufacturer beginning with model year 2013.

''(2) EXCEPTION FOR EMERGENCY VEHICLES.—The term 'fuel guzzler motor vehicle' does not include any vehicle sold for use and used—

''(A) as an ambulance or combination ambulance-hearse,

''(B) by the United States or by a State or local government for police or other law enforcement purposes, or

''(C) for other emergency uses prescribed by the Secretary by regulations.

''(c) OTHER DEFINITIONS.—For purposes of this section—

''(1) FUEL-ECONOMY RATING.—The term 'fuel-economy rating' means, with respect to any motor vehicle, the combined fuel-economy rating for such motor vehicle, expressed in gallons per mile, determined in accordance with section 32904 of title 49, United States Code.

''(2) MODEL YEAR.—The term 'model year' has the meaning given such term under section 32901(a) of such title 49.

''(3) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

''(4) REFERENCE FUEL-ECONOMY RATING.—The term 'reference fuel-economy rating' means, with respect to any motor vehicle, the fuel economy standard for such motor vehicle, expressed in gallons per mile, calculated by applying the relevant vehicle attributes to the mathematical function published pursuant to section 32902(b)(3)(A) of title 49, United States Code.

''(5) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(d) INFLATION ADJUSTMENT.—In the case of any model year beginning in a calendar year after 2010, each dollar amount in subsection (a)(2) shall be increased by an amount equal to—

''(1) such dollar amount, multiplied by

''(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the model year begins, determined by substituting '2009' for '1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $100.''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for part I of subchapter A of chapter 32 is amended by striking ''**GAS**'' and inserting ''**FUEL**''.

(2) The table of parts for subchapter A of chapter 32 is amended by striking ''Gas'' in the item relating to part I and inserting ''Fuel''.

(3) The table of sections for part I of subchapter A of chapter 32 is amended by striking ''Gas'' in the item relating to section 4064 and inserting ''Fuel''.

(4) The heading for subsection (d) of section 1016 is amended by striking ''GAS GUZZLER TAX'' and inserting ''FUEL PERFORMANCE FEE''.

(5) The heading for subsection (e) of section 4217 is amended by striking ''GAS GUZZLER TAX'' and inserting ''FUEL PERFORMANCE FEE''.

(6) The heading for subparagraph (B) of section 4217(e)(3) is amended by striking ''GAS GUZZLER TAX'' and inserting ''FUEL PERFORMANCE FEE''.

(7) Section 4217(e) is amended by striking ''gas guzzler tax'' each place it appears and inserting ''fuel performance fee''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of vehicles beginning with model year 2013.

By Mr. SANDERS (for himself and Mr. MERKLEY):

S. 1621. A bill to improve thermal energy efficiency and use, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. SANDERS. Mr. President, today I am pleased to introduce the Thermal Energy Efficiency Act, which I believe can play an important role in moving our Nation toward green job creation and greenhouse gas emissions reductions. I thank Senator MERKLEY for being an original cosponsor on this bill. I also thank the International District Energy Association, the Biomass Energy Resource Center, the American Council for an Energy-Efficient Economy, Sustainable Northwest, and the U.S. Clean Heat and Power Association for working with us to ensure that as we consider comprehensive global warming legislation, we do not forget about energy efficiency and thermal energy.

This legislation addresses two ways of producing and distributing thermal energy, which is a technical term for heat. The legislation focuses on combined heat and power and district energy. Combined heat and power is simple to understand and has great capacity to transform our use of energy and increase large-scale efficiency. It is a fully developed technology, and there is nothing experimental about it. Combined heat and power means that one source of energy can produce electricity and then capture and use the resulting heat for a second purpose: heating homes, schools, offices, and factories. Combined heat and power gets both heat and power from one energy source and can work with fossil fuels or biomass or even waste. Combined heat and power can offer huge efficiency gains and lower carbon footprints for our powerplants.

District energy can be used together with combined heat and power, or separate from it, in systems designed purely for heating. What district energy does is use heat not just for one building or location but for multiple locations. Just as homes or businesses share electric lines or telephone lines, they can also share a heat source. And sharing a heat source can often be a major source of efficiency.

For too long, Federal energy policy has not focused enough on thermal energy or energy efficiency. We know we can do more. According to the Department of Energy, combined heat and power represents roughly 9 percent of our existing electric power capacity today, but if we moved to 20 percent by 2030, we could avoid 60 percent of the projected growth in carbon dioxide emissions in this country, equivalent to taking more than half of the current passenger vehicles off the road in the United States. Additionally, we could create 1 million new jobs and generate $234 billion in new investments.

We are talking about real technology that is deployable today. In Copenhagen, district energy provides clean heating to 97 percent of the city. In our own country, in St. Paul, MN, district energy and combined heat and power provide 65 megawatts of thermal energy and 25 megawatts of electricity from renewable urban wood waste. Jamestown, NY, started their district heating project in 1981, and today the system provides 16 megawatts of thermal energy heating. Jamestown's public school district uses district energy and has saved more than 16 percent of their energy use over a 30-month period and saved more than $500,000 dollars for taxpayers in the process.

We have opportunities to expand this technology all around our Nation. For example, in my home State of Vermont, several of our cities and towns are looking at district energy. In Burlington, VT, we have 50 megawatt powerplant that uses wood chips and wood waste for power. Yet approximately 60 percent of the energy produced by this plant is lost as wasted heat. This is typical of many conventional power plants. If Burlington implemented a district energy system it could use the wasted thermal energy to heat and cool many buildings downtown. The hurdle for Burlington, and many cities and towns, is the upfront capital investment required to build a district energy system.

That is why today I am introducing the Thermal Energy Efficiency Act. We need a stable, long-term funding source for district energy and combined heat and power. This bill would use 2 percent of the revenues derived from auctioning emissions permits under global warming legislation to support hospitals, cities and towns, schools and universities, businesses and industries, and even Federal facilities and military bases as they implement efficient thermal energy systems.

This bill would recognize the important role that efficiency and thermal energy can play in helping our Nation meet our energy security, emissions reduction, and economic goals. As a member of both the Energy and Natural Resources Committee and the Environment and Public Works Committee, I look forward to working with my colleagues to ensure that combined heat and power and district energy are included in comprehensive energy and global warming legislation.

By Mr. FEINGOLD (for himself, Mr. DODD, and Mr. MENENDEZ):

S. 1623. A bill to prohibit the Secretary of the Interior from issuing new Federal oil and gas leases to holders of existing leases who do not diligently develop the land subject to the existing leases or relinquish the leases, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. FEINGOLD. Mr. President, today I am reintroducing legislation that seeks to answer a question more and more Americans are asking in light of our economic woes and our struggle toward energy independence: Why aren't the oil companies developing 65 million acres, or nearly 75 percent, of land that they are leasing from the U.S. Government? Those same companies and some of my colleagues continue to argue that we need to open more Federal lands to drilling and recently have been insisting on opening up part of the Gulf of Mexico off Florida's coast that Congress agreed to keep closed during debate in 2005 for military and security purposes. I would first like to know why the oil companies are not producing on most of the Federal lands they already have under lease.

Last year, at a Senate Judiciary Committee hearing, I had the chance to ask top oil executives just that question. They couldn't come up with a good explanation. In fact, one of the executives told me that they have the manpower and infrastructure to put all their existing leases of Federal lands into oil production.

I find this troubling. No one is talking about pulling oil out of a hat. But with nearly 75 percent of currently leased Federal lands and waters not producing oil and gas, Congress must insist on some accountability. This is why today I am introducing—along with Senators DODD and MENENDEZ—the Responsible Federal Oil and Gas Lease Act, also known as "Use It or Lose It" legislation. This bill says that if oil and gas companies want to lease additional Federal lands, they must either be producing or diligently developing their existing Federal leases, or they have to first give up those leases. Under my bill, the Department of the Interior is required to establish diligent development benchmarks, which will encourage leaseholders to demonstrate they are taking steps that may lead to oil and gas production. This is a responsible way to increase production and keep the private sector accountable for production of existing Federal resources.

Last fall, the Government Accountability Office issued a report, "Oil and Gas Leasing: Interior Could Do More to Encourage Diligent Development," that looked at whether enough is being done to ensure oil companies are taking steps to develop Federal oil and gas leases. The report found that the Department of the Interior—whose Minerals Management Service manages offshore leases and Bureau of Land Management manages onshore and National Petroleum Reserve leases—lags behind State and private landowner efforts to encourage development of land leased for oil and gas development. The GAO recommends that the Secretary of the Interior "develop a strategy to evaluate options to encourage faster development of its oil and gas leases."

Though both MMS and BLM require "reasonable diligence" in developing and producing oil and gas on Federal leases, the GAO found that the Interior Department has not clearly defined what activities or timeframes constitute reasonable diligence—something my bill requires the agency to do. Currently, the GAO concludes that leaseholders, in general, are not required to take actions to develop a

lease during the primary term. The only specific diligent development requirement that Interior officials identified to the GAO applies only to lessees of 8-year leases in the Gulf of Mexico and requires drilling to occur before the end of the fifth year or else the lease terminates. However, these leases represent less than 1 percent of the total lease universe.

In addition to the GAO evaluation, the Department of the Interior's Office of the Inspector General issued a report in February 2009 on its investigation of whether oil and gas companies were adequately developing Federal leases and whether the Department of the Interior was ensuring companies bring their leases into production. The inspector general concluded that, while there is no guarantee that a particular lease contains oil and gas in commercial quantities, there are no requirements to ensure lessees are taking steps to reach this conclusion and to ensure the development of leases capable of production. Specifically, the inspector general found there are no requirements for the Department to monitor production progress or compel companies to develop leases and there is no requirement to detail activity on nonproducing leases. My bill will ensure the Federal Government develops diligent development requirements for oil and gas leases.

With over 100 billion barrels of oil under Federal lands and waters that are being leased or are available for leasing, Congress must properly encourage their development. This won't solve our energy problems—the unfortunate truth is that in today's global market, gas prices are dictated less by our domestic production and more by OPEC's actions. Nevertheless, Congress must ensure appropriate oversight of our Federally leased lands and waters, as we simultaneously reduce our dependence on foreign oil through continuing to be a world leader in oil and gas production, decreasing our demand of oil and gas since we are the No. 1 consumer of both in the world, and pursuing alternative energy sources especially in the transportation sector.

By Mr. WHITEHOUSE:

S. 1624. A bill to amend title 11 of the United States Code, to provide protection for medical debt homeowners, to restore bankruptcy protections for individuals experiencing economic distress as caregivers to ill, injured, or disabled family members, and to exempt from means testing debtors whose financial problems were caused by serious medical problems, and for other purposes; to the Committee on the Judiciary.

Mr. WHITEHOUSE. Mr. President, I rise today to introduce legislation that would help families struggling with medical debts overcome hurdles that under current law make it difficult for them to find relief in the bankruptcy system. With medical costs at an all-time high and the unemployment rate hovering near 10 percent nationwide—and 12.4 percent in my home State of Rhode Island—too many individuals and families struck with injury and illness have no other option but to file for bankruptcy. According to a recent Harvard University study, health care-related costs have been a primary driver of personal bankruptcy filings, contributing to over 62 percent of filings in 2007.

The statistics are as shocking as the personal stories are heartbreaking. Countless Rhode Islanders have written to me during my time in office asking for help with crippling medical costs, and I want to share just two of their stories with you today.

Adam, a 23-year-old from Bristol, recently underwent surgery for cancer. Adam's treatment plan requires him to undergo a CT scan every 2 months. While his insurance initially paid for his health costs, he received word not long after his surgery that his policy was ''maxed out'' and that he would have to pay $6,700 out of pocket for an upcoming CT scan. As of today, Adam, a young man just starting his adult life, has $20,000 in medical debt and reports that he ''cannot see any light at the end of the tunnel.''

Robert, a veteran and retiree also from Warwick, suffered a major heart attack in November of 2004. Although he had health insurance, Robert was responsible for paying a $2,000 deductible plus 20 percent of the cost of his care. After 40 years of working and saving, these medical costs wiped him out, and he had to sell his home.

Adam and Robert have both suffered unexpected medical costs that have turned their lives upside down. These Rhode Islanders, like millions of others nationwide, may be forced to file for bankruptcy to get a clean start—but when they do, they will learn that the bankruptcy process can be time consuming and costly and ultimately may not allow them to stay in their homes.

The legislation that I am introducing today, the Medical Bankruptcy Fairness Act of 2009, would help people who because of medical costs have no other choice but to file for bankruptcy. The bill would waive procedural hurdles so that Adam and Robert would have the option of a speedier, less expensive, and more efficient bankruptcy. To begin with, it would waive credit counseling requirements for these debtors. Such requirements have little relevance to people whose debt stems not from poor budgeting but, rather, from uncontrollable medical expenses. The bill would also waive the so-called ''means test,'' making the filing process quicker and less costly and making sure that people have the ability to file to have their debts discharged in chapter 7, as opposed to a chapter 13 plan under which they would have made debt payments for 3 to 5 years.

In addition to removing these procedural hurdles, the Medical Bankruptcy Fairness Act would give people with high levels of medical debt the ability to retain at least $250,000 in home value through the bankruptcy process. The ''homestead exemption'' is one of many aspects of bankruptcy law that looks to the laws of the individual States. While filers in some States already have the ability to preserve home equity at this level, a number of States offer homestead exemptions of $5,000 or less. With the average home price nationwide around $200,000, the $250,000 exemption included in this bill will allow the majority of individuals and families crushed by medical debt to keep their homes.

Finally, the bill would eliminate an obstacle that prevents many bankruptcy filers from accessing the chapter 7 bankruptcy system, which as I mentioned earlier is the simplest and most efficient form of bankruptcy. Because attorneys' fees are ''discharged'' at the end of a chapter 7 bankruptcy, attorneys generally require the upfront payment of fees in chapter 7 proceedings. Many debtors who would be better off filing for a quicker and less costly bankruptcy in chapter 7 are forced to file in chapter 13 because they don't have enough cash to pay the attorney. The Medical Bankruptcy Fairness Act would make attorneys' fees nondischargeable in chapter 7 bankruptcies, as in chapter 13 bankruptcies, making it easier for debtors to elect the more efficient chapter 7 proceeding.

Before I conclude, I want to acknowledge the hard work of my colleague from Massachusetts, Senator KENNEDY, on the issue of medical debt. Senator KENNEDY offered amendments during the consideration of the 2005 bankruptcy reforms that would have given people struggling with medical debts treatment similar to that which they would get under the Medical Bankruptcy Fairness Act. Unfortunately, those amendments were voted down. I look forward to working with Senator KENNEDY to make sure that we don't miss another opportunity to help Americans struggling with medical debt.

There are people in every State suffering from medical hardship and related debts who would benefit from this legislation. I urge my colleagues to work with me to pass it to Adam and Robert and the millions like them nationwide a clean start in bankruptcy.

By Mr. DODD (for himself and Mr. BINGAMAN):

S. 1625. A bill to amend title II of the Public Health Service Act to provide for an improved method to measure poverty so as to enable a better assessment of the effects of programs under the Public Health Service Act and the Social Security Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I wish to speak about poverty and, specifically, how we measure it and its influence on millions of Americans.

When we return from the August recess, the Census Bureau will release its

annual report documenting the number of Americans living in poverty. But these numbers will provide a flawed picture of poverty in America since they are based almost exclusively on 50-year-old food prices. The bill I am introducing today, the Measuring American Poverty, or MAP, Act, directs the Census to develop a new poverty measure that is based on a more comprehensive definition of need. Improving the poverty measure is not just an academic exercise for statisticians, it is essential in helping us identify and implement effective policies that address this crisis.

Even with an inaccurate measurement, the picture of poverty in America is startling. In 2007, the year for which we have the most recent data, one in eight Americans—and nearly one in five children—didn't have the resources to meet their basic needs: food, clothing, and shelter. Think about that. One in five children in America in 2007 went to bed without even the most basic elements that we take for granted. In my home State of Connecticut, more than 85,000 kids lived in poverty. And that was before the economic downturn in which we now find ourselves. The Center for American Progress estimates that the cost to our Nation of persistent child poverty is $½ trillion each year. Every year a child stays in poverty reduces future productivity over the course of his or her working life by nearly $12,000.

But the cost is more than just financial—it is moral. We are judged, Hubert Humphrey famously said, by how we treat those in the shadows of life. And every child who goes to bed hungry, every American who lacks the basic necessities of life, is a mark on our national conscience. As we struggle with the great challenges of our time, the crisis of poverty is growing. More and more Americans find that shadow creeping toward them. The Center on Budget and Policy Priorities estimated that if unemployment were to rise to 9 percent—our current unemployment rate is 9.5 percent, the highest rate in 26 years—the number of Americans in poverty would increase by as many as 10.3 million, and the number of children in poverty would rise by as many as 3.3 million.

To put those numbers in perspective, this recession will add a number of Americans equivalent to the population of Michigan to the current number who live in poverty, which is already equivalent to the population of California. In my home State of Connecticut and across this country, people who have long worked hard to get ahead are falling further behind. Folks who have worked two jobs with an eye toward sending their kids to college are having to choose between purchasing food and medications. They are hoping that a child's hacking cough doesn't turn into something more serious because they can't afford to see a doctor. They are staying up late staring at unpaid bills, wondering how to pay their mortgage when their only incomes from their meager savings and unemployment insurance, wondering what happened to their America dream.

The vast majority of people who are poor do not lack the desire for a better life for themselves and their family. They are not poor in their work ethic, their love for their country and their communities. They are in poverty, but they are not poor in the qualities that we so admire in America. The truth is, many are unlucky and face insurmountable hurdles. For some that hurdle is their inability to pay for higher education. For others it is that they work two jobs and can't read to their kids at night like they want to. And far too many others are struggling to pay their mortgage and are spending all their retirement savings just to keep a roof over their heads.

As many hard-working Americans are engulfed by the shadow of poverty, we remember Hubert Humphrey's admonition, but too often we can't even see into those shadows because the way we measure poverty in America is badly outdated. It is that challenge to which I today urge this body to rise.

Currently, we measure poverty by comparing two numbers: the money a family has, which the census refers to as an ''income measure,'' and the money a family needs to meet its basic needs, which experts call the ''poverty threshold.'' If a family's income measure is less than the threshold, they are counted as poor. It is a simple calculation. But unfortunately both elements—the income measure and the threshold—are flawed.

The poverty threshold was created using data from the 1950s and 1960s. Currently, it is calculated by taking the 1950s cost of emergency foodstuffs—food only for temporary use when funds are low—and multiplying that number by three because in the 1960s, food represented one-third of a family budget. But today, food represents one-sixth or one-seventh of a family's budget. Similarly, a family's cash income before taxes was once an accurate and straightforward way to measure a family's resources. But today, many Americans are subject to both State and Federal income taxes and may face exorbitant health costs or other critical needs which drain their resources. In addition, many women now work outside the home, meaning they now need pay for childcare and for getting to and from work.

And on the other side of the ledger, we now provide many benefits to low income workers that are not cash payments—they are provided through our Tax Code, or like energy assistance programs, paid directly to providers. I have fought throughout my career for programs that lift people out of poverty. Think of the earned-income tax credit, food assistance, housing assistance, home energy assistance, child care assistance—hundreds of billions of dollars spent to help Americans that aren't accounted for when we calculate whether our efforts are working. So, we need a new way to measure both what a family needs and what a family has.

When Mayor Bloomberg decided to tackle poverty in New York City, he started by doing what any successful businessman would—he surveyed the problem. But he discovered that our outdated system of measuring poverty simply didn't allow him to see what was really happening. So the mayor charged his Center for Economic Opportunity with creating a system that would better represent that threshold, as well as a family's resources. They followed the recommendation of the National Academy of Sciences 1995 panel described in ''Measuring Poverty: An Improved Approach.'' The legislation I offer today also follows these guidelines.

Specifically, this bill—the Measuring American Poverty Act—updates the calculations for both threshold and resources in the Federal poverty measure. The poverty threshold would be based on the current prices of food, clothing, shelter, utilities, and a few basic household expenses. And it would revise the current measurement of income to better reflect the reality that Americans not only must pay taxes but also certain unavoidable expenses like transportation to and from work, childcare, and medical expenses. This revised measure would also include the value of near-cash benefits like energy assistance, food stamps, section 8 housing vouchers, and tax credits such as the earned-income tax credit.

Let me be very clear: this isn't a bill to change eligibility for programs or the allocation of Federal funds. In fact, the bill's text is explicit about that. The MAP Act creates a new measurement. It does not replace the Federal Poverty Line. It does not change eligibility for programs. It will not lead to an unprecedented automatic increase in spending.

What the MAP Act will do is help us to understand the scope of the poverty crisis in America, and to better evaluate the effectiveness of our solutions to it. We have a difficult job ahead of us, as we look to lift Americans out of poverty, provide middle-class families with a strong safety net, and restore the American Dream for working men and women. But we must begin by facing unafraid the true nature and scope of the poverty crisis. I urge my colleagues to join me in support of this legislation.

By Mr. HARKIN:

S. 1627. A bill to improve choices for consumers for vehicles and fuel, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. HARKIN. Mr. President, our national energy situation continues to deteriorate. Volatile petroleum and gasoline prices threaten our economy, and our oil imports are responsible for an incredibly large wealth transfer

from America to global oil producers. Our most immediate and visible energy challenge is our dependence on petroleum-derived fuels for transportation, but we also face the need to reduce the greenhouse gases that result principally from fossil fuel production and use. Because our global warming challenge is fundamentally linked to our energy systems, their resolution has a common strategy—to transform our energy sector to one far less dependent on fossil fuels and far more reliant on energy efficiency and domestic renewable energy supplies. This energy transformation strategy also represents a crucial economic recovery and development opportunity because millions of jobs will be created as we carry out this strategy.

Americans recognize the magnitude and the urgency of our energy challenges. They rightfully expect us to adopt policies to move this energy transition forward. In particular, we need to reduce dependence on oil in transportation, and we have broad agreement on two fundamental approaches—increasing efficiency of vehicles and increasing use of alternative fuels. We mandated more efficient vehicles by passing the Energy Independence and Security Act of 2007, EISA. That bill also mandates a brisk expansion of biofuels production under the renewable fuels standard. However, we also need to expand the number of vehicles that can use these alternative fuels and the number of filling stations selling these biofuels.

Today I am joined by my esteemed colleague, Senator LUGAR of Indiana, in introducing the Consumer Fuels and Vehicles Choice Act of 2009. This bill will expand the number of alternative fuel automobiles at a rapid pace while not imposing undue production cost challenges for our auto manufacturers. It calls for 50 percent of all automobiles manufactured for sale in the United States to be dual-fuel automobiles by 2011. It increases that to 90 percent of all automobiles manufactured for U.S. sales by 2013. These requirements are reasonable because it is known that gasoline automobiles require relatively minor changes in fuel system designs to be able to use blends of gasoline and ethanol which qualify them for dual fuel designation.

This bill also requires that major fuel distributors install blender pumps in increasing numbers of the retail fueling stations carrying their brand name. These blender pumps will be capable of dispensing ethanol and gasoline blends ranging from 0 percent ethanol to 85 percent ethanol. This flexibility in blend choice is expected to be attractive to consumers, including those who want to use regular gasoline for non-automotive engines. This bill also authorizes grants of up to 50 percent of the cost for installing blender pumps and tanks and other infrastructure needed for selling ethanol fuel blends.

Mr. President, the requirements established and assistance authorized in this bill will ensure that the number of dual fuel automobiles and the availability of ethanol fuel blends are expanding apace with the expansion of ethanol production and use in our national fuel supply over the next 15 years and beyond. Taken together, our increasing production of biofuels, our incentives for installation of alternative fuel infrastructure, and this automobile requirement will provide Americans the option of choosing clean, domestically produced fuels for their personal transportation needs in the future. These steps represent critical components in the transition of our energy systems away from fossil and imported fuels toward the benefits of greater reliance on sustainable domestic fuel sources.

Today I urge my Senate colleagues to join us in taking action to boost the transition to a cleaner, more resilient, and more secure energy economy. I urge their support for this bill and its rapid enactment.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1627

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Consumer Fuels and Vehicle Choice Act of 2009''.

SEC. 2. ENSURING THE AVAILABILITY OF DUAL FUELED AUTOMOBILES AND LIGHT DUTY TRUCKS.

(a) IN GENERAL.—Chapter 329 of title 49, United States Code, is amended by inserting after section 32902 the following:

''§ 32902A. Requirement to manufacture dual fueled automobiles and light duty trucks

''(a) IN GENERAL.—For each model year listed in the following table, each manufacturer shall ensure that the percentage of automobiles and light duty trucks manufactured by the manufacturer for sale in the United States that are dual fueled automobiles and light duty trucks is not less than the percentage set forth for that model year in the following table:

''Model Year	Percentage
Model years 2011 and 2012	50 percent
Model year 2013 and each subsequent model year.	90 percent

''(b) EXCEPTION.—Subsection (a) shall not apply to automobiles or light duty trucks that operate only on electricity.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 329 of title 49, United States Code, is amended by inserting after the item relating to section 32902 the following:

''32902A. Requirement to manufacture dual fueled automobiles and light duty trucks.''.

(c) RULEMAKING.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall prescribe regulations to carry out the amendments made by this Act.

SEC. 3. BLENDER PUMP PROMOTION.

(a) BLENDER PUMP GRANT PROGRAM.—

(1) DEFINITIONS.—In this subsection:

(A) BLENDER PUMP.—The term ''blender pump'' means an automotive fuel dispensing pump capable of dispensing at least 3 different blends of gasoline and ethanol, as selected by the pump operator, including blends ranging from 0 percent ethanol to 85 percent denatured ethanol, as determined by the Secretary.

(B) E–85 FUEL.—The term ''E–85 fuel'' means a blend of gasoline approximately 85 percent of the content of which is ethanol.

(C) ETHANOL FUEL BLEND.—The term ''ethanol fuel blend'' means a blend of gasoline and ethanol, with a minimum of 0 percent and maximum of 85 percent of the content of which is denatured ethanol.

(D) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(2) GRANTS.—The Secretary shall make grants under this subsection to eligible facilities (as determined by the Secretary) to pay the Federal share of—

(A) installing blender pump fuel infrastructure, including infrastructure necessary—

(i) for the direct retail sale of ethanol fuel blends (including E–85 fuel), including blender pumps and storage tanks; and

(ii) to directly market ethanol fuel blends (including E–85 fuel) to gas retailers, including inline blending equipment, pumps, storage tanks, and loadout equipment; and

(B) providing subgrants to direct retailers of ethanol fuel blends (including E–85 fuel) for the purpose of installing fuel infrastructure for the direct retail sale of ethanol fuel blends (including E–85 fuel), including blender pumps and storage tanks.

(3) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be 50 percent of the total cost of the project.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this subsection, to remain available until expended—

(A) $50,000,000 for fiscal year 2010;

(B) $100,000,000 for fiscal year 2011;

(C) $200,000,000 for fiscal year 2012;

(D) $300,000,000 for fiscal year 2013; and

(E) $350,000,000 for fiscal year 2014.

(b) INSTALLATION OF BLENDER PUMPS BY MAJOR FUEL DISTRIBUTORS AT OWNED STATIONS AND BRANDED STATIONS.—Section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) is amended by adding at the end the following:

''(13) INSTALLATION OF BLENDER PUMPS BY MAJOR FUEL DISTRIBUTORS AT OWNED STATIONS AND BRANDED STATIONS.—

''(A) DEFINITIONS.—In this paragraph:

''(i) E–85 FUEL.—The term 'E–85 fuel' means a blend of gasoline approximately 85 percent of the content of which is ethanol.

''(ii) ETHANOL FUEL BLEND.—The term 'ethanol fuel blend' means a blend of gasoline and ethanol, with a minimum of 0 percent and maximum of 85 percent of the content of which is denatured ethanol.

''(iii) MAJOR FUEL DISTRIBUTOR.—

''(I) IN GENERAL.—The term 'major fuel distributor' means any person that owns a refinery and directly markets the output of a refinery.

''(II) EXCLUSION.—The term 'major fuel distributor' does not include any person that owns less than 50 retail fueling stations.

''(iv) SECRETARY.—The term 'Secretary' means the Secretary of Energy, acting in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Agriculture.

''(B) REGULATIONS.—The Secretary shall promulgate regulations to ensure that each major fuel distributor that sells or introduces gasoline into commerce in the United States through majority-owned stations or branded stations installs or otherwise makes available 1 or more blender pumps that dispense E–85 fuel and ethanol fuel blends (including any other equipment necessary, such

as tanks, to ensure that the pumps function properly) for a period of not less than 5 years at not less than the applicable percentage of the majority-owned stations and the branded stations of the major fuel distributor specified in subparagraph (C).

''(C) APPLICABLE PERCENTAGE.—For the purpose of subparagraph (B), the applicable percentage of the majority-owned stations and the branded stations shall be determined in accordance with the following table:

''Applicable percentage of majority-owned stations and branded stations Calendar year:	**Percent:**
2011	10
2013	20
2015	35
2017 and each calendar year thereafter	50.

''(D) GEOGRAPHIC DISTRIBUTION.—

''(i) IN GENERAL.—Subject to clause (ii), in promulgating regulations under subparagraph (B), the Secretary shall ensure that each major fuel distributor described in that subparagraph installs or otherwise makes available 1 or more blender pumps that dispense E–85 fuel and ethanol fuel blends at not less than a minimum percentage (specified in the regulations) of the majority-owned stations and the branded stations of the major fuel distributors in each State.

''(ii) REQUIREMENT.—In specifying the minimum percentage under clause (i), the Secretary shall ensure that each major fuel distributor installs or otherwise makes available 1 or more blender pumps described in that clause in each State in which the major fuel distributor operates.

''(E) FINANCIAL RESPONSIBILITY.—In promulgating regulations under subparagraph (B), the Secretary shall ensure that each major fuel distributor described in that subparagraph assumes full financial responsibility for the costs of installing or otherwise making available the blender pumps described in that subparagraph and any other equipment necessary (including tanks) to ensure that the pumps function properly.

''(F) PRODUCTION CREDITS FOR EXCEEDING BLENDER PUMPS INSTALLATION REQUIREMENT.—

''(i) EARNING AND PERIOD FOR APPLYING CREDITS.—If the percentage of the majority-owned stations and the branded stations of a major fuel distributor at which the major fuel distributor installs blender pumps in a particular calendar year exceeds the percentage required under subparagraph (C), the major fuel distributor shall earn credits under this paragraph, which may be applied to any of the 3 consecutive calendar years immediately after the calendar year for which the credits are earned.

''(ii) TRADING CREDITS.—Subject to clause (iii), a major fuel distributor that has earned credits under clause (i) may sell the credits to another major fuel distributor to enable the purchaser to meet the requirement under subparagraph (C).

''(iii) EXCEPTION.—A major fuel distributor may not use credits purchased under clause (ii) to fulfill the geographic distribution requirement in subparagraph (D).''.

By Mr. UDALL, of Colorado (for himself and Mrs. HAGAN):

S. 1628. A bill to amend title VII of the Public Health Service Act to increase the number of physicians who practice in underserved rural communities; to the Committee on Health, Education, Labor, and Pensions.

Mr. UDALL of Colorado. Mr. President, I rise today to introduce an important piece of legislation on behalf of myself and Senator KAY HAGAN of North Carolina, the Rural Physician Pipeline Act of 2009.

In making my way across my home State, I have listened to rural constituents from all over Colorado, and their message is clear: rural communities are being hit hard by America's health care crisis.

The life expectancy for women in many rural counties across the Nation has declined significantly over the past several decades, and health outcomes for Hispanic, Native American, and other minority populations are at unacceptable levels. Low-income rural Americans in these areas have very few options for affordable access to health care, if they have any at all.

Just over 2 weeks ago, I reached out to health care providers and professionals in rural regions of Colorado that have been most impacted by our ailing health system to hear directly from those on health care's front lines. While there are many factors contributing to the lower health outcomes we are seeing in these regions, including regulatory hurdles and low reimbursement rates for rural clinics and hospitals, the physicians and health professionals I spoke with were pretty clear about the overwhelming culprit: lack of primary care doctors.

Invoking imagery of the black bag toting doctor from decades ago making house calls to treat all that ailed you and your family, primary care physicians are still the lynchpin of our health care system. These physicians are the most familiar to Americans—they are the family doctor, general practitioner, and pediatrician, and they are many times the only point of contact that people have with the health care system. They are the first line of defense for keeping our families healthy.

Unfortunately, as the entire Nation suffers from a shortage of primary care doctors, our rural areas are hit the hardest. For a variety of socioeconomic and resource-related reasons, rural communities struggle to compete with big cities in recruiting from an already scarce pool of doctors. Some of these barriers are inherent to these areas—lack of job opportunities for spouses or a general lack of desire to live the lifestyle offered by our rural communities. But some barriers can be overcome if we use our resources wisely and work toward solutions to break them down, particularly with respect to how we as a nation train and compensate our front line doctors.

Medical school is where we develop and educate our new doctors, yet the 4 years of training they provide more often than not nudge students into more lucrative specialty care or toward practice in higher paying cities. While we certainly rely on our cardiologists, orthopedists, neurologists, and the many other medical specialists to provide the top-notch care that only they are trained to provide, we cannot continue to push students into these areas to the detriment of primary care. A balance needs to be found.

Today, I am proud to introduce, along with Senator KAY HAGAN of North Carolina, the Rural Physician Pipeline Act of 2009, a bill that I hope can be part of the solution to our rural physician shortage. This legislation would make grants available to medical schools across the country for establishing programs designed to recruit students from rural areas who have a desire to practice in their hometowns. These programs would cultivate and strengthen the rural commitment of these future ''homegrown'' doctors, provide them the specialized training necessary to excel in the unique environment of sparsely populated regions, and assist them in finding post-graduate training programs that specialize in training doctors for practice in underserved rural communities.

Primary care doctors in rural areas face challenges that urban doctors do not. When a physician is the only health care provider for an entire county, he or she cannot refer patients down the hall to a specialist. The rural training programs encouraged by this bill would give students additional training in pediatrics, emergency medicine, obstetrics, and behavioral health, among other areas, which will allow them to better serve their communities and hopefully lower the disturbing disparities of health outcomes we have seen over the years.

I was prompted to write this bill after seeing the promising results of a similar program at the University of Colorado School of Medicine. Faculty like associate dean for rural health, Dr. Jack Westfall, and rural health track director, Dr. Mark Deutchman, have found that reaching out to rural communities for student recruitment and reinforcing their rural commitment throughout their training is the best way to get them back into the communities that need them most.

My hope is that an expansion of similar programs nationwide will provide a ''one, two punch'' for the rural physician workforce—it will train more rural doctors, and it will train them better.

I recognize that this legislation would play only a modest role in tackling the immense workforce challenges our health care system faces. We need more equitable payments for low-paid primary care doctors, loan-forgiveness programs must be expanded to allow medical graduates to practice primary care without going into budget-crushing debt, and graduate medical education dollars need to be more flexible so that rural residency programs can be established to train graduates.

Health care reform needs to address these areas.

As my fellow Senators and I depart Washington for our home States to listen to the ideas, needs, and concerns of our constituents over the remainder of the month, We do so with the knowledge that there is much to accomplish

upon our return. And as Congress continues working toward a health reform bill that puts the patient in charge of his or her health care choices, brings costs down, ensures financial sustainability, and brings security and stability for all Americans, there is one other thing we must also insist: health reform will not leave rural America behind.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1628

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rural Physician Pipeline Act of 2009''.

SEC. 2. RURAL PHYSICIAN TRAINING GRANTS.

Part C of Title VII of the Public Health Service Act (42 U.S.C. 293k et seq.) is amended—

(1) after the part heading, by inserting the following:

''Subpart I—Medical Training Generally''; and

(2) by inserting at the end the following:

''Subpart II—Training in Underserved Communities

''SEC. 749. RURAL PHYSICIAN TRAINING GRANTS.

''(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall establish a program to make grants to eligible entities for the purposes of—

''(1) assisting eligible entities in recruiting students most likely to practice medicine in underserved rural communities;

''(2) providing rural-focused training and experience; and

''(3) increasing the number of recent allopathic and osteopathic medical school graduates who practice in underserved rural communities.

''(b) ELIGIBLE ENTITIES.—In order to be eligible to receive a grant under this section, an entity shall—

''(1) be a school of allopathic or osteopathic medicine accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, or any combination or consortium of such schools; and

''(2) submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require, including a certification that such entity—

''(A) will use amounts provided to the institution to—

''(i) establish and carry out a Rural Physician Training Program described in subsection (d);

''(ii) improve an existing rural-focused training program to meet the requirements described in subsection (d) and carry out such program; or

''(iii) expand and carry out an existing rural-focused training program that meets the requirements described in subsection (d); and

''(B) employs, or will employ within a timeframe sufficient to implement the Program (as described by a timetable and supporting documentation in the application of the eligible entity), faculty with experience or training in rural medicine or with experience in training rural physicians.

''(c) PRIORITY.—In awarding grant funds under this section, the Secretary shall give priority to eligible entities that—

''(1) demonstrate a record of successfully training students, as determined by the Secretary, who practice medicine in underserved rural communities;

''(2) demonstrate that an existing academic program of the eligible entity produces a high percentage, as determined by the Secretary, of graduates from such program who practice medicine in underserved rural communities;

''(3) demonstrate rural community institutional partnerships, though such mechanisms as matching or contributory funding, documented in-kind services for implementation, or existence of training partners with interprofessional expertise (such as dental, vision, or mental health services) in community health center training locations or other similar facilities; or

''(4) submit, as part of the application of the entity under subsection (b), a plan for the long-term tracking of where the graduates of such entity are practicing medicine.

''(d) USE OF FUNDS.—

''(1) ESTABLISHMENT.—An eligible entity receiving a grant under this section shall use the funds made available under such grant to—

''(A) establish and carry out a 'Rural Physician Training Program' (referred to in this section as the 'Program');

''(B) improve an existing rural-focused training program to meet the Program requirements described in this subsection and carry out such program; or

''(C) expand and carry out an existing rural-focused training program that meets the Program requirements described in this subsection.

''(2) STRUCTURE OF PROGRAM.—An eligible entity shall—

''(A) enroll no fewer than 10 students per class year into the Program; and

''(B) develop criteria for admission to the Program that gives priority to students—

''(i) who have originated from or lived for a period of 2 or more years in an underserved rural community; and

''(ii) who express a commitment to practice medicine in an underserved rural community.

''(3) CURRICULA.—The Program shall require students to enroll in didactic coursework and clinical experience particularly applicable to medical practice in underserved rural communities, including—

''(A) clinical rotations in underserved rural communities, and in specialties including family medicine, internal medicine, pediatrics, surgery, psychiatry, and emergency medicine;

''(B) in addition to core school curricula, additional coursework or training experiences focused on medical issues prevalent in underserved rural communities, including in areas such as trauma, obstetrics, ultrasound, oral health, and behavioral health; and

''(C) any coursework or clinical experience that—

''(i) may be developed as a result of the Symposium described in subsection (f); or

''(ii) the Secretary finds appropriate.

''(4) RESIDENCY PLACEMENT ASSISTANCE.—Where available, the Program shall assist all students of the Program in obtaining clinical training experiences in locations with postgraduate programs offering residency training opportunities in underserved rural communities, or in local residency training programs that support and train physicians to practice in underserved rural communities, as well as assist all students of the Program in obtaining postgraduate residency training in such programs.

''(5) PROGRAM STUDENT COHORT SUPPORT.—The Program shall provide and require all students of the Program to participate in social, educational, and other group activities designed to further develop, maintain, and reinforce the original commitment of such students to practice in an underserved rural community.

''(e) ANNUAL REPORTING REQUIREMENT.—On an annual basis, an eligible entity receiving a grant under this section shall submit a report to the Secretary on—

''(1) the overall success of the Program established by the entity, based on criteria the Secretary determines appropriate;

''(2) the number of students participating in the Program;

''(3) the number of graduating students who participated in the Program;

''(4) the residency program selection of graduating students who participated in the Program;

''(5) the number of graduates who participated in the Program who are practicing in underserved rural communities not less than one year after completing residency training; and

''(6) the number of graduates who participated in the Program who are not practicing in underserved rural communities not less than one year after completing residency training.

''(f) RURAL TRAINING PROGRAM SYMPOSIUM.—

''(1) PURPOSES OF SYMPOSIUM.—To assist the Secretary in carrying out the Program and making grant determinations under this section, the Secretary shall convene a Rural Training Program Symposium (referred to in this section as the 'Symposium') to—

''(A) develop best practices that may be incorporated into consideration of applications under subsection (b); and

''(B) establish a network of allopathic and osteopathic medical schools that have developed or will develop rural training programs in accordance with subsection (d).

''(2) COMPOSITION.—The Symposium shall include—

''(A) representatives from eligible entities with existing rural training programs;

''(B) representatives from all eligible entities interested in developing the Program;

''(C) representatives from area health education centers;

''(D) representatives from the Health Resources and Services Administration; and

''(E) any other experts or individuals with experience in practicing medicine in underserved rural communities the Secretary determines appropriate.

''(g) REGULATIONS.—Not later than 60 days after the date of enactment of this section, the Secretary shall by regulation define 'underserved rural community' for purposes of this section.

''(h) SUPPLEMENT NOT SUPPLANT.—Any eligible entity receiving funds under this section shall use such funds to supplement, not supplant, any other Federal, State, and local funds that would otherwise be expended by such entity to carry out the activities described in this section.

''(i) MAINTENANCE OF EFFORT.—With respect to activities for which funds awarded under this section are to be expended, the entity shall agree to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity receives a grant under this section.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

''(1) to carry out this section (other than subsection (f))—

''(A) $4,000,000 for fiscal year 2010;

''(B) $8,000,000 for fiscal year 2011;

''(C) $12,000,000 for fiscal year 2012;

''(D) $16,000,000 for fiscal year 2013; and

''(2) to carry out subsection (f), such sums as may be necessary.''.

By Mr. ROCKEFELLER (for himself and Mr. FRANKEN):

S. 1630. A bill to amend title XVIII of the Social Security Act of improve prescription drug coverage under Medicare part D and to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to improve prescription drug coverage under private health insurance, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today with the newest esteemed Member of this Chamber, Senator AL FRANKEN, to introduce the Affordable Access to Prescription Medications Act of 2009. I think this is the first bill we have introduced together, and I look forward to working with him again in the future. The legislation we are introducing today is a critically important bill—one that protects all Americans from high out-of-pocket spending on prescription drugs.

With each passing year, Americans are paying more for their health care. Rising out-of-pocket costs are problematic for all patient populations, but are particularly burdensome for chronically ill and low-income individuals. The health insurance premiums and out-of-pocket costs for those below the federal poverty level are huge, with 28 percent paying more than ten percent of their income. Overall, out-of-pocket spending for individuals insured in the private insurance market is large and rapidly growing, with an increase of 45 percent between 2001 and 2006.

Prescription drugs represent the highest out-of-pocket cost for patients, comprising almost 31 percent of total out-of-pocket spending. The higher the out-of-pocket cost, the fewer individuals fill their needed medications. In fact, about 20 percent of individuals with out-of-pocket spending greater than $250 a month do not fill their prescriptions and, thereby further exacerbate their conditions. Out-of-pocket expenses are only getting worse, especially as prescription drug costs increase. A 2009 survey found that 53 percent of Americans have cut back on health care spending in the last twelve months, as the economy has worsened.

In Medicare specifically, beneficiaries enrolled in a prescription drug plan in 2007 spent $38 a month, on average, for prescription drug co-payments. However, for those on high-cost medications, the cost burden can be enormous. Ninety percent of Medicare prescription drug plans and ten percent of private insurance plans include what is referred to as a specialty tier for medications costing over $600 a month. For these medications, enrollees can be asked to pay up to 33 percent of the drug's cost in copayments.

The high cost of treatment, particularly for life-saving and life-sustaining treatment, poses an unreasonable and devastating barrier for sick patients that can force them to delay or entirely forgo necessary treatment. For one West Virginian, the chemotherapy drug he needs to treat his cancer is more than $13,500 for a 90-day supply. Under his Medicare prescription drug plan, he would have to pay $4000 of that cost. He didn't have $4000, so he chose not to be treated.

Another West Virginian with multiple sclerosis contacted my office recently, and told me that the drug to treat her disease, which allows her to continue to work, costs $1900 a month. Her private insurer changed its policy from a $20 flat copayment for each prescription to 25 percent co-insurance for each prescription, creating a financial burden for her of $475 per month. It should come as no surprise that she is struggling to pay this amount every month.

These West Virginians are just a couple of examples of the millions of Americans who pay their health insurance premiums every month for coverage that is supposed to protect them from such enormous financial losses—but, sadly, it does not. Providing access to affordable prescription drugs for the treatment of chronic diseases is critical to improving our nation's health care system, which is why we are introducing this legislation today. The Affordable Access to Prescription Medications Act will go a long way to address the growing problem of catastrophic prescription drug expenses.

First, this bill will establish a $200 cap on the amount a person could be charged for any one prescription, and a $500 cap on the total amount an individual could be charged for all prescriptions in any given month. These caps apply to all private and public insurance plans, including Medicare prescription drug plans.

Second, this bill establishes an exceptions process for specialty drugs. Currently, the most expensive prescription drugs in the Medicare prescription drug program that are included on specialty tiers are not subject to beneficiary exemption requests, but for all other Medicare-covered prescription drugs, a beneficiary can request an exemption to allow them access to needed drugs. High-cost, specialty drugs can be difficult to access and this bill will allow any beneficiary to request any needed prescription drug, including those in specialty tiers, through the exemption process.

Third, this bill requires the Medicare Payment Advisory Commission, MedPAC, to conduct two studies regarding discrimination and cost-sharing. The first study will review Medicare Part B, Part C, and Part D prescription drug polices to make sure they do not violate the non-discrimination rules passed as part of the 2003 Medicare law. Under 2003 law, plans are prohibited from discriminating against individuals based on medical condition. The second study will examine the impact of prescription drug cost-sharing on beneficiaries and their health, particularly for those who have already paid their way through the so-called doughnut hole.

If enacted, this legislation will protect Americans from high out-of-pocket spending on prescription drugs. Based on studies that explain the problem, this bill could potentially lower copayments for 2.5 to 10 percent of Americans with the highest prescription costs. It will protect all Americans from the risk of incurring extraordinarily high prescription drug costs.

The national cap on out-of-pocket spending for prescription drugs will reduce costs for the most vulnerable populations by over 50 percent. Given the rising costs of drugs, the prevalence of new drugs on the market, and the current economic recession, addressing the affordability of prescriptions drugs is vitally important.

We must act now to make prescription drugs more affordable for all Americans, but especially those with chronic diseases. I urge my colleagues to join me in support of this important bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1630

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Affordable Access to Prescription Medications Act of 2009''.

SEC. 2. MEDICARE PART D PRESCRIPTION DRUG PLANS.

(a) IN GENERAL.—Section 1860D–2(b)(4) of the Social Security Act (42 U.S.C. 1395w–102(b)(4)) is amended by adding at the end the following new subparagraph:

''(E) ADDITIONAL PROTECTIONS.—

''(i) IN GENERAL.—Notwithstanding any other provision of this part, effective for plan years beginning on or after January 1, 2011, a PDP sponsor of a prescription drug plan and an MA organization offering an MA–PD plan shall, with respect to any co-payment or coinsurance requirements applicable to covered part D drugs under the plan, ensure that—

''(I) such required co-payment or coinsurance does not exceed the base cost of the covered part D drug (as determined by the Secretary);

''(II) such required co-payment or coinsurance does not exceed $200 per month for any single covered part D drug (30-day supply); and

''(III) such required co-payment or coinsurance does not exceed, in the aggregate for all covered part D drugs, $500 per month.

''(ii) ADJUSTMENTS.—The amounts described in clauses (II) and (III) of clause (i) shall be annually adjusted to reflect the average of the percentage increase or decrease in the Consumer Price Index for all urban consumers (U.S. city average) and the percentage increase or decrease in the medical care component of such Consumer Price Index during the calendar year preceding the year for which the adjustment is being made.''.

(b) EXPANSION OF EXCEPTIONS PROCESS.—Effective for plan years beginning on or after January 1, 2011, the Secretary shall expand the formulary tier exception request process under sections 423.560 through 423.636 of title 42, Code of Federal Regulations (as in effect

on the date of enactment of this Act), to allow individuals enrolled in a prescription drug plan under part D of title XVIII of the Social Security Act or an MA–PD plan under part C of such title to request an exception for a specialty prescription drug to a plan's designation of a covered part D drug (as defined in section 1860D–2(e) of such Act (42 U.S.C. 1395w–102(e)) as a non-preferred prescription drug.

(c) MEDPAC STUDIES AND REPORTS.—

(1) STUDY AND REPORT ON THE MEDICARE PART D ANTI-DISCRIMINATION CLAUSE.—

(A) STUDY.—The Medicare Payment Advisory Commission shall conduct a study on various aspects of the prescription drug program under part D of title XVIII of the Social Security Act and, to the greatest extent practicable, the interaction of such program with Medicare beneficiary access to covered drugs under part B of such title. Such study shall include the following:

(i) An analysis of—

(I) the use of specialty tiers for covered part D drugs under prescription drug plans and MA–PD plans; and

(II) the effect of such specialty tiers on access to care for Medicare beneficiaries.

(ii) Consideration of the mechanisms described in subparagraph (B) in the context of the provisions of section 1860D–11(e)(2)(D) of the Social Security Act (42 U.S.C. 1395w–111(e)(2)(D)) (in this paragraph referred to as the ''Medicare part D anti-discrimination clause'').

(B) MECHANISMS DESCRIBED.—The following mechanisms are described in this subparagraph:

(i) The use of specialty tiers for covered part D drugs under prescription drug plans and MA–PD plans.

(ii) The application of segmented coinsurance or copayment structures to covered part D drugs based on certain categories of such drugs or diagnoses.

(iii) The utilization of other differential benefit structures based on certain conditions and Medicare beneficiaries under prescription drug plans and MA–PD plans, including an analysis of the interaction between such utilization and the effects of such utilization with the Medicare part D anti-discrimination clause.

(C) REPORT.—Not later than 1 year after the date of enactment of this Act, the Medicare Payment Advisory Commission shall submit to Congress a report containing the results of the study conducted under subparagraph (A), together with recommendations for such legislation and administrative action as the Commission determines appropriate.

(D) REVISED GUIDANCE.—Based on the results of the study conducted under subparagraph (A), the Secretary shall issue revised guidance regarding the use of mechanisms described in subparagraph (B) to all PDP sponsors offering prescription drug plans under part D of title XVIII of the Social Security Act and Medicare Advantage organizations offering MA–PD plans under part C of such title.

(2) STUDY AND REPORT ON COST-SHARING FOR PRESCRIPTION DRUGS UNDER PARTS B AND D.—

(A) STUDY.—The Medicare Payment Advisory Commission shall conduct a study on cost-sharing for prescription drugs under parts B and D of title XVIII of the Social Security Act. Such study shall include an analysis of the impact of eliminating cost-sharing for covered part D drugs for Medicare beneficiaries who—

(i) incur annual out-of-pocket cost-sharing after the initial coverage limit under section 1860D–2(b)(3) of such Act (42 U.S.C. 1395w–102) that exceeds 5 percent of the income of the beneficiary (as determined under section 1860D–14(a)(3)(C) of such Act (42 U.S.C. 1395w–114(a)(3)(C)); and

(ii) do not otherwise qualify for an income-related subsidy under section 1860D–14(a) of such Act (42 U.S.C. 1395w–114(a)) or other extra help or cost-sharing relief.

(B) REPORT.—Not later than 6 months after the date of enactment of this Act, the Medicare Payment Advisory Commission shall submit to Congress a report containing the results of the study conducted under subparagraph (A), together with recommendations for such legislation and administrative action as the Commission determines appropriate.

(3) DEFINITIONS.—In this section:

(A) COVERED PART D DRUG.—The term ''covered part D drug'' has the meaning given such term in section 1860D–2(e) of the Social Security Act (42 U.S.C. 1395w–102(e)).

(B) MA–PD PLAN.—The term ''MA–PD'' plan has the meaning given such term in paragraph (9) of section 1860D–41(a) of such Act (42 U.S.C. 1395w–151(a)).

(C) MEDICARE ADVANTAGE ORGANIZATION.—The term ''Medicare Advantage organization'' has the meaning given such term in section 1859(a)(1) of such Act (42 U.S.C. 1395w–28(a)(1)).

(D) PDP SPONSOR.—The term ''PDP sponsor'' has the meaning given such term in paragraph (13) of such section 1860D–41(a).

(E) PRESCRIPTION DRUG PLAN.—The term ''prescription drug plan'' has the meaning given such term in paragraph (14) of such section.

SEC. 3. PRIVATE HEALTH INSURANCE.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(A) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

''SEC. 2708. PROVISIONS RELATING TO PRESCRIPTION DRUGS.

''(a) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for prescription drugs shall, with respect to any co-payment or coinsurance requirements applicable to such drug coverage, ensure that—

''(1) such required co-payment or coinsurance does not exceed the base cost of the prescription drug (as determined by the Secretary);

''(2) such required co-payment or coinsurance does not exceed $200 per month for any single prescription drug (30-day supply); and

''(3) such required co-payment or coinsurance does not exceed, in the aggregate for all prescription drugs, $500 per month.

''(b) ADJUSTMENTS.—The amounts described in paragraphs (2) and (3) of subsection (a) shall be annually adjusted to reflect the average of the percentage increase or decrease in the Consumer Price Index for all urban consumers (U.S. city average) and the percentage increase or decrease in the medical care component of such Consumer Price Index during the calendar year preceding the year for which the adjustment is being made.

''(c) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(b) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.''.

(B) CONFORMING AMENDMENT.—Section 2723(c) of such Act (42 U.S.C. 300gg–23(c)) is amended by striking ''section 2704'' and inserting ''sections 2704 and 2708''.

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

''SEC. 715. PROVISIONS RELATING TO PRESCRIPTION DRUGS.

''(a) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for prescription drugs shall, with respect to any co-payment or coinsurance requirements applicable to such drug coverage, ensure that—

''(1) such required co-payment or coinsurance does not exceed the base cost of the prescription drug (as determined by the Secretary of Health and Human Services);

''(2) such required co-payment or coinsurance does not exceed $200 per month for any single prescription drug (30-day supply); and

''(3) such required co-payment or coinsurance does not exceed, in the aggregate for all prescription drugs, $500 per month.

''(b) ADJUSTMENTS.—The amounts described in paragraphs (2) and (3) of subsection (a) shall be annually adjusted to reflect the average of the percentage increase or decrease in the Consumer Price Index for all urban consumers (U.S. city average) and the percentage increase or decrease in the medical care component of such Consumer Price Index during the calendar year preceding the year for which the adjustment is being made.

''(c) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(b) with respect to the requirements of this section as if such section applied to such plan.''.

(B) TABLE OF CONTENTS.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 714 the following new item:

''Sec. 715. Provisions relating to prescription drugs.''.

(3) INTERNAL REVENUE CODE AMENDMENTS.—

(A) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 9813. PROVISIONS RELATING TO PRESCRIPTION DRUGS.

''(a) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for prescription drugs shall, with respect to any co-payment or coinsurance requirements applicable to such drug coverage, ensure that—

''(1) such required co-payment or coinsurance does not exceed the base cost of the prescription drug (as determined by the Secretary of Health and Human Services);

''(2) such required co-payment or coinsurance does not exceed $200 per month for any single prescription drug (30-day supply); and

''(3) such required co-payment or coinsurance does not exceed, in the aggregate for all prescription drugs, $500 per month.

''(b) ADJUSTMENTS.—The amounts described in paragraphs (2) and (3) of subsection (a) shall be annually adjusted to reflect the average of the percentage increase or decrease in the Consumer Price Index for all urban consumers (U.S. city average) and the percentage increase or decrease in the medical care component of such Consumer Price Index during the calendar year preceding the year for which the adjustment is being made.

''(c) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(b) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.''.

(B) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

''Sec. 9813. Provisions relating to prescription drugs.''.

(b) INDIVIDUAL HEALTH INSURANCE.—

(1) IN GENERAL.—Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following new section:

''SEC. 2754. PROVISIONS RELATING TO PRESCRIPTION DRUGS.

''The provisions of section 2708 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

(2) CONFORMING AMENDMENT.—Section 2762(b)(2) of such Act (42 U.S.C. 300gg–62(b)(2)) is amended by striking ''section 2751'' and inserting ''sections 2751 and 2754''.

(c) APPLICATION TO FEHBP.—The amendments made by this section shall apply to the administration of chapter 89 of title 5, United States Code.

By Ms. CANTWELL:

S. 1633. A bill to require the Secretary of Homeland Security, in consultation with the Secretary of State, to establish a program to issue Asia-Pacific Economic Cooperation Business Travel Cards, and for other purposes; to the Committee on Foreign Relations.

Ms. CANTWELL. Mr. President, I rise today to introduce the Asia-Pacific Economic Cooperation, APEC, Business Travel Cards Act of 2009. This bill would authorize the Secretary of Homeland Security and State Department to issue APEC Business Travel Cards, ABTC's, to business leaders from APEC countries and senior government officials who are actively engaged in APEC business.

The ABTC program has 18 nations participating, including China, Japan and Australia, which are among the world's larger economies. The United States currently recognizes foreign issued ABTC travel cards. Cardholders from non-Visa Waiver Program countries need to present valid passports and those from other countries must still obtain U.S. visas as required by United States law. However, ABTC card holders are allowed to benefit from expedited visa interview scheduling at U.S. embassies and consulates, and expedited immigration processing through airline crew and diplomat immigration lanes upon arrival at U.S. international airports. However, under current law U.S. passport holders are not yet eligible to apply for the ABTC program and therefore do not enjoy these same benefits in Asia-Pacific countries. This bill would require the Secretary of Homeland Security to issue ABTCs to United States citizen business leaders and senior government officials actively engaged in APEC business no later than January 1, 2010.

I support the Asia-Pacific Economic Cooperation Business Travel Cards Act because I have long supported increased free trade with the Asia-Pacific region. International business travel is an essential part of selling goods and services around the world. The 21 member economies of APEC together account for around 53 percent of world GDP and approximately 48 percent of global trade. This bill would help facilitate international cooperation and trade by allowing business leaders within the participating countries to enter countries on an expedited basis for the length of the program, currently three years.

The success of the program has been shown by the amount of applications for travel cards since inception of the program in 1997. From 1997, applications received by participating countries have grown by more than 100 percent each year. By March of last year, there were more than 34,000 cards being used by APEC countries. The Asia-Pacific Economic Cooperation Business Travel Cards Act of 2009 will help facilitate global trade within the Asia-Pacific, and create expanded export opportunities for U.S. businesses. Working to grow U.S. exports will get our economy to grow again and create and maintain U.S. jobs.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1633

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Asia-Pacific Economic Cooperation Business Travel Cards Act of 2009''.

SEC. 2. ASIA-PACIFIC ECONOMIC COOPERATION BUSINESS TRAVEL CARDS.

(a) IN GENERAL.—Not later than January 1, 2010, the Secretary of Homeland Security, in consultation with the Secretary of State, shall establish a program called the ''APEC Business Travel Program'' to issue Asia-Pacific Economic Cooperation Business Travel Cards (ABTC) to eligible United States citizen business leaders and senior United States Government officials actively engaged in Asia-Pacific Economic Cooperation (APEC) business.

(b) INTEGRATION WITH EXISTING TRAVEL PROGRAMS.—The Secretary of Homeland Security shall integrate application procedures for and issuance of ABTC with other appropriate international registered traveler programs of the Department of Homeland Security, such as Global Entry, NEXUS, and SENTRI.

(c) COOPERATION WITH PRIVATE ENTITIES.—In carrying out this section, the Secretary of Homeland Security shall work in conjunction with appropriate private sector entities to ensure that applicants for ABTC satisfy ABTC requirements. The Secretary of Homeland Security may utilize such entities to enroll and issue ABTC to qualified applicants.

(d) FEE.—

(1) IN GENERAL.—The Secretary of Homeland Security may impose a fee for the issuance of ABTC, and may modify such fee from time to time as the Secretary determines appropriate.

(2) LIMITATION.—The Secretary of Homeland Security shall ensure that the total amount of any fees imposed under paragraph (1) in any fiscal year does not exceed the costs associated with carrying out this section in such fiscal year.

(3) CREDITING TO APPROPRIATE ACCOUNT.—Fees collected under paragraph (1) shall be credited to the appropriate account of the Department of Homeland Security and are authorized to remain available until expended.

By Mr. ROCKEFELLER (for himself, Mr. AKAKA, and Mr. BROWN):

S. 1634. A bill to amend titles XVIII and XIX of the Social Security Act to protect and improve the benefits provided to dual eligible individuals under the Medicare and Medicaid programs; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today with my colleagues, Senator AKAKA and Senator BROWN, to introduce the Medicare Prescription Drug Coverage Improvement Act, legislation that makes long overdue improvements to the Medicare prescription drug program, particularly for Medicare beneficiaries who are simultaneously enrolled in Medicaid. Know as ''dual eligibles,'' these individuals are among our nation's most vulnerable populations—and they have been overlooked for far too long.

Approximately 8.8 million Americans are simultaneously enrolled in Medicare and Medicaid, and they are among the sickest and poorest individuals covered by either program. Most dual eligibles are very low-income, in poor health, and have substantial health care needs. Seventy-one percent of dual eligibles have annual incomes below $10,000. Over half of all elderly dual eligibles are limited in activities of daily living and, in comparison to other Medicare beneficiaries, are three times more likely to be disabled. Dual eligibles also have higher rates of heart disease, pulmonary disease, diabetes, and Alzheimer's disease than the general Medicare population.

After passage of the Medicare prescription drug law, Members of Congress and health care advocates alike tried for more than a year to work with the Bush Administration to prevent prescription drug coverage barriers for dual eligibles and other low-income Medicare beneficiaries. I introduced the Medicare Dual Eligible Prescription Drug Coverage Act of 2005, S. 566. and the Requiring Emergency Pharmaceutical Access for Individual Relief, REPAIR, Act of 2006, S. 2183, to prevent disruptions in coverage for vulnerable seniors and individuals with disabilities.

Unfortunately, effective fail-safe mechanisms were not put into place by the previous Administration to address the transition of the dual eligibles to Medicare prescription drug coverage. Consequently, millions of elderly and disabled Medicare recipients continue to experience significant barriers to care.

Health care problems persist for the dually eligible largely because of poor coordination between Medicare and Medicaid—which have two different sets of providers, two different sets of benefits, and two different sets of enrollment policies. The legislation we

are introducing today will go a long way to provide dual eligibles with the right care, in the right setting, and at the right time.

Additionally, the Medicare Prescription Drug Coverage Improvement Act will provide more affordable and comprehensive prescription drug coverage for all Medicare beneficiaries.

First, this bill will create a new Federal Coordinated Health Care Office within the Centers for Medicare and Medicaid Services, CMS. The purpose of this new office will be to provide a much more integrated model of care for dual eligibles by coordinating their Medicare and Medicaid benefits.

Second, this bill contains two provisions to help make prescription drugs more affordable and accessible for all Medicare beneficiaries—it allows the Secretary of Health and Human Services to negotiate directly with pharmaceutical companies to lower prescription drug prices and it creates a Medicare-operated prescription drug plan.

The Secretary would be required to implement two or more of the following strategies on an annual basis to reduce the cost of prescription drugs covered by Medicare: direct price negotiation with pharmaceutical manufacturers, additional rebate agreements for Medicare prescription drugs that are consistent with the rebate agreements provided to states for Medicaid, comparative clinical effectiveness data, or prescription drug rates negotiated under the Federal Supply Schedule.

A Medicare-operated prescription drug plan would be created by the Secretary of HHS. This plan would be a stable and affordable option available to all Medicare beneficiaries. This plan would create a robust prescription drug formulary based on patient safety, efficacy and value. The formulary incentive process would be transparent and uniform. An advisory committee would be created to review petitions for drug inclusion and recommend formulary changes. This Medicare-operated plan will create fair-market competition and lead to less costly drug choices for Medicare recipients.

Third, this bill contains significant new requirements for Medicare Advantage Special Needs Plans. These plans serve extremely vulnerable populations, including dual eligibles; yet, they have very few standards that they are required to abide by. The Medicare Prescription Drug Improvement Act will require special needs plans to be accredited by the National Committee for Quality Assurance. Additionally, our legislation requires special needs plans to provide more robust prescription drug coverage, meet uniform standards for data collection and reporting, and offer better care coordination.

Finally, this bill will implement a number of technical fixes to facilitate enrollment in the Medicare prescription drug benefit for those who qualify. State and Federal officials will be required to clearly identify dual eligibles in all databases and electronically file eligibility information, so that these beneficiaries will not continue to fall through the cracks. Pharmacies will use a facilitated point-of-sale enrollment process and automatically enroll certain dual eligible individuals in the Medicare-operated prescription drug plan. New limits on cost-sharing and resource requirements for low-income beneficiaries will also be put into place. Prescription drug cost-sharing for dual eligibles who are using home and community-based services, instead of institutionalized care, will be eliminated.

We are in the midst of discussing sweeping changes to our health care system. In addition to provisions to help the uninsured, health care reform must also include provisions to improve the coverage that people have today. This is especially true for seniors and individuals with disabilities. The Medicare prescription drug program is extremely difficult to navigate and many enrollees are still denied access to the prescription drugs that they need. This legislation will make the Medicare prescription drug program much more manageable for seniors and individuals with disabilities, particularly those dually eligible for Medicare and Medicaid.

The time for action is now, and I urge my colleagues to join us in support of this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1634

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ‘‘Medicare Prescription Drug Coverage Improvement Act’’.

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

Sec. 1. Short title; table of contents.

TITLE I—MEDICARE AND MEDICAID IMPROVEMENTS

Sec. 101. Providing Federal coverage and payment coordination for low-income Medicare beneficiaries.
Sec. 102. Creating a Medicare operated prescription drug plan option.
Sec. 103. Accreditation requirement for all specialized Medicare Advantage plans and revisions relating to specialized Medicare Advantage plans for special needs individuals.
Sec. 104. Providing better care coordination for low-income beneficiaries in Medicare part D.
Sec. 105. Improving transition of new dual eligible individuals to medicare prescription drug coverage and presumptive eligibility for low-income subsidies.
Sec. 106. Required information on transition from skilled nursing facilities and nursing facilities to part D plans.
Sec. 107. Streamlined pharmacy compliance packaging.
Sec. 108. Lowering covered part D drug prices on behalf of Medicare beneficiaries.
Sec. 109. Correction of flaws in determination of phased-down State contribution for Federal assumption of prescription drug costs for dually eligible individuals.
Sec. 110. No impact on eligibility for benefits under other programs.
Sec. 111. Quality indicators for dual eligible individuals.

TITLE II—ADDITIONAL MEDICARE AND MEDICAID IMPROVEMENTS

Subtitle A—Improving the Financial Assistance Available to Low-Income Medicare Beneficiaries

Sec. 201. Improving assets tests for Medicare Savings Program and low-income subsidy program.
Sec. 202. Eliminating barriers to enrollment.
Sec. 203. Elimination of part D cost-sharing for certain non-Institutionalized full-benefit dual eligible individuals.
Sec. 204. Exemption of balance in any pension or retirement plan from resources for determination of eligibility for low-income subsidy.
Sec. 205. Cost-sharing protections for low-income subsidy-eligible individuals.

Subtitle B—Other Improvements

Sec. 211. Enrollment improvements under Medicare parts C and D.
Sec. 212. Medicare plan complaint system.
Sec. 213. Uniform exceptions and appeals process.
Sec. 214. Prohibition on conditioning Medicaid eligibility for individuals enrolled in certain creditable prescription drug coverage on enrollment in the Medicare part D drug program.
Sec. 215. Office of the Inspector General annual report on part D formularies' inclusion of drugs commonly used by dual eligibles.
Sec. 216. HHS ongoing study and annual reports on coverage for dual eligibles.
Sec. 217. Authority to obtain information.

TITLE I—MEDICARE AND MEDICAID IMPROVEMENTS

SEC. 101. PROVIDING FEDERAL COVERAGE AND PAYMENT COORDINATION FOR LOW-INCOME MEDICARE BENEFICIARIES.

(a) ESTABLISHMENT OF FEDERAL COORDINATED HEALTH CARE OFFICE.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—Not later than October 1, 2009, the Secretary of Health and Human Services (in this section referred to as the ‘‘Secretary’’) shall establish a Federal Coordinated Health Care Office.

(B) ESTABLISHMENT AND REPORTING TO CMS ADMINISTRATOR.—The Federal Coordinated Health Care Office shall—

(i) be established within the Centers for Medicare & Medicaid Services; and

(ii) report directly to the Administrator of the Centers for Medicare & Medicaid Services.

(2) PURPOSE.—The purpose of the Federal Coordinated Health Care Office is to bring together officials of the Medicare and Medicaid programs at the Centers for Medicare & Medicaid Services in order to—

(A) more effectively integrate benefits under the Medicare program under title XVIII of the Social Security Act and the Medicaid program under title XIX of such Act; and

(B) improve the coordination between the Federal Government and States for individuals eligible for benefits under both such

programs in order to ensure that such individuals get full access to the items and services to which they are entitled under titles XVIII and XIX of the Social Security Act.

(3) GOALS.—The goals of the Federal Coordinated Health Care Office are as follows:

(A) Providing dual eligible individuals full access to the benefits to which such individuals are entitled under the Medicare and Medicaid programs.

(B) Simplifying the processes for dual eligible individuals to access the items and services they are entitled to under the Medicare and Medicaid programs

(C) Improving the quality of health care and long-term services for dual eligible individuals.

(D) Increasing beneficiary understanding of and satisfaction with coverage under the Medicare and Medicaid programs.

(E) Eliminating regulatory conflicts between rules under the Medicare and Medicaid programs.

(F) Improving care continuity and ensuring safe and effective care transitions.

(G) Eliminating cost-shifting between the Medicare and Medicaid program and among related health care providers.

(H) Improving the quality of performance of providers of services and suppliers under the Medicare and Medicaid programs.

(4) SPECIFIC RESPONSIBILITIES.—The specific responsibilities of the Federal Coordinated Health Care Office are as follows:

(A) Providing States, specialized MA plans for special needs individuals (as defined in section 1859(b)(6) of the Social Security Act (42 U.S.C. 1395w–28(b)(6)), physicians and other relevant entities or individuals with the education and tools necessary for developing programs that align benefits under the Medicare and Medicaid programs for dual eligible individuals.

(B) Working with the Director of the Congressional Budget Office and the Director of the Office of Management and Budget, and in consultation with the Medicare Payment Advisory Commission and the Medicaid and CHIP Payment and Access Commission, to, not later than January 1, 2011, establish dynamic scoring for benefits for dual eligible individuals to account for total spending and savings for comparable risk groups under the Medicare program.

(C) Supporting State efforts to coordinate and align acute care and long-term care services for dual eligible individuals with other items and services furnished under the Medicare program.

(D) Providing support for coordination of contracting and oversight by States and the Centers for Medicare & Medicaid Services with respect to the integration of the Medicare and Medicaid programs in a manner that is supportive of the goals described in paragraph (3).

(5) REPORT.—The Secretary shall, as part of the budget transmitted under section 1105(a) of title 31, United States Code, submit to Congress an annual report containing recommendations for legislation that would improve care coordination and benefits for dual eligible individuals.

(b) ADDITION OF MEDICAID REPRESENTATIVES TO MEDICARE PAYMENT ADVISORY COMMISSION AND CONSULTATION WITH MEDICAID AND CHIP PAYMENT AND ACCESS COMMISSION.—

(1) ADDITION OF MEDICAID REPRESENTATIVE TO MEDICARE PAYMENT ADVISORY COMMISSION.—Section 1805(c)(2)(B) of the Social Security Act (42 U.S.C. 1395b–6(c)(2)(B)) is amended by adding at the end the following sentence: ''Such membership shall also include at least 2 individuals who are nationally recognized for their expertise in financing, benefits, and provider payment policies under the program under title XIX.''.

(2) CONSULTATION WITH MEDICAID AND CHIP PAYMENT AND ACCESS COMMISSION.—Section 1805(b) of the Social Security Act (42 U.S.C. 1395b–6(b)) is amended by adding at the end the following new paragraph:

''(9) CONSULTATION WITH MEDICAID AND CHIP PAYMENT AND ACCESS COMMISSION.—In carrying out the duties of the Commission under this subsection, the Commission shall consult with the Medicaid and CHIP Payment and Access Commission established under section 506 of the Children's Health Insurance Program Reauthorization Act of 2009 (Public Law 111–3) on an ongoing basis.''.

(c) MACPAC FUNDING AND TECHNICAL AMENDMENTS.—

(1) FUNDING.—Section 1900(f) of the Social Security Act (42 U.S.C. 1396(f)) is amended—

(A) in the subsection heading, by striking ''AUTHORIZATION OF APPROPRIATIONS'' and inserting ''FUNDING'';

(B) in paragraph (1), by inserting ''(other than for fiscal year 2009)'' before ''in the same manner''; and

(C) by striking paragraph (2) and inserting the following:

''(2) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to MACPAC $11,403,000 for fiscal year 2009 to carry out the provisions of this section.

''(3) AUTHORIZATION.—In addition to amounts made available under paragraph (2), there are authorized to be appropriated for fiscal years beginning with fiscal year 2010, such sums as may be necessary to carry out the provisions of this section.

''(4) AVAILABILITY.—Amounts made available under paragraphs (2) and (3) to carry out the provisions of this section shall remain available until expended.''.

(2) TECHNICAL AMENDMENTS.—Section 1900(b) of such Act (42 U.S.C. 1396) is amended—

(A) in paragraph (1)(D), by striking ''June 1'' and inserting ''June 15''; and

(B) by adding at the end the following:

''(10) CONSULTATION WITH MEDPAC.—

''(A) IN GENERAL.—MACPAC shall regularly consult with the Medicare Payment Advisory Commission (in this paragraph referred to as 'MedPAC') established under section 1805 in carrying out its duties under this section.

''(B) DATA SHARING.—MACPAC and MedPAC shall have unrestricted access to all deliberations, records, and nonproprietary data of the other such entity, respectively, immediately upon the request of the either such entity.''.

(d) RULE OF CONSTRUCTION.—Nothing in this section—

(1) requires mandatory integrated care under the Medicare or Medicaid programs under titles XVIII and XIX, respectively, of the Social Security Act;

(2) promotes enrollment in specialized MA plans for special needs individuals (as defined in section 1859(b)(6) of the Social Security Act (42 U.S.C. 1395w–28(b)(6));

(3) promotes the development of Medicaid managed care for dual eligible individuals; or

(4) prevents dual eligible individuals from electing to remain in the original Medicare fee-for-service option, or the right to make such election being protected.

SEC. 102. CREATING A MEDICARE OPERATED PRESCRIPTION DRUG PLAN OPTION.

(a) MEDICARE OPERATED PRESCRIPTION DRUG PLAN OPTION.—

(1) IN GENERAL.—Subpart 2 of part D of the Social Security Act is amended by inserting after section 1860D–11 (42 U.S.C. 1395w–111) the following new section:

''MEDICARE OPERATED PRESCRIPTION DRUG PLAN OPTION

''SEC. 1860D–11A. (a) IN GENERAL.—Notwithstanding any other provision of this part, for each year (beginning with 2011), in addition to any plans offered under section 1860D–11, the Secretary shall offer one or more Medicare operated prescription drug plans (as defined in subsection (b)) with a service area that consists of the entire United States and shall enter into negotiations in accordance with section 1860D–11A(i) with pharmaceutical manufacturers to reduce the purchase cost of covered part D drugs for eligible part D individuals who enroll in such a plan.

''(b) MEDICARE OPERATED PRESCRIPTION DRUG PLAN DEFINED.—For purposes of this part, the term 'Medicare operated prescription drug plan' means a prescription drug plan that offers qualified prescription drug coverage and access to negotiated prices described in section 1860D–2(a)(1)(A).

''(c) MONTHLY BENEFICIARY PREMIUM.—

''(1) QUALIFIED PRESCRIPTION DRUG COVERAGE.—The monthly beneficiary premium for qualified prescription drug coverage and access to negotiated prices described in section 1860D–2(a)(1)(A) to be charged under a Medicare operated prescription drug plan shall be uniform nationally. Such premium for months in 2010 and each succeeding year shall be equal to the product of—

''(A) the beneficiary premium percentage (as specified in section 1860D–13(a)(3)); and

''(B) the average monthly per capita actuarial cost of offering the Medicare operated prescription drug plan for the year involved, including administrative expenses.

''(2) PREMIUM SUBSIDY FOR APPLICABLE SUBSIDY ELIGIBLE INDIVIDUALS.—

''(A) FULL SUBSIDY ELIGIBLE INDIVIDUALS.—In the case of an applicable subsidy eligible individual described in paragraph (4)(A), the individual is entitled under this section to an income-related premium subsidy equal to 100 percent of the monthly beneficiary premium of the Medicare operated prescription drug plan.

''(B) OTHER SUBSIDY ELIGIBLE INDIVIDUALS.—In the case of an applicable subsidy eligible individual described in paragraph (4)(B), the individual is entitled under this section to an income-related premium subsidy determined on a linear sliding scale as follows:

''(i) One hundred percent of the amount described in subparagraph (A) for individuals with incomes at or below 135 percent of such level.

''(ii) Seventy-five percent of such amount for individuals with incomes above 135 percent of such level and at or below 140 percent of such level.

''(iii) Fifty percent of such amount for individuals with incomes above 140 percent of such level and at or below 145 percent of such level.

''(iv) Twenty-five percent of such amount for individuals with incomes above 145 percent of such level and below 150 percent of such level.

''(v) Zero percent of such amount for individuals with incomes at 150 percent of such level.

''(3) COST-SHARING FOR APPLICABLE SUBSIDY ELIGIBLE INDIVIDUALS.—

''(A) FULL-SUBSIDY ELIGIBLE INDIVIDUALS.—In the case of an applicable subsidy eligible individual described in paragraph (4)(A), the provisions of section 1860D–14(a)(1) shall apply, except the premium subsidy under paragraph (2)(A) shall be substituted for the premium subsidy under subparagraph (A) of such section 1860D–14(a)(1); and

''(B) OTHER SUBSIDY ELIGIBLE INDIVIDUALS.—In the case of an applicable subsidy eligible individual described in paragraph (4)(B), the provisions of section 1860D–14(a)(2) shall apply, except the premium subsidy under paragraph (2)(B) shall be substituted

for the premium subsidy under subparagraph (A) of such section 1860D–14(a)(2).

''(4) DEFINITION OF APPLICABLE SUBSIDY ELIGIBLE INDIVIDUALS.—For purposes of paragraphs (2) and (3), the term 'applicable subsidy eligible individual' means the following:

''(A) FULL-SUBSIDY ELIGIBLE INDIVIDUALS.—

''(i) INDIVIDUALS WITH INCOME BELOW 135 PERCENT OF POVERTY LINE.—Any individual who—

''(I) is enrolled in a Medicare operated prescription drug plan;

''(II) is determined to have income that is below 135 percent of the poverty line applicable to a family of the size involved; and

''(III) meets the resources requirement described in section 1860D–14(a)(3)(E), as amended by section 201 of the Medicare Prescription Drug Coverage Improvement Act.

''(ii) CERTAIN OTHER INDIVIDUALS.—Any individual who is enrolled in a Medicare operated prescription drug plan who—

''(I) is a full-benefit dual eligible individual (as defined in section 1935(c)(6));

''(II) receives benefits under the supplemental security income program under title XVI; or

''(III) is eligible for medical assistance under clause (i), (iii), or (iv) of section 1902(a)(10)(E).

''(B) OTHER SUBSIDY ELIGIBLE INDIVIDUALS.—Any individual who—

''(i) is not described in paragraph (1);

''(ii) is enrolled in a Medicare operated prescription drug plan;

''(iii) is determined to have income that is below 150 percent of the poverty line applicable to a family of the size involved; and

''(iv) meets the resources requirement described in section 1860D–14(a)(3)(E), as amended by section 201 of the Medicare Prescription Drug Coverage Improvement Act.

''(d) USE OF A FORMULARY AND FORMULARY INCENTIVES.—

''(1) USE OF A FORMULARY.—

''(A) IN GENERAL.—With respect to the operation of a Medicare operated prescription drug plan, the Secretary shall establish and apply a formulary (and may include formulary incentives described in paragraph (5)(C)(ii)) in accordance with this subsection in order to—

''(i) increase patient safety;

''(ii) increase appropriate use and reduce inappropriate use of drugs; and

''(iii) reward value.

''(B) DEFAULT INITIAL FORMULARY.—Until such time as the Secretary establishes and applies the initial formulary under paragraph (5), a Medicare operated prescription drug plan shall be required to include all drugs approved for safety and effectiveness as a prescription drug under the Federal Food, Drug, and Cosmetic Act that are covered part D drugs (and may include formulary incentives described in paragraph (5)(C)(ii)).

''(2) REQUIREMENTS FOR FORMULARIES.—The Secretary shall establish a formulary that meets the following requirements:

''(A) Except as provided in subparagraph (B), the formulary includes the covered outpatient drugs of any manufacturer which has entered into and complies with an agreement with the Secretary under this section.

''(B) A covered outpatient drug may be excluded with respect to the treatment of a specific disease or condition for an identified population (if any) only if, based on the drug's labeling (or, in the case of a drug the prescribed use of which is not approved under the Federal Food, Drug, and Cosmetic Act but is a medically accepted indication (as defined in section 1860D–2(e)(4)), the excluded drug does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome of such treatment for such population over other drugs included in the formulary and there is a written explanation (available to the public) of the basis for the exclusion.

''(C) The Secretary permits coverage of a drug excluded from the formulary pursuant to a prior authorization program that is consistent with paragraph (3).

''(D) The formulary meets such other requirements as the Secretary may impose in order to achieve program savings consistent with protecting the health of program beneficiaries.

A prior authorization program established under paragraph (3) is not a formulary subject to the requirements of this paragraph.

''(3) REQUIREMENTS OF PRIOR AUTHORIZATION PROGRAMS.—The Secretary may require, with respect to drugs dispensed on or after July 1, 1991, the approval of the drug before its dispensing for any medically accepted indication (as defined in section 1860D–2(e)(4)) only if the system providing for such approval—

''(A) provides response by telephone or other telecommunication device within 24 hours of a request for prior authorization; and

''(B) provides for the dispensing of at least a 72-hour supply of a covered outpatient prescription drug in an emergency situation (as defined by the Secretary).

''(4) OTHER PERMISSIBLE RESTRICTIONS.—The Secretary may impose limitations, with respect to all such drugs in a therapeutic class, on the minimum or maximum quantities per prescription or on the number of refills, if such limitations are necessary to improve patient safety, discourage waste, or address instances of fraud or abuse by individuals in any manner authorized under this Act.

''(5) DEVELOPMENT OF INITIAL FORMULARY.—

''(A) IN GENERAL.—In selecting covered part D drugs for inclusion in a formulary, the Secretary shall consider clinical benefit and price.

''(B) ROLE OF AHRQ.—The Director of the Agency for Healthcare Research and Quality shall be responsible for assessing the clinical benefit of covered part D drugs and making recommendations to the Secretary regarding which drugs should be included in the formulary. In conducting such assessments and making such recommendations, the Director shall—

''(i) consider safety concerns including those identified by the Federal Food and Drug Administration;

''(ii) use available data and evaluations, with priority given to randomized controlled trials, to examine clinical effectiveness, comparative effectiveness, safety, and enhanced compliance with a drug regimen;

''(iii) use the same classes of drugs developed by United States Pharmacopeia for this part;

''(iv) consider evaluations made by—

''(I) the Director under section 1013 of Medicare Prescription Drug, Improvement, and Modernization Act of 2003;

''(II) other Federal entities, such as the Secretary of Veterans Affairs; and

''(III) other private and public entities, such as the Drug Effectiveness Review Project and Medicaid programs; and

''(v) recommend to the Secretary—

''(I) those drugs in a class that provide a greater clinical benefit, including fewer safety concerns or less risk of side-effects, than another drug in the same class that should be included in the formulary;

''(II) those drugs in a class that provide less clinical benefit, including greater safety concerns or a greater risk of side-effects, than another drug in the same class that should be excluded from the formulary; and

''(III) drugs in a class with same or similar clinical benefit for which it would be appropriate for the Secretary to competitively bid (or negotiate) for placement on the formulary.

''(C) CONSIDERATION OF AHRQ RECOMMENDATIONS.—

''(i) IN GENERAL.—Not later than January 1, 2011, the Secretary, after taking into consideration the recommendations under subparagraph (B)(v), shall establish a formulary, and formulary incentives, to encourage use of covered part D drugs that—

''(I) have a lower cost and provide a greater clinical benefit than other drugs;

''(II) have a lower cost than other drugs with same or similar clinical benefit; and

''(III) drugs that have the same cost but provide greater clinical benefit than other drugs.

''(ii) FORMULARY INCENTIVES.—The formulary incentives under clause (i) may be in the form of one or more of the following:

''(I) Tiered copayments.

''(II) Prior authorization.

''(III) Step therapy.

''(IV) Medication therapy management.

''(V) Generic drug substitution.

''(iii) FLEXIBILITY.—In applying such formulary incentives the Secretary may decide not to impose any cost-sharing for a covered part D drug for which—

''(I) the elimination of cost sharing would be expected to increase compliance with a drug regimen; and

''(II) compliance would be expected to produce savings under part A or B or both.

''(iv) DEVELOPMENT OF TRANSPARENT PROCESS TO EXPLAIN FORMULARY INCENTIVES.—Not later than January 1, 2011, the Secretary shall develop and implement a transparent process to identify and explain to beneficiaries formulary incentives under clause (i). Such process shall be designed to assist beneficiaries in understanding how prior authorization requests and other formulary incentives will be evaluated.

''(6) LIMITATIONS ON FORMULARY.—In any formulary established under this subsection, the formulary may not be changed during a year, except—

''(A) to add a generic version of a covered part D drug that entered the market;

''(B) to remove such a drug for which a safety problem is found; and

''(C) to add a drug that the Secretary identifies as a drug which treats a condition for which there has not previously been a treatment option or for which a clear and significant benefit has been demonstrated over other covered part D drugs.

''(7) ADDING DRUGS TO THE INITIAL FORMULARY.—

''(A) USE OF ADVISORY COMMITTEE.—The Secretary shall establish and appoint an advisory committee (in this paragraph referred to as the 'advisory committee')—

''(i) to review petitions from drug manufacturers, health care provider organizations, patient groups, and other entities for inclusion of a drug in, or other changes to, such formulary; and

''(ii) to recommend any changes to the formulary established under this subsection.

''(B) COMPOSITION.—The advisory committee shall be composed of 9 members and shall include representatives of physicians, pharmacists, and consumers and others with expertise in evaluating prescription drugs. The Secretary shall select members based on their knowledge of pharmaceuticals and the Medicare and Medicaid populations. Members shall be deemed to be special Government employees for purposes of applying the conflict of interest provisions under section 208 of title 18, United States Code, and no waiver of such provisions for such a member shall be permitted.

''(C) CONSULTATION.—The advisory committee shall consult, as necessary, with physicians who are specialists in treating the disease for which a drug is being considered.

''(D) REQUEST FOR STUDIES.—The advisory committee may request the Agency for Healthcare Research and Quality or an academic or research institution to study and make a report on a petition described in subparagraph (A)(ii) in order to assess—

''(i) clinical effectiveness;

''(ii) comparative effectiveness;

''(iii) safety; and

''(iv) enhanced compliance with a drug regimen.

''(E) RECOMMENDATIONS.—The advisory committee shall make recommendations to the Secretary regarding—

''(i) whether a covered part D drug is found to provide a greater clinical benefit, including fewer safety concerns or less risk of side-effects, than another drug in the same class that is currently included in the formulary and should be included in the formulary;

''(ii) whether a covered part D drug is found to provide less clinical benefit, including greater safety concerns or a greater risk of side-effects, than another drug in the same class that is currently included in the formulary and should not be included in the formulary; and

''(iii) whether a covered part D drug has the same or similar clinical benefit to a drug in the same class that is currently included in the formulary and whether the drug should be included in the formulary.

''(F) LIMITATIONS ON REVIEW OF MANUFACTURER PETITIONS.—The advisory committee shall not review a petition of a drug manufacturer under subparagraph (A)(ii) with respect to a covered part D drug unless the petition is accompanied by the following:

''(i) Raw data from clinical trials on the safety and effectiveness of the drug.

''(ii) Any data from clinical trials conducted using active controls on the drug or drugs that are the current standard of care.

''(iii) Any available data on comparative effectiveness of the drug.

''(iv) Any other information the Secretary requires for the advisory committee to complete its review.

''(G) RESPONSE TO RECOMMENDATIONS.—The Secretary shall review the recommendations of the advisory committee and if the Secretary accepts such recommendations the Secretary shall modify the formulary established under this subsection accordingly. Nothing in this section shall preclude the Secretary from adding to the formulary a drug for which the Director of the Agency for Healthcare Research and Quality or the advisory committee has not made a recommendation.

''(H) NOTICE OF CHANGES.—The Secretary shall provide timely notice to beneficiaries and health professionals about changes to the formulary or formulary incentives.

''(I) STABILITY OF BENEFIT.—Once a covered part D drug has been added to the formulary established under this subsection, the drug may not be removed from the formulary for at least a 3-year period, unless the Secretary determines there are safety or efficacy concerns with respect to the drug.

''(8) NON-EXCLUDABLE DRUGS.—The following drugs or classes of drugs shall not be excluded from the default initial formulary (as described in paragraph (1)(B)) or the initial formulary established by the Secretary (as described in paragraph (5)):

''(A) Barbiturates.

''(B) Benzodiazepines.

''(e) INFORMING BENEFICIARIES.—

''(1) IN GENERAL.—The Secretary shall take steps to inform beneficiaries about the availability of a Medicare operated prescription drug plan or plans including providing information in the annual handbook distributed to all beneficiaries and adding information to the official public Medicare website related to prescription drug coverage available through this part.

''(2) SOLE RESPONSIBILITY FOR MARKETING BY THE SECRETARY.—

''(A) IN GENERAL.—The Secretary shall have sole responsibility for marketing Medicare operated prescription drug plans.

''(B) AUTHORIZATION.—There is authorized to be appropriated to the Secretary such sums as are necessary to carry out such marketing.

''(f) APPLICATION OF ALL OTHER REQUIREMENTS FOR PRESCRIPTION DRUG PLANS.—Except as specifically provided in this section, any Medicare operated drug plan shall meet the same requirements as apply to any other prescription drug plan, including the requirements of section 1860D–4(b)(1) relating to assuring pharmacy access.

''(g) AUTOMATIC ENROLLMENT.—The Secretary shall establish procedures to provide for the automatic enrollment of subsidy eligible individuals (as defined in section 1860D–14(a)(3)) in a Medicare operated prescription drug plan in the case where such individuals lose their current prescription drug coverage, become part D eligible individuals, or in instances where the amount of the monthly beneficiary premium under the prescription drug plan the individual is enrolled in is greater than the premium subsidy amount described in section 1860D–14(b).

''(h) RULE OF CONSTRUCTION REGARDING ELIGIBILITY FOR MEDICAL ASSISTANCE.—In no case may enrollment in a Medicare operated prescription drug plan affect the eligibility of an individual to receive medical assistance under a State plan under title XIX.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the enactment of section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—

(A) Section 1860D–3(a) of the Social Security Act (42 U.S.C. 1395w–103(a)) is amended by adding at the end the following new paragraph:

''(4) AVAILABILITY OF THE MEDICARE OPERATED PRESCRIPTION DRUG PLAN.—A Medicare operated prescription drug plan (as defined in section 1860D–11A(c)) shall be offered nationally in accordance with section 1860D–11A.''.

(B)(i) Section 1860D–3 of the Social Security Act (42 U.S.C. 1395w–103) is amended by adding at the end the following new subsection:

''(c) PROVISIONS ONLY APPLICABLE IN 2006, 2007, 2008, AND 2009.—The provisions of this section shall only apply with respect to 2006, 2007, 2008, and 2009.''.

(C) Section 1860D–11(g) of such Act (42 U.S.C. 1395w–111(g)) is amended by adding at the end the following new paragraph:

''(8) NO AUTHORITY FOR FALLBACK PLANS AFTER 2009.—A fallback prescription drug plan shall not be available after December 31, 2009.''.

(D) Section 1860D–13(c)(3) of such Act (42 U.S.C. 1395w–113(c)(3)) is amended—

(i) in the heading, by inserting ''AND MEDICARE OPERATED PRESCRIPTION DRUG PLANS'' after ''FALLBACK PLANS''; and

(ii) by inserting ''or a Medicare operated prescription drug plan'' after ''a fallback prescription drug plan''.

(E) Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)) is amended—

(i) in paragraph (1), by striking ''In the'' and inserting ''Subject to section 1860D–11A(c)(2)(A), in the''; and

(ii) in paragraph (2), by striking ''In the'' and inserting ''Subject to section 1860D–11A(c)(2)(B), in the''.

(F) Section 1860D–16(b)(1) of such Act (42 U.S.C.1395w–116(b)(1)) is amended—

(i) in subparagraph (C), by striking ''and'' after the semicolon at the end;

(ii) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(G) by adding at the end the following new subparagraph:

''(E) payments for expenses incurred with respect to the operation of Medicare operated prescription drug plans under section 1860D–11A.''.

(H) Section 1860D–41(a) of such Act (42 U.S.C. 1395w–151(a)) is amended by adding at the end the following new paragraph:

''(19) MEDICARE OPERATED PRESCRIPTION DRUG PLAN.—The term 'Medicare operated prescription drug plan' has the meaning given such term in section 1860D–11A(c).''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

SEC. 103. ACCREDITATION REQUIREMENT FOR ALL SPECIALIZED MEDICARE ADVANTAGE PLANS AND REVISIONS RELATING TO SPECIALIZED MEDICARE ADVANTAGE PLANS FOR SPECIAL NEEDS INDIVIDUALS.

(a) ACCREDITATION REQUIREMENT.—Section 1859(f) of the Social Security Act (42 U.S.C. 1395w–28(f)) is amended—

(1) in paragraphs (2)(B), (3)(B), and (4)(B), by striking ''paragraph (5)'' and inserting ''paragraphs (5) and (6)(B)'' each place it appears; and

(2) by adding at the end the following new paragraph:

''(6) ACCREDITATION REQUIREMENT FOR ALL SNPS.—

''(A) ESTABLISHMENT OF ACCREDITATION PROGRAM.—Not later than January 1, 2011, the Secretary, acting through the Director of the Agency for Healthcare Research and Quality and the Administrator of the Centers for Medicare & Medicaid Services, shall enter into a contract with the National Committee for Quality Assurance under which the National Committee for Quality Assurance shall develop an accreditation (and re-accreditation) program for all specialized MA plans for special needs individuals (as defined in subsection (b)(6)), including specialized MA plans for special needs individuals described in subsection (b)(6)(B)(ii).

''(B) REQUIREMENT.—The requirement described in this subparagraph is that, effective for plan years beginning on or after January 1, 2012, a specialized MA plan for special needs individuals (as so defined) meet the accreditation standards developed by the National Committee for Quality Assurance under the contract under subparagraph (A).''.

(b) REVISIONS RELATING TO SPECIALIZED MEDICARE ADVANTAGE PLANS FOR SPECIAL NEEDS INDIVIDUALS.—Section 1859 of the Social Security Act (42 U.S.C. 1395w–28) is amended—

(1) in subsection (f)(3)—

(A) in subparagraph (D), in the first sentence, by inserting ''and the plan provides for the coordination of coverage for benefits under this title (including this part) and such medical assistance'' before the period at the end; and

(B) by adding at the end the following new subparagraph:

''(E) The plan meets the requirements described in subsection (g).''; and

(2) by adding at the end the following new subsection:

''(g) ADDITIONAL REQUIREMENTS FOR DUAL SNPS.—The following requirements are described in this subsection:

''(1) PROVISION OF INFORMATION.—The plan provides special needs individuals described

in subsection (b)(6)(B)(ii) up-front information about formularies and utilization management strategies under the plan as part of the information disclosed under section 1852(c)(1).

''(2) PREMIUM.—The premium under the plan does not exceed the premium subsidy amount described in section 1860D–14(b).

''(3) FORMULARY.—

''(A) IN GENERAL.—Subject to subparagraph (B), the plan has a formulary that, based on the most recent data available, covers at least—

''(i) 95 percent of the 200 most commonly prescribed non-duplicative generic covered part D drugs for the population of individuals entitled to (or enrolled for) benefits under part A or enrolled under part B; and

''(ii) 95 percent of the 200 most commonly prescribed non-duplicative brand name covered part D drugs for such population.

''(B) INCLUSION OF DRUGS IN CERTAIN CATEGORIES AND CLASSES.—The plan formulary shall include all covered part D drugs in the categories and classes identified by the Secretary under section 1860D–4(b)(3)(G)(i).

''(4) PHARMACY ACCESS.—The plan secures participation in its network of a sufficient number of pharmacies that dispense (other than by mail order) drugs directly to patients to ensure convenient access by at least 90 percent of enrollees who are residing in long-term care facilities within the region.

''(5) OPERATION OF A DEDICATED CUSTOMER ASSISTANCE PHONE LINE.—The plan shall maintain a toll-free number or numbers for inquiries concerning the plan that is solely for the use of such individuals, the designated representatives of such individuals (including designated family members), advocates of such individuals, providers of services, and suppliers.

''(6) E-PRESCRIBING.—The plan adopts electronic prescribing for enrollees, in accordance with section 1860D–4(e), to coordinate care.

''(7) DEMONSTRATE EXPERIENCE AND EXPERTISE.—The plan demonstrates, to the satisfaction of the Secretary, with input from the States, sufficient experience and expertise in serving low-income, publicly insured, or previously uninsured populations.

''(8) REDUCING HEALTH DISPARITIES.—The plan has established and implemented systems and processes which have been approved by the Secretary to address and reduce health disparities based on race, ethnicity, gender, age, and socio-economic status.

''(9) PROFICIENCY IN CARE COORDINATION.—The plan demonstrates, to the satisfaction of the Secretary, proficiency in care coordination for the purpose of providing, or arranging for the provision of, services to assist individuals enrolled in the plan in obtaining access to other public and private benefits, including services to address non-medical and psycho-social needs.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan year beginning on or after January 1, 2011.

SEC. 104. PROVIDING BETTER CARE COORDINATION FOR LOW-INCOME BENEFICIARIES IN MEDICARE PART D.

(a) CONTINUOUS UPDATING OF ELIGIBILITY AND ENROLLMENT DATA FOR DUAL ELIGIBLE INDIVIDUALS.—

(1) STATE REQUIREMENT.—Section 1935(a) of the Social Security Act (42 U.S.C. 1396u–5(a)) is amended by adding at the end the following new paragraph:

''(4) UPDATING OF ELIGIBILITY AND ENROLLMENT INFORMATION ON A ROLLING BASIS.—Beginning not later than October 1, 2011, the State shall update information with respect to the eligibility and enrollment of individuals receiving any kind of medical assistance under the State plan, including medical assistance for payment of Medicare cost-sharing described in section 1905(p)(3), in MA plans and prescription drug plans under parts C and D, respectively, of title XVIII (including eligibility determinations under paragraph (2) and screening and enrollment under paragraph (3)) not less frequently than on a weekly basis.''.

(2) SECRETARIAL REQUIREMENTS.—Section 1935(d) of the Social Security Act (42 U.S.C. 1396u–5(d)) is amended by adding at the end the following new paragraph:

''(3) UPDATING OF ELIGIBILITY AND ENROLLMENT INFORMATION ON A ROLLING BASIS.—The Secretary shall update information with respect to the eligibility and enrollment of individuals receiving any kind of medical assistance under this title, including medical assistance for payment of Medicare cost-sharing described in section 1905(p)(3), in MA plans and prescription drug plans under parts C and D, respectively, of title XVIII as it is received, but not less frequently than on a weekly basis.''.

(b) IDENTIFYING DUAL ELIGIBLE INDIVIDUALS IN DATA RECORDS.—

(1) IN GENERAL.—Section 1859 of the Social Security Act (42 U.S.C. 1305w–28), as amended by section 103, is amended by adding at the end the following new subsection:

''(h) IDENTIFYING DUAL ELIGIBLE INDIVIDUALS IN DATA RECORDS.—

''(1) IDENTIFICATION BY THE SECRETARY.—Beginning on January 1, 2010, the Secretary shall clearly identify all dual eligible individuals that are enrolled in MA plans and prescription drug plans for the current plan year and reflect the low-income subsidy status of such individuals for each plan year in every data record file maintained in the Medicare electronic database and every such file that is used to enroll or adjudicate claims for such individuals.

''(2) IDENTIFICATION BY MA PLANS AND PRESCRIPTION DRUG PLANS.—Beginning on January 1, 2010, each MA plan and prescription drug plan shall clearly identify all dual eligible individuals that are enrolled in the plan for the current plan year and reflect the low-income subsidy status of such individuals for the plan year in every data record file maintained by the plan that is used to enroll or adjudicate claims for such individuals under the plan.

''(3) REGULATIONS.—The Secretary shall establish regulations to carry out this subsection. Such regulations shall require that—

''(A) for each plan year and each dual eligible individual, the Secretary identify on the Medicare enrollment database dual eligible status that has been verified with a State or the District of Columbia;

''(B) for each plan year and each dual eligible individual, the Secretary identify on the Medicare enrollment database the low-income subsidy level of the individual; and

''(C) each data file that is necessary to ensure that such dual eligible status is transmitted to an MA plan or a prescription drug plan, at the time the Secretary certifies the enrollment of the dual eligible individual in the plan.

''(4) DEFINITION OF DUAL ELIGIBLE INDIVIDUAL.—The term 'dual eligible individual' means a special needs individual described in subsection (b)(6)(B)(ii).''.

(2) CONFORMING AMENDMENT.—Section 1860D–42 of the Social Security Act (42 U.S.C. 1395w–152) is amended by adding at the end the following new subsection:

''(c) IDENTIFYING DUAL ELIGIBLE INDIVIDUALS IN DATA RECORDS.—For provisions regarding the identification by prescription drug plans of dual eligible individuals in data records, see section 1859(h).''.

(c) ASSURING CONTINUITY OF PRESCRIPTION DRUG COVERAGE FOR DUAL ELIGIBLES.—

(1) IN GENERAL.—Section 1935(d)(1) of the Social Security Act (42 U.S.C. 1396u–5(d)(1)) is amended—

(A) by inserting ''on and after the date described in subparagraph (B),'' after ''notwithstanding any other provision of this title,'';

(B) by striking ''In the case of'' and inserting the following:

''(A) IN GENERAL.—In the case of''; and

(C) by adding at the end the following:

''(B) DATE DESCRIBED.—For purposes of subparagraph (A), the date described in this subparagraph is the date on which the State confirms with a Medicare Advantage plan under part C of title XVIII or a prescription drug plan under part D of such title (including a Medicare operated prescription drug plan under section 1860D–11A), as applicable—

''(i) that the part D eligible individual (as so defined) who is described in subsection (c)(6)(A)(ii) is enrolled with such plan; and

''(ii) the cost-sharing and premiums applicable for the individual for such plan.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on January 1, 2011.

(d) COLLECTION AND SHARING OF DRUG UTILIZATION DATA AND FORMULARY INFORMATION FOR FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—Section 1860D–42 of the Social Security Act, as amended by subsection (b), is amended by adding at the end the following new subsection:

''(d) COLLECTION AND SHARING OF DRUG UTILIZATION DATA AND FORMULARY INFORMATION FOR FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.—

''(1) PLAN REQUIREMENT.—A PDP sponsor of a prescription drug plan (including a Medicare operated prescription drug plan under section 1860D–11A) and an MA organization offering an MA–PD plan shall submit to the Secretary such information regarding the drug utilization of enrollees in such plans who are full-benefit dual eligible individuals (as defined in section 1935(c)(6)) and any formularies under the plans such individuals are enrolled in as the Secretary determines appropriate to carry out paragraph (2). Such information shall be submitted—

''(A) on a rolling basis (as determined appropriate by the Secretary); and

''(B) using a single, uniform reporting process.

''(2) COLLECTION AND SHARING OF DATA.—The Secretary shall collect data on the drug utilization of full-benefit dual eligible individuals (as so defined) and on any formularies under the plans such individuals are enrolled in. The Secretary shall share such data with the States and the District of Columbia on as close to a real-time basis as possible.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 2010.

SEC. 105. IMPROVING TRANSITION OF NEW DUAL ELIGIBLE INDIVIDUALS TO MEDICARE PRESCRIPTION DRUG COVERAGE AND PRESUMPTIVE ELIGIBILITY FOR LOW-INCOME SUBSIDIES.

(a) UPDATING THE POINT OF SALE FACILITATED ENROLLMENT PROCESS.—

(1) PROVIDING BETTER INITIAL PROTECTION FOR DUAL ELIGIBLE INDIVIDUALS.—Beginning January 1, 2011, each contractor under the Point of Sale Facilitated Enrollment process of the Department of Health and Human Services shall enroll full-benefit dual eligible individuals (as defined in section 1935(c)(6)) into a Medicare operated prescription drug plan under section 1860D–11A of the Social Security Act, as added by section 102.

(2) COMPETITIVE BIDDING OF POINT OF SALE CONTRACT.—The Secretary of Health and Human Services shall establish procedures to ensure that each contract entered into under such process on or after January 1, 2010, under the Medicare program under title XVIII of the Social Security Act is rebid every 3 years through a competitive bidding process.

(3) REQUIRING BETTER EDUCATION ABOUT POINT OF SALE FACILITATED ENROLLMENT PROCESS.—Not later than January 1, 2010, the Secretary of Health and Human Services shall have a comprehensive plan in place for proactively educating beneficiaries under the Medicare prescription drug program under part D of title XVIII of the Social Security Act, pharmacists, skilled nursing facilities (as defined in section 1819(a) of such Act (42 U.S.C. 1395i–3(a)), nursing facilities (as defined in section 1919(a) of such Act (42 U.S.C. 1396r(a)), counselors under State health insurance assistance programs (SHIPs), and other advocacy organizations (including disability organizations) about the Point of Sale Facilitated Enrollment process. Under such plan—

(A) information about the Point of Sale Facilitated Enrollment process shall be included in all mailers to the entities and individuals described in the preceding sentence prior to the annual, coordinated election period described in section 1851(e)(3) of the Social Security Act (42 U.S.C. 1395w–21(e)(3)); and

(B) a description of such process and other relevant information shall be prominently displayed on the Medicare Internet website throughout the year.

(4) MANDATORY USE OF POINT OF SALE FACILITATED ENROLLMENT PROCESS.—Section 1860D–4(b)(1) of the Social Security Act (42 U.S.C. 1395w–104(b)(1)) is amended by adding at the end the following new subparagraph:

''(F) MANDATORY USE OF POINT OF SALE FACILITATED ENROLLMENT PROCESS.—Notwithstanding any other provision of law, beginning January 1, 2011, the terms and conditions under subparagraph (A) shall require participating pharmacies to use the Point of Sale Facilitated Enrollment process of the Department of Health and Human Services.''.

(b) PRESUMPTIVE ELIGIBILITY AND MANDATORY TRANSITION PERIOD FOR SUBSIDY ELIGIBLE INDIVIDUALS.—Section 1860D–14 of the Social Security Act (42 U.S.C. 1395w–104) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

''(d) PRESUMPTIVE ELIGIBILITY AND MANDATORY TRANSITION PERIOD.—

''(1) PRESUMPTIVE ELIGIBILITY.—An individual shall be presumed to be a subsidy eligible individual (as defined in section 1860D–14(a)(3)) if the individual presents at the pharmacy with—

''(A) reliable evidence of—

''(i) Medicaid enrollment, such as a Medicaid card, recent history of Medicaid billing in the pharmacy patient profile, a copy of a current Medicaid award letter, or confirmation from a Medicaid enrollment database; or

''(ii) eligibility for an income-related subsidy under section 1860D–14, such as a low-income subsidy notice from the Secretary or the Commissioner of Social Security, or confirmation from a Social Security enrollment database; and

''(B) reliable evidence of Medicare enrollment, such as a Medicare identification card, a Medicare enrollment approval letter, a Medicare Summary Notice, or confirmation from an official Medicare hotline or Medicare database.

''(2) MAKING SUBSIDY ELIGIBLE INDIVIDUALS WHOLE.—

''(A) IN GENERAL.—In the case of a subsidy eligible individual (as so defined) who, between November 15, 2005 and December 31, 2009, has wrongly been forced to pay higher co-payments, premiums, and deductibles than those applicable under this part and part C for such individual, the subsidy eligible individual shall be eligible for compensation under the program under this title.

''(B) ESTABLISHMENT OF PROCESS FOR REFUND OF AMOUNT INCORRECTLY PAID.—The Secretary shall establish a process under which—

''(i) prescription drug plans and MA–PD plans are billed for copayments and deductibles inappropriately charged to subsidy eligible individuals during retroactive coverage periods;

''(ii) the amounts incorrectly paid by the subsidy eligible individual as a result of those inappropriate charges are refunded directly to the individual, either through a rebate on future payments of premiums under part B or through a direct payment to the individual; and

''(iii) prescription drug plans and MA–PD plans are required to provide detailed accounting to the Secretary of the basis for any rebate or payment to a subsidy eligible individual under this subparagraph, including the applicable period of retroactive coverage for the subsidy eligible individual and whether the rebate or credit is with respect to an inappropriately charged copayment or deductible,

''(C) NOTIFICATION.—Subsidy eligible individuals shall be notified of the requirements of this subsection in their 2010 plan year materials.

''(D) NO EFFECT ON ELIGIBILITY FOR OTHER BENEFITS.—Amounts refunded to a subsidy eligible individual under this subsection shall be disregarded for purposes of determining or continuing the beneficiary's eligibility for receipt of benefits under any other Federal, State, or locally funded assistance program, including benefits paid under titles II, XVI, XVIII, XIX, or XXI.''.

SEC. 106. REQUIRED INFORMATION ON TRANSITION FROM SKILLED NURSING FACILITIES AND NURSING FACILITIES TO PART D PLANS.

(a) SKILLED NURSING FACILITIES.—Section 1819(b) of the Social Security Act (42 U.S.C. 1395i–3(b)) is amended by adding at the end the following new paragraph:

''(9) INFORMATION ON TRANSITION TO PRESCRIPTION DRUG COVERAGE.—A skilled nursing facility must provide information to residents and the families of residents on how to transition to prescription drug coverage under MA–PD plans under part C and prescription drug plans under part D upon discharge from the facility.''.

(b) NURSING FACILITIES.—Section 1919(b) of the Social Security Act (42 U.S.C. 1395i–3(b)) is amended by adding at the end the following new paragraph:

''(9) INFORMATION ON TRANSITIONING TO PRESCRIPTION DRUG COVERAGE.—A nursing facility must provide information to residents and the families of residents on how to transition to prescription drug coverage under MA–PD plans under part C and prescription drug plans under part D upon discharge from the facility.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2011.

SEC. 107. STREAMLINED PHARMACY COMPLIANCE PACKAGING.

(a) IN GENERAL.—Section 1860D–4(b)(3) of the Social Security Act (42 U.S.C. 1395w—104(b)(3) is amended by adding at the end the following new subparagraph:

''(G) STREAMLINED PHARMACY COMPLIANCE PACKAGING FOR DUAL ELIGIBLE INDIVIDUALS.—A PDP sponsor of a prescription drug plan shall streamline pharmacy compliance packaging for individuals enrolled in the plan who—

''(i) are entitled to medical assistance under a State plan under title XVIII; and

''(ii) reside in a nursing home.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to drugs dispensed on or after January 1, 2010.

SEC. 108. LOWERING COVERED PART D DRUG PRICES ON BEHALF OF MEDICARE BENEFICIARIES.

(a) REPEAL OF PROHIBITION.—Section 1860D–11 of the Social Security Act (42 U.S.C. 1395w-111) is amended by striking subsection (i) and inserting the following:

''(i) LOWERING COVERED PART D DRUG PRICES.—

''(1) IN GENERAL.—The Secretary shall reduce the purchase cost of covered part D drugs by implementing 2 or more of the following strategies on an annual basis (beginning with 2011):

''(A) Negotiating directly with pharmaceutical manufacturers for additional discounts, rebates, and other price concessions that may be made available to Medicare operated prescription drug plans under section 1860D–11A for covered part D drugs.

''(B) Entering into rebate agreements with manufacturers to provide to the Secretary a rebate for any covered outpatient drug of a manufacturer dispensed during a rebate period specified in the agreement to a subsidy eligible individual described (or treated as described) in section 1860D–14(a)(1)) for which payment was made by a PDP sponsor under part D of title XVIII or an MA organization under part C of such title for such period in an amount determined in the same manner as the rebate amount for such drug would have been determined under subsection (c) of section 1927 if the dispensing of the drug to such individual was paid for by a State and subject to a rebate agreement entered into under such section (and allocating any such rebates received among the prescription drug plans of such PDP sponsors and MA–PD plans offered by such organizations based on the enrollment of such individuals in such plans).

''(C) In consultation with the Director of the Agency for Healthcare Research and Quality, using data from relevant and unbiased studies on the comparative clinical effectiveness of covered part D drugs to—

''(i) educate physicians and pharmacists; and

''(ii) provide information to PDP sponsors of prescription drug plans and MA organizations offering MA–PD plans for use in making decisions regarding plan formularies.

''(D) Instituting prescription drug prices negotiated under the Federal Supply Schedule of the General Services Administration for the reimbursement of covered part D drugs.

''(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the PDP sponsor of a prescription drug plan or an MA organization offering an MA-PD plan from obtaining a discount or reduction of the price for a covered part D drug below the price negotiated by the Secretary for a Medicare-operated plan under paragraph (1)(A).

''(3) ANNUAL REPORTS TO CONGRESS.—Not later than January 1, 2012, and annually thereafter, the Secretary shall submit to the Committee on Finance of the Senate and to the Committee on Ways and Means, the Committee on Energy and Commerce, and the Committee on Oversight and Government Reform of the House of Representatives a report on the strategies implemented by the Secretary under paragraph (1) to achieve lower prices on covered part D drugs

for beneficiaries, including the prices of such covered part D drugs and any price concessions achieved by the Secretary as a result of such implementation.''.

SEC. 109. CORRECTION OF FLAWS IN DETERMINATION OF PHASED-DOWN STATE CONTRIBUTION FOR FEDERAL ASSUMPTION OF PRESCRIPTION DRUG COSTS FOR DUALLY ELIGIBLE INDIVIDUALS.

Section 1935(c) of the Social Security Act (42 U.S.C. 1396u–5(c)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking ''Each'' and inserting ''Subject to paragraph (7), each''; and

(2) by adding at the end the following new paragraph:

''(7) MODIFICATION OF DETERMINATION OF AMOUNT OF STATE CONTRIBUTION.—Not later than January 1, 2011, the Secretary of Health and Human Services (in this section referred to as the 'Secretary'), acting through the Director of the Federal Coordinated Health Care Office established under section 101 of the Medicare Prescription Drug Reform Act of 2009, shall promulgate regulations for modifying the factors used to determine the product under paragraph (1)(A) for each State and month that take into account the following with respect to each State:

''(A) Factoring into the determination of base year State Medicaid per capita expenditures for covered part D drugs for full-benefit dual eligible individuals under paragraph (3) all payments collected by a State under agreements under section 1927 for outpatient prescription drugs purchased in 2003 (not just for such payments that were collected by the State in 2003).

''(B) Pharmacy cost savings measures implemented by the State during the period that begins with 2003 and ends with 2006.

''(C) Substituting under paragraph (4) a State-specific growth factor in lieu of the national applicable growth factor for 2004 and succeeding years based on the annual percentage increase in the State's average per capita aggregate expenditures for covered outpatient drugs.

Such regulations shall include procedures for adjusting payments to States under section 1903(a) to take into account any overpayments or underpayments which the Secretary determines on the basis of such modifications were made by States under this subsection for 2004 and succeeding years.''.

SEC. 110. NO IMPACT ON ELIGIBILITY FOR BENEFITS UNDER OTHER PROGRAMS.

(a) IN GENERAL.—Section 1860D–14(a)(3) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)), is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by striking ''subparagraph (F)'' and inserting ''subparagraphs (F) and (H)''; and

(2) by adding at the end the following new subparagraph:

''(H) NO IMPACT ON ELIGIBILITY FOR BENEFITS UNDER OTHER PROGRAMS.—The availability of premium and cost-sharing subsidies under this section shall not be treated as benefits or otherwise taken into account in determining an individual's eligibility for, or the amount of benefits under, any other Federal program.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 111. QUALITY INDICATORS FOR DUAL ELIGIBLE INDIVIDUALS.

Section 1154(a) of the Social Security Act (42 U.S.C. 1320c–3(a)) is amended by inserting after paragraph (11) the following new paragraph:

''(12) For all contracts entered into on or after August 1, 2011, the organization shall produce a statistically valid subsample of quality indicators applicable to dual eligible beneficiaries under titles XVIII and XIX.''.

TITLE II—ADDITIONAL MEDICARE AND MEDICAID IMPROVEMENTS

Subtitle A—Improving the Financial Assistance Available to Low-Income Medicare Beneficiaries

SEC. 201. IMPROVING ASSETS TESTS FOR MEDICARE SAVINGS PROGRAM AND LOW-INCOME SUBSIDY PROGRAM.

(a) APPLICATION OF HIGHEST LEVEL PERMITTED UNDER LIS.—

(1) TO FULL-PREMIUM SUBSIDY ELIGIBLE INDIVIDUALS.—Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)) is amended—

(A) in paragraph (1), in the matter before subparagraph (A), by inserting ''(or, beginning with 2010, paragraph (3)(E))'' after ''paragraph (3)(D)''; and

(B) in paragraph (3)(A)(iii), by striking ''(D) or''.

(2) ANNUAL INCREASE IN LIS RESOURCE TEST.—Section 1860D–14(a)(3)(E)(i) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)(E)(i)) is amended—

(A) by striking ''and'' at the end of subclause (I);

(B) in subclause (II), by inserting ''(before 2010)'' after ''subsequent year'';

(C) by striking the period at the end of subclause (II) and inserting a semicolon;

(D) by inserting after subclause (II) the following new subclauses:

''(III) for 2010, $27,500 (or $55,000 in the case of the combined value of the individual's assets or resources and the assets or resources of the individual's spouse); and

''(IV) for a subsequent year, the dollar amounts specified in this subclause (or subclause (III)) for the previous year increased by the annual percentage increase in the consumer price index (all items; U.S. city average) as of September of such previous year.''; and

(E) in the last sentence, by inserting ''or (IV)'' after ''subclause (II)''.

(3) APPLICATION OF LIS TEST UNDER MEDICARE SAVINGS PROGRAM.—Section 1905(p)(1)(C) of the Social Security Act (42 U.S.C. 1396d(p)(1)(C)) is amended by striking ''subparagraph (D)'' and all that follows through the period at the end and inserting the following: ''section 1860D–14(a)(3)(E) applicable to an individual or to the individual and the individual's spouse (as the case may be)''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to eligibility determinations for income-related subsidies and Medicare cost-sharing furnished for periods beginning on or after January 1, 2010.

SEC. 202. ELIMINATING BARRIERS TO ENROLLMENT.

(a) ENCOURAGING APPLICATION OF PROCEDURES UNDER MEDICARE SAVINGS PROGRAM.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)) is amended by adding at the end the following new paragraph:

''(7) The Secretary shall take all reasonable steps to encourage States to provide for administrative verification of income and automatic reenrollment (as provided under subparagraphs (C)(iii) and (G) of section 1860D–14(a)(3) in the case of the low-income subsidy program).''.

(b) ENSURING THAT SSA AND STATES CAN ELECTRONICALLY PROCESS ALL LOW-INCOME SUBSIDY PROGRAM APPLICATIONS.—Section 1860D–14(a)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)(B)(i)) is amended by inserting after the first sentence the following new sentence: ''Not later than January 1, 2012, the State plan and the Commissioner shall have in place procedures to ensure the capacity to process all applications for determinations (including all applications that are not in English) electronically.''.

SEC. 203. ELIMINATION OF PART D COST-SHARING FOR CERTAIN NON-INSTITUTIONALIZED FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Section 1860D–14(a)(1)(D)(i) of the Social Security Act (42 U.S.C. 1395w–114(a)(1)(D)(i)) is amended—

(1) in the heading, by striking ''INSTITUTIONALIZED INDIVIDUALS.—In'' and inserting ''ELIMINATION OF COST-SHARING FOR CERTAIN FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.—

''(I) INSTITUTIONALIZED INDIVIDUALS.—In''; and

(2) by adding at the end the following new subclauses:

''(II) CERTAIN OTHER INDIVIDUALS.—In the case of an individual who is a full-benefit dual eligible individual and who is being provided medical assistance for home and community-based services under subsection (c), (d), (e), (i), or (j) of section 1915 or pursuant to section 1115, the elimination of any beneficiary coinsurance described in section 1860D–2(b)(2) (for all amounts through the total amount of expenditures at which benefits are available under section 1860D–2(b)(4)).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to drugs dispensed on or after January 1, 2010.

SEC. 204. EXEMPTION OF BALANCE IN ANY PENSION OR RETIREMENT PLAN FROM RESOURCES FOR DETERMINATION OF ELIGIBILITY FOR LOW-INCOME SUBSIDY.

(a) IN GENERAL.—Section 1860D–14(a)(3) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)) is amended—

(1) in subparagraph (D), in the matter before clause (i), by striking ''life insurance policy exclusion provided under subparagraph (G)''and inserting ''additional exclusions provided under subparagraphs (G) and (H)'';

(2) in subparagraph (E)(i), in the matter before subclause (I), by striking ''life insurance policy exclusion provided under subparagraph (G)''and inserting ''additional exclusions provided under subparagraphs (G) and (H)''

(3) by adding at the end the following new subparagraph:

''(H) PENSION OR RETIREMENT PLAN EXCLUSION.—In determining the resources of an individual (and the eligible spouse of the individual, if any) under section 1613 for purposes of subparagraphs (D) and (E), no balance in any pension or retirement plan shall be taken into account.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2010, and shall apply to determinations of eligibility for months beginning with January 2010.

SEC. 205. COST-SHARING PROTECTIONS FOR LOW-INCOME SUBSIDY-ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)) is amended—

(1) in paragraph (1)(D), by adding at the end the following new clause:

''(iv) OVERALL LIMITATION ON COST-SHARING.—In the case of all such individuals, a limitation on aggregate cost-sharing under this part for a year not to exceed 2.5 percent of income.''; and

(2) in paragraph (2), by adding at the end the following new subparagraph:

''(F) OVERALL LIMITATION ON COST-SHARING.—A limitation on aggregate cost-sharing under this part for a year not to exceed 2.5 percent of income.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply as of January 1, 2010.

Subtitle B—Other Improvements

SEC. 211. ENROLLMENT IMPROVEMENTS UNDER MEDICARE PARTS C AND D.

(a) SPECIAL ELECTION PERIOD DURING FIRST 60 DAYS OF ENROLLMENT IN A NEW PLAN.—

(1) IN GENERAL.—Section 1851(e)(4) of the Social Security Act (42 U.S.C. 1395w(e)(4)) is amended—

(A) in subparagraph (C), by striking ''or'' at the end;

(B) by redesignating subparagraph (D) as subparagraph (E); and

(C) by inserting after subparagraph (C) the following new subparagraph:

''(D) the individual has been enrolled in such plan for fewer than 60 days; or''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date that is 90 days after the date of enactment of this Act.

(b) EXTENSION OF THE ANNUAL, COORDINATED ELECTION PERIOD.—

(1) IN GENERAL.—Section 1851(e)(3)(B)(iv) of the Social Security Act (42 U.S.C. 1395w–1(e)(3)(B)(iv)) is amended by striking ''November 15'' and inserting ''October 1''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to annual, coordinated election periods beginning after the date of enactment of this Act.

(c) COORDINATION UNDER PARTS C AND D OF THE CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT PERIOD FOR THE FIRST 3 MONTHS OF THE YEAR.—

(1) IN GENERAL.—Section 1860D–1(b)(1)(B)(iii) of the Social Security Act (42 U.S.C. 1395w–101(b)(1)(B)(iii)) is amended by striking '', (C),''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 2010.

SEC. 212. MEDICARE PLAN COMPLAINT SYSTEM.

(a) SYSTEM.—Section 1808 of the Social Security Act (42 U.S.C. 1395b–9) is amended—

(1) in subsection (c)(2)—

(A) in subparagraph (B)(iii), by striking ''adjustment; and'' and inserting ''adjustment);'';

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(D) develop and maintain the plan complaint system under subsection (d).''; and

(2) by adding at the end the following new subsection:

''(d) PLAN COMPLAINT SYSTEM.—

''(1) SYSTEM.—

''(A) IN GENERAL.—The Secretary shall develop and maintain a plan complaint system, (in this subsection referred to as the 'system') to—

''(i) collect and maintain information on plan complaints;

''(ii) track plan complaints from the date the complaint is logged into the system through the date the complaint is resolved; and

''(iii) otherwise improve the process for reporting plan complaints.

''(B) TIMEFRAME.—The Secretary shall have the system in place by not later than the date that is 6 months after the date of enactment of this subsection.

''(C) PLAN COMPLAINT DEFINED.—In this subsection, the term 'plan complaint' means a complaint that is received (including by telephone, letter, e-mail, or any other means) by the Secretary (including by a regional office, the Medicare Beneficiary Ombudsman, a subcontractor, a carrier, a fiscal intermediary, and a Medicare administrative contractor) from a Medicare Advantage eligible individual or a Part D eligible individual (or an individual representing such an individual) regarding a Medicare Advantage organization, a Medicare Advantage plan, a prescription drug plan sponsor, or a prescription drug plan, including, but not limited to, complaints relating to marketing, enrollment, covered drugs, premiums and cost-sharing, and plan customer service, grievances and appeals, participating providers. Such term also includes plan complaints that are received by the Secretary directly from the organization offering the plan relating to complaints by such individuals.

''(2) PROCESS CRITERIA.—In developing the system, the Secretary shall establish a process for reporting plan complaints. Such process shall meet the following criteria:

''(A) ACCESSIBLE.—The process is widely known and easy to use.

''(B) INVESTIGATIVE CAPACITY.—The process involves the appropriate experts, resources, and methods to assess complaints and determine whether they reflect an underlying pattern.

''(C) INTERVENTION AND FOLLOW-THROUGH.—The process triggers appropriate interventions and monitoring based on substantiated complaints.

''(D) QUALITY IMPROVEMENT ORIENTATION.—The process guides quality improvement.

''(E) RESPONSIVENESS.—The process routinely provides consistent, clear, and substantive responses to complaints.

''(F) TIMELINES.—Each process step is completed within a reasonable, established timeframe, and mechanisms exist to deal quickly with complaints of an emergency nature requiring immediate attention.

''(G) OBJECTIVE.—The process is unbiased, balancing the rights of each party.

''(H) PUBLIC ACCOUNTABILITY.—The process makes complaint information available to the public.

''(3) STANDARD DATA REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary shall establish standard data reporting requirements for reporting plan complaints under the system.

''(B) MODEL ELECTRONIC COMPLAINT FORM.—The Secretary shall develop a model electronic complaint form to be used for reporting plan complaints under the system. Such form shall be prominently displayed on the front page of the Medicare.gov Internet website and on the Internet website of the Medicare Beneficiary Ombudsman.

''(4) ALL COMPLAINTS REQUIRED TO BE LOGGED INTO THE SYSTEM.—Every plan complaint shall be logged into the system.

''(5) CASEWORK NOTATIONS.—The system shall provide for the inclusion of any casework notations throughout the complaint process on the record of a plan complaint.

''(6) MEDICARE BENEFICIARY OMBUDSMAN.—The Secretary shall carry out this subsection acting through the Medicare Beneficiary Ombudsman.''.

(b) FUNDING.—There are authorized to be appropriated such sums as may be necessary for the costs of carrying out section 1808(d) of the Social Security Act, as added by subsection (a).

(c) REPORTS.—

(1) SECRETARY.—

(A) ONGOING STUDY.—The Medicare Beneficiary Ombudsman (under subsection (c) of section 1808) of the Social Security Act (42 U.S.C. 1395b–9) shall conduct an ongoing study of the plan complaint system established under subsection (d) of such section (as added by subsection (a)), in this subsection referred to as the ''system''. Such study shall include an analysis of—

(i) the numbers and types of complaints reported under the system;

(ii) geographic variations in such complaints;

(iii) the timeliness of agency or plan responses to such complaints; and

(iv) the resolution of such complaints.

(B) QUARTERLY REPORTS.—Not later than 6 months after the implementation of the system, and every 3 months thereafter, the Secretary of Health and Human Services shall submit to Congress a report on the study conducted under subparagraph (A), together with recommendations for such legislation and administrative actions as the Secretary determines appropriate.

(2) INSPECTOR GENERAL.—The Inspector General of the Department of Health and Human Services shall conduct an evaluation of the system. Not later than 1 year after the implementation of the system, the Inspector General shall submit to Congress a report on such evaluation, together with recommendations for such legislation and administrative actions as the Inspector General determines appropriate.

SEC. 213. UNIFORM EXCEPTIONS AND APPEALS PROCESS.

(a) IN GENERAL.—Section 1860D–4(b)(3) of the Social Security Act (42 U.S.C. 1395w—104(b)(3), as amended by section 107, is amended by adding at the end the following new subparagraph:

''(G) USE OF SINGLE, UNIFORM EXCEPTIONS AND APPEALS PROCESS.—Notwithstanding any other provision of this part, a PDP sponsor of a prescription drug plan or an MA organization offering an MA-PD plan shall—

''(i) use a single, uniform exceptions and appeals process with respect to the determination of prescription drug coverage for an enrollee under the plan; and

''(ii) provide instant access to such process by enrollees through a toll-free telephone number and an Internet website.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to exceptions and appeals on or after January 1, 2011.

SEC. 214. PROHIBITION ON CONDITIONING MEDICAID ELIGIBILITY FOR INDIVIDUALS ENROLLED IN CERTAIN CREDITABLE PRESCRIPTION DRUG COVERAGE ON ENROLLMENT IN THE MEDICARE PART D DRUG PROGRAM.

(a) IN GENERAL.—Section 1935 of the Social Security Act (42 U.S.C. 1396v) is amended by adding at the end the following:

''(f) PROHIBITION ON CONDITIONING ELIGIBILITY FOR MEDICAL ASSISTANCE FOR INDIVIDUALS ENROLLED IN CERTAIN CREDITABLE PRESCRIPTION DRUG COVERAGE ON ENROLLMENT IN MEDICARE PRESCRIPTION DRUG BENEFIT.—

''(1) IN GENERAL.—A State shall not condition eligibility for medical assistance under the State plan for a part D eligible individual (as defined in section 1860D–1(a)(3)(A)) who is enrolled in creditable prescription drug coverage described in any of subparagraphs (C) through (H) of section 1860D–13(b)(4) on the individual's enrollment in a prescription drug plan under part D of title XVIII or an MA–PD plan under part C of such title.

''(2) COORDINATION OF BENEFITS WITH PART D FOR OTHER INDIVIDUALS.—Nothing in this subsection shall be construed as prohibiting a State from coordinating medical assistance under the State plan with benefits under part D of title XVIII for individuals not described in paragraph (1).''.

SEC. 215. OFFICE OF THE INSPECTOR GENERAL ANNUAL REPORT ON PART D FORMULARIES' INCLUSION OF DRUGS COMMONLY USED BY DUAL ELIGIBLES.

(a) ONGOING STUDY.—The Inspector General of the Department of Health and Human Services shall conduct an ongoing study of the extent to which formularies used by prescription drug plans and MA–PD plans under part D include drugs commonly used by full-benefit dual eligible individuals (as defined in section 1935(c)(6) of the Social Security Act (42 U.S.C. 1396u–5(c)(6)).

(b) ANNUAL REPORTS.—Not later than July 1 of each year (beginning with 2010), the Inspector General shall submit to Congress a report on the study conducted under paragraph (1), together with such recommendations as the Inspector General determines appropriate.

SEC. 216. HHS ONGOING STUDY AND ANNUAL REPORTS ON COVERAGE FOR DUAL ELIGIBLES.

(a) ONGOING STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall conduct an ongoing study to track—

(A) how many of the new full benefit dual eligible individuals (as defined in section 1935(c)(6) of the Social Security Act (42 U.S.C. 1395u–5(c)(6))) enroll in a plan under part D of title XVIII of such Act and receive retroactive prescription drug coverage under the plan; and

(B) if such retroactive coverage is provided to such individuals—

(i) the number of months of coverage provided; and

(ii) the amount of reimbursements to individuals and to individuals that made payments for prescription drugs on their behalf for costs incurred during retroactive coverage periods.

(2) DATA TO USE.—In conducting the study with respect to the requirements under paragraph (1)(B), the Secretary shall examine prescription drug utilization data reported by Medicare part D plans.

(b) ANNUAL REPORTS ON ONGOING STUDY.—Not later than March 1 of each year (beginning with 2010), the Secretary shall submit a report to Congress containing the results of the study conducted under subsection (a), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

(c) ANNUAL REPORTS ON SPENDING AND OUTCOMES.—Not later than January 1 of each year (beginning with 2013), the Secretary shall collect data and submit a report to Congress that includes the following information:

(1) Annual total expenditures (disaggregated by Federal and State expenditures) for dually eligible beneficiaries under title XVIII and under State plans and waivers under title XIX.

(2) An analysis of health outcomes for dually eligible beneficiaries, disaggregated by subtypes of beneficiaries (as determined by the Secretary).

(3) An analysis of the extent to which dually eligible beneficiaries are able to access benefits under title XVIII and under State plans and waivers under title XIX.

SEC. 217. AUTHORITY TO OBTAIN INFORMATION.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

''AUTHORITY OF THE COMPTROLLER GENERAL TO OBTAIN INFORMATION

''SEC. 1899. No provision in this Act in effect on the date of enactment of this section or enacted after such date shall be construed to limit, amend, or supersede the authority of the Comptroller General of the United States to obtain agency records pursuant to section 716 of title 31, United States Code, including any information obtained by, or disclosed to, the Secretary under part C or D of this title, except to the extent that such provision expressly and specifically refers to this section and provides for such limitation, amendment, or supersession.''.

By Mr. DORGAN (for himself, Mr. JOHANNS, Mr. BAUCUS, Mr. JOHNSON, Mr. THUNE, Mr. TESTER, and Mr. UDALL of New Mexico):

S. 1635. A bill to establish an Indian Youth telemental health demonstration project, to enhance the provision of mental health care services to Indian youth, to encourage Indian tribes, tribal organizations, and other mental health care providers serving residents of Indian country to obtain the services of predoctoral psychology and psychiatry interns, and for other purposes; to the Committee on Indian Affairs.

Mr. DORGAN. Mr. President, today I introduced a bill entitled 7th Generation Promise: Indian Youth Suicide Prevention Act, to address the crisis of youth suicide in Indian Country. I introduce this legislation on behalf of myself and Senators JOHANNS, JOHNSON, UDALL of New Mexico, BAUCUS, and TESTER, in hopes that it will help provide prevention and intervention services to Native American youth.

Over the past 25 years, youth suicides in Native American communities have reached epidemic levels. Suicide ranks as the second leading cause of death for Native American youth ages 15 to 35—a rate 3.5 times higher than the national average. In fact, adolescent Native American males have the highest suicide rate of any population group in the United States.

Over the years, the Indian Affairs Committee, which I chair, has held a series of hearings on the issue of Indian youth suicide. This past February, the Committee explored the progress made in youth suicide prevention in Indian Country. We heard from agencies and organizations, such as the Indian Health Service and the Substance Abuse and Mental Health Services Administration, SAMHSA, who provide worthy prevention and emergency response services.

During the February hearing, we also heard from a courageous 16-year-old young woman named Dana Lee Jetty who testified about the loss of her 14-year-old sister, Jami Rose Jetty. Her story illustrates the continued need for suicide prevention.

In November 2008, Dana Lee found her beautiful little sister, Jami Rose, hanging in her bedroom, on the Spirit Lake Reservation in North Dakota. Dana and Jami's Mom had done all the right things—noticing Jami was troubled, they took her to the doctor at the Indian Health Service clinic. The doctors dismissed the mom's concern and said Jami was just being a ''typical teenager.'' Dana told me that she believes her sister would be alive if there had been adequate mental health professionals to diagnose and treat Jami's depression. Jami Rose Jetty serves as a tragic example of the inadequate mental health services in Indian Country and why we need legislation like the one I introduced today.

This year, the Standing Rock Sioux Reservation, located in North Dakota and South Dakota, is experiencing epidemic levels of youth suicide. There have already been 10 suicides and an additional 53 attempted suicides. The majority of these suicides have been among tribal members under the age of 24. Clearly, we must do more for the mental health and suicide prevention in our Native American communities across the United States.

The bill I introduced includes three main sections to improve youth suicide prevention services in Indian Country: a youth telemental health demonstration project; language to streamline and improve the process by which Tribes apply for grants through SAMHSA; and encouragement of post-doctoral mental health intern programs in an effort to increase the availability of services in Indian Country.

The Indian Youth Telemental Health Demonstration Project Act has been introduced in previous Congresses. This project would authorize the Secretary of Health and Human Services to carry out a four-year demonstration project for the use of telemental health services in youth suicide prevention, intervention and treatment. Telemental health services refer to those health care services provided from a remote location through technological means. These types of services are especially important in remote, isolated communities like those in my home state of North Dakota where mental health professionals are scarce.

The bill also includes new language to enhance available mental health resources by addressing the many issues and barriers Tribes and tribal organizations face when applying for federal assistance through SAMHSA. For example, this provision requires SAMHSA to monitor the incidence of youth suicide in Indian Country, accept non-electronic grant applications from Tribes, give priority to disadvantaged tribal applicants with high rates of suicide, prohibit cost-sharing requirements, and prevent Tribes and tribal organizations from being required to apply through a state. In addition, this section requires states that apply for a SAMHSA grant using Tribal data to consult with Tribes and include them in any implemented programs.

Lastly, the bill includes encouragement for Tribes to use post-doctoral mental health professionals. Post-doctoral psychology and psychiatry interns are able to see patients and provide mental health services under the supervision of a certified mental health professional. The Veterans Administration is currently utilizing post-doctoral psychology intern programs, which have been successful in expanding the availability of mental health services to veterans. We need to promote innovative programs like this to increase the mental health services available in Indian Country.

The 7th Generation Promise in the bill's title is the Native American concept that we need to consider the impacts of our actions on our descendants seven generations in the future. Suicide is devastating our current generation of Native Americans, and we need to do something to protect them and

our Native Americans seven generations down the road.

I would like to thank Senator JOHANNS for working with me on this important piece of legislation. Health care, and especially mental health issues, remain a top priority for me as Chairman of the Indian Affairs Committee. I look forward to continuing this important work so that we may stop the high levels of youth suicide and other health disparities among Native Americans.

I would like to end by saying that one youth suicide is one tragedy too many. My hope is that passage of this bill will bring some aid to our Native American communities experiencing this crisis.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1635

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''7th Generation Promise: Indian Youth Suicide Prevention Act of 2009''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1)(A) the rate of suicide of American Indians and Alaska Natives is 1.9 times higher than the national average rate; and

(B) the rate of suicide of Indian and Alaska Native youth aged 15 through 24 is—

(i) 3.5 times the national average rate; and

(ii) the highest rate of any population group in the United States;

(2) many risk behaviors and contributing factors for suicide are more prevalent in Indian country than in other areas, including—

(A) history of previous suicide attempts;

(B) family history of suicide;

(C) history of depression or other mental illness;

(D) alcohol or drug abuse;

(E) health disparities;

(F) stressful life events and losses;

(G) easy access to lethal methods;

(H) exposure to the suicidal behavior of others;

(I) isolation; and

(J) incarceration;

(3) according to national data for 2005, suicide was the second-leading cause of death for Indians and Alaska Natives of both sexes aged 10 through 34;

(4)(A) the suicide rates of Indians and Alaska Natives aged 15 through 24, as compared to suicide rates of any other racial group, are—

(i) for males, up to 4 times greater; and

(ii) for females, up to 11 times greater; and

(B) data demonstrates that, over their lifetimes, females attempt suicide 2 to 3 times more often than males;

(5)(A) Indian tribes, especially Indian tribes located in the Great Plains, have experienced epidemic levels of suicide, up to 10 times the national average; and

(B) suicide clustering in Indian country affects entire tribal communities;

(6) death rates for Indians and Alaska Natives are statistically underestimated because many areas of Indian country lack the proper resources to identify and monitor the presence of disease;

(7)(A) the Indian Health Service experiences health professional shortages, with physician vacancy rates of approximately 17 percent, and nursing vacancy rates of approximately 18 percent, in 2007;

(B) 90 percent of all teens who die by suicide suffer from a diagnosable mental illness at time of death;

(C) more than ½ of teens who commit suicide have never been seen by a mental health provider; and

(D) ⅓ of health needs in Indian country relate to mental health;

(8) often, the lack of resources of Indian tribes and the remote nature of Indian reservations make it difficult to meet the requirements necessary to access Federal assistance, including grants;

(9) the Substance Abuse and Mental Health Services Administration and the Service have established specific initiatives to combat youth suicide in Indian country and among Indians and Alaska Natives throughout the United States, including the National Suicide Prevention Initiative of the Service, which has worked with Service, tribal, and urban Indian health programs since 2003;

(10) the National Strategy for Suicide Prevention was established in 2001 through a Department of Health and Human Services collaboration among—

(A) the Substance Abuse and Mental Health Services Administration;

(B) the Service;

(C) the Centers for Disease Control and Prevention;

(D) the National Institutes of Health; and

(E) the Health Resources and Services Administration; and

(11) the Service and other agencies of the Department of Health and Human Services use information technology and other programs to address the suicide prevention and mental health needs of Indians and Alaska Natives.

(b) PURPOSES.—The purposes of this Act are—

(1) to authorize the Secretary to carry out a demonstration project to test the use of telemental health services in suicide prevention, intervention, and treatment of Indian youth, including through—

(A) the use of psychotherapy, psychiatric assessments, diagnostic interviews, therapies for mental health conditions predisposing to suicide, and alcohol and substance abuse treatment;

(B) the provision of clinical expertise to, consultation services with, and medical advice and training for frontline health care providers working with Indian youth;

(C) training and related support for community leaders, family members, and health and education workers who work with Indian youth;

(D) the development of culturally relevant educational materials on suicide; and

(E) data collection and reporting;

(2) to encourage Indian tribes, tribal organizations, and other mental health care providers serving residents of Indian country to obtain the services of predoctoral psychology and psychiatry interns; and

(3) to enhance the provision of mental health care services to Indian youth through existing grant programs of the Substance Abuse and Mental Health Services Administration.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATION.—The term ''Administration'' means the Substance Abuse and Mental Health Services Administration.

(2) DEMONSTRATION PROJECT.—The term ''demonstration project'' means the Indian youth telemental health demonstration project authorized under section 4(a).

(3) INDIAN.—The term ''Indian'' means any individual who is—

(A) a member of an Indian tribe; or

(B) eligible for health services under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

(4) INDIAN COUNTRY.—The term ''Indian country'' has the meaning given the term in section 1151 of title 18, United States Code.

(5) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(7) SERVICE.—The term ''Service'' means the Indian Health Service.

(8) TELEMENTAL HEALTH.—The term ''telemental health'' means the use of electronic information and telecommunications technologies to support long-distance mental health care, patient and professional-related education, public health, and health administration.

(9) TRIBAL ORGANIZATION.—The term ''tribal organization'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 4. INDIAN YOUTH TELEMENTAL HEALTH DEMONSTRATION PROJECT.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary, acting through the Service, is authorized to carry out a demonstration project to award grants for the provision of telemental health services to Indian youth who—

(A) have expressed suicidal ideas;

(B) have attempted suicide; or

(C) have mental health conditions that increase or could increase the risk of suicide.

(2) ELIGIBILITY FOR GRANTS.—Grants under paragraph (1) shall be awarded to Indian tribes and tribal organizations that operate 1 or more facilities—

(A) located in an area with documented disproportionately high rates of suicide;

(B) reporting active clinical telehealth capabilities; or

(C) offering school-based telemental health services to Indian youth.

(3) GRANT PERIOD.—The Secretary shall award grants under this section for a period of up to 4 years.

(4) MAXIMUM NUMBER OF GRANTS.—Not more than 5 grants shall be provided under paragraph (1), with priority consideration given to Indian tribes and tribal organizations that—

(A) serve a particular community or geographic area in which there is a demonstrated need to address Indian youth suicide;

(B) enter into collaborative partnerships with Service or other tribal health programs or facilities to provide services under this demonstration project;

(C) serve an isolated community or geographic area that has limited or no access to behavioral health services; or

(D) operate a detention facility at which Indian youth are detained.

(5) CONSULTATION WITH ADMINISTRATION.—In developing and carrying out the demonstration project under this subsection, the Secretary shall consult with the Administration as the Federal agency focused on mental health issues, including suicide.

(b) USE OF FUNDS.—

(1) IN GENERAL.—An Indian tribe or tribal organization shall use a grant received under subsection (a) for the following purposes:

(A) To provide telemental health services to Indian youth, including the provision of—

(i) psychotherapy;

(ii) psychiatric assessments and diagnostic interviews, therapies for mental health conditions predisposing to suicide, and treatment; and

(iii) alcohol and substance abuse treatment.

(B) To provide clinician-interactive medical advice, guidance and training, assistance in diagnosis and interpretation, crisis counseling and intervention, and related assistance to Service or tribal clinicians and health services providers working with youth being served under the demonstration project.

(C) To assist, educate, and train community leaders, health education professionals and paraprofessionals, tribal outreach workers, and family members who work with the youth receiving telemental health services under the demonstration project, including with identification of suicidal tendencies, crisis intervention and suicide prevention, emergency skill development, and building and expanding networks among those individuals and with State and local health services providers.

(D) To develop and distribute culturally appropriate community educational materials regarding—

(i) suicide prevention;

(ii) suicide education;

(iii) suicide screening;

(iv) suicide intervention; and

(v) ways to mobilize communities with respect to the identification of risk factors for suicide.

(E) To conduct data collection and reporting relating to Indian youth suicide prevention efforts.

(2) TRADITIONAL HEALTH CARE PRACTICES.—In carrying out the purposes described in paragraph (1), an Indian tribe or tribal organization may use and promote the traditional health care practices of the Indian tribes of the youth to be served.

(c) APPLICATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), to be eligible to receive a grant under subsection (a), an Indian tribe or tribal organization shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

(A) a description of the project that the Indian tribe or tribal organization will carry out using the funds provided under the grant;

(B) a description of the manner in which the project funded under the grant would—

(i) meet the telemental health care needs of the Indian youth population to be served by the project; or

(ii) improve the access of the Indian youth population to be served to suicide prevention and treatment services;

(C) evidence of support for the project from the local community to be served by the project;

(D) a description of how the families and leadership of the communities or populations to be served by the project would be involved in the development and ongoing operations of the project;

(E) a plan to involve the tribal community of the youth who are provided services by the project in planning and evaluating the mental health care and suicide prevention efforts provided, in order to ensure the integration of community, clinical, environmental, and cultural components of the treatment; and

(F) a plan for sustaining the project after Federal assistance for the demonstration project has terminated.

(2) EFFICIENCY OF GRANT APPLICATION PROCESS.—The Secretary shall carry out such measures as the Secretary determines to be necessary to maximize the time and workload efficiency of the process by which Indian tribes and tribal organizations apply for grants under paragraph (1).

(d) COLLABORATION.—The Secretary, acting through the Service, shall encourage Indian tribes and tribal organizations receiving grants under this section to collaborate to enable comparisons regarding best practices across projects.

(e) ANNUAL REPORT.—Each grant recipient shall submit to the Secretary an annual report that—

(1) describes the number of telemental health services provided; and

(2) includes any other information that the Secretary may require.

(f) REPORTS TO CONGRESS.—

(1) INITIAL REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date on which the first grant is awarded under this section, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources and the Committee on Energy and Commerce of the House of Representatives a report that—

(i) describes each project funded by a grant under this section during the preceding 2-year period, including a description of the level of success achieved by the project; and

(ii) evaluates whether the demonstration project should be continued during the period beginning on the date of termination of funding for the demonstration project under subsection (g) and ending on the date on which the final report is submitted under paragraph (2).

(B) CONTINUATION OF DEMONSTRATION PROJECT.—On a determination by the Secretary under clause (ii) of subparagraph (A) that the demonstration project should be continued, the Secretary may carry out the demonstration project during the period described in that clause using such sums otherwise made available to the Secretary as the Secretary determines to be appropriate.

(2) FINAL REPORT.—Not later than 270 days after the date of termination of funding for the demonstration project under subsection (g), the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources and the Committee on Energy and Commerce of the House of Representatives a final report that—

(A) describes the results of the projects funded by grants awarded under this section, including any data available that indicate the number of attempted suicides;

(B) evaluates the impact of the telemental health services funded by the grants in reducing the number of completed suicides among Indian youth;

(C) evaluates whether the demonstration project should be—

(i) expanded to provide more than 5 grants; and

(ii) designated as a permanent program; and

(D) evaluates the benefits of expanding the demonstration project to include urban Indian organizations.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for each of fiscal years 2010 through 2013.

SEC. 5. SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION GRANTS.

(a) GRANT APPLICATIONS.—

(1) EFFICIENCY OF GRANT APPLICATION PROCESS.—The Secretary, acting through the Administration, shall carry out such measures as the Secretary determines to be necessary to maximize the time and workload efficiency of the process by which Indian tribes and tribal organizations apply for grants under any program administered by the Administration, including by providing methods other than electronic methods of submitting applications for those grants, if necessary.

(2) PRIORITY FOR CERTAIN GRANTS.—

(A) IN GENERAL.—To fulfill the trust responsibility of the United States to Indian tribes, in awarding relevant grants pursuant to a program described in subparagraph (B), the Secretary shall give priority consideration to the applications of Indian tribes or tribal organizations, as applicable, that serve populations with documented high suicide rates, regardless of whether those Indian tribes or tribal organizations possess adequate personnel or infrastructure to fulfill all applicable requirements of the relevant program.

(B) DESCRIPTION OF GRANT PROGRAMS.—A grant program referred to in subparagraph (A) is a grant program—

(i) administered by the Administration to fund activities relating to mental health, suicide prevention, or suicide-related risk factors; and

(ii) under which an Indian tribe is an eligible recipient.

(3) CLARIFICATION REGARDING INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—Notwithstanding any other provision of law, in applying for a grant under any program administered by the Administration, no Indian tribe or tribal organization shall be required to apply through a State or State agency.

(4) REQUIREMENTS FOR AFFECTED STATES.—

(A) DEFINITIONS.—In this paragraph:

(i) AFFECTED STATE.—The term ''affected State'' means a State—

(I) the boundaries of which include 1 or more Indian tribes; and

(II) the application for a grant under any program administered by the Administration of which includes statewide data.

(ii) INDIAN POPULATION.—The term ''Indian population'' means the total number of residents of an affected State who are members of 1 or more Indian tribes located within the affected State.

(B) REQUIREMENTS.—As a condition of receipt of a grant under any program administered by the Administration, each affected State shall—

(i) describe in the grant application—

(I) the Indian population of the affected State; and

(II) the contribution of that Indian population to the statewide data used by the affected State in the application; and

(ii) demonstrate to the satisfaction of the Secretary that—

(I) of the total amount of the grant, the affected State will allocate for use for the Indian population of the affected State an amount equal to the proportion that—

(aa) the Indian population of the affected State; bears to

(bb) the total population of the affected State; and

(II) the affected State will offer to enter into a partnership with each Indian tribe located within the affected State to carry out youth suicide prevention and treatment measures for members of the Indian tribe.

(C) REPORT.—Not later than 1 year after the date of receipt of a grant described in subparagraph (B), an affected State shall submit to the Secretary a report describing the measures carried out by the affected State to ensure compliance with the requirements of subparagraph (B)(ii).

(b) NO NON-FEDERAL SHARE REQUIREMENT.—Notwithstanding any other provision of law, no Indian tribe or tribal organization shall be required to provide a non-Federal share of the cost of any project or activity carried out using a grant provided under any program administered by the Administration.

(c) OUTREACH FOR RURAL AND ISOLATED INDIAN TRIBES.—Due to the rural, isolated nature of most Indian reservations and communities (especially those reservations and communities in the Great Plains region), the

Secretary shall conduct outreach activities, with a particular emphasis on the provision of telemental health services, to achieve the purposes of this Act with respect to Indian tribes located in rural, isolated areas.

(d) PROVISION OF OTHER ASSISTANCE.—

(1) IN GENERAL.—The Secretary, acting through the Administration, shall carry out such measures (including monitoring and the provision of required assistance) as the Secretary determines to be necessary to ensure the provision of adequate suicide prevention and mental health services to Indian tribes described in paragraph (2), regardless of whether those Indian tribes possess adequate personnel or infrastructure—

(A) to submit an application for a grant under any program administered by the Administration, including due to problems relating to access to the Internet or other electronic means that may have resulted in previous obstacles to submission of a grant application; or

(B) to fulfill all applicable requirements of the relevant program.

(2) DESCRIPTION OF INDIAN TRIBES.—An Indian tribe referred to in paragraph (1) is an Indian tribe—

(A) the members of which experience—

(i) a high rate of youth suicide;

(ii) low socioeconomic status; and

(iii) extreme health disparity;

(B) that is located in a remote and isolated area; and

(C) that lacks technology and communication infrastructure.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as the Secretary determines to be necessary to carry out this subsection.

(e) EARLY INTERVENTION AND ASSESSMENT SERVICES.—

(1) DEFINITION OF AFFECTED ENTITY.—In this subsection, the term ''affected entity'' means any entity—

(A) that receives a grant for suicide intervention, prevention, or treatment under a program administered by the Administration; and

(B) the population to be served by which includes Indian youth.

(2) REQUIREMENT.—The Secretary, acting through the Administration, shall ensure that each affected entity carrying out a youth suicide early intervention and prevention strategy described in section 520E(c)(1) of the Public Health Service Act (42 U.S.C. 290bb–36(c)(1)), or any other youth suicide-related early intervention and assessment activity, provides training or education to individuals who interact frequently with the Indian youth to be served by the affected entity (including parents, teachers, coaches, and mentors) on identifying warning signs of Indian youth who are at risk of committing suicide.

SEC. 6. USE OF PREDOCTORAL PSYCHOLOGY AND PSYCHIATRY INTERNS.

The Secretary shall carry out such activities as the Secretary determines to be necessary to encourage Indian tribes, tribal organizations, and other mental health care providers serving residents of Indian country to obtain the services of predoctoral psychology and psychiatry interns—

(1) to increase the quantity of patients served by the Indian tribes, tribal organizations, and other mental health care providers; and

(2) for purposes of recruitment and retention.

By Mr. BINGAMAN (for himself, Ms. SNOWE, and Mrs. FEINSTEIN):

S. 1639. A bill to amend the Internal Revenue Code of 1986 to improve and extend certain energy-related tax provisions, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Expanding Industrial Energy Efficiency Incentives Act of 2009. I am pleased to be joined by my Finance Committee colleague, Senator SNOWE, in introducing the Act, which creates the first direct tax-based incentives for industrial energy efficiency. As such, the Act helps our industrial sector adopt advanced energy technologies and processes, enabling American industry to reduce fuel dependency, cut costs, reduce greenhouse gas emissions, add jobs, and enhance global competitiveness.

Even though the industrial sector represents 32 percent of our domestic energy consumption, there are currently no significant tax credits that directly promote industrial energy efficiency. But as a recent study by McKinsey & Company found, the industrial sector represents the largest potential for end-use energy efficiency in the U.S. and could save $47 billion per year on energy costs through efficiency improvements. The time to make this investment is now.

The act creates incentives in the three critical areas: water reuse, advanced motors, and CFC chillers. It also enhances incentives for combined heat and power systems. Energy efficiency organizations estimate that these incentives together will save over 92 terawatt hours of energy—the equivalent of four months' worth of total U.S. energy consumption.

First, the act adds a new investment tax credit for reuse, recycling, and/or efficiency measures related to process, sanitary, and cooling water, as well as for blowdown from cooling towers and steam systems used by utility-scale thermo-electric generators. The U.S. currently reuses only 6 percent of its water, and there is significant potential for gains in this area. The industrial sector, which is responsible for 45 percent of domestic freshwater withdrawals, is an ideal place to introduce transformative water reuse and water saving technologies. Approximately 3 percent of U.S. electricity use is for pumping, treating and transporting water. The ''water-watts connection'' is well-recognized. For instance, the California Energy Commission estimates that 95 percent of the energy savings of proposed energy-efficiency programs could be achieved through water-efficiency programs, at 58 percent of the cost. Water conservation is therefore a cost-effective way to achieve significant energy savings.

Second, the bill establishes a $120-per-horsepower tax credit for efficient motor systems with adjustable speed capability. On average, motors account for 65 percent of an industrial energy user's electricity use, a percentage that is even higher in certain industries, such as water supply, mining, and oil and gas extraction. In fact, industrial motors are expected to be responsible for 7 percent of total global carbon emissions by 2020.

New advances in power electronics and controls over the past five years have advanced the potential for new smart motor technologies to provide a significant energy savings potential if these new motors are placed widely into service. By reducing the initial design and added component costs, this new credit will accelerate the adoption of advanced motor technologies into higher volume production, helping to make the technology available economy-wide.

Third, the bill adds a new incentive for replacing CFC chillers. Large water-cooled chillers are the engines of air-conditioning systems for almost all large buildings. The bill establishes a credit of $150 per ton, plus an additional incentive of $100 for each ton downsized during replacement. The incentive extends only to pre-1993, post-1980 water-cooled chillers that use the refrigerants CFC–11 and CFC–12. While chillers that use CFC–11 and CFC–12 refrigerants have been banned for new installations because their refrigerant breakdown products attack the ozone layer, some 30,000 chillers that still use these refrigerants remain in both public and private facilities across the country. Replacing these obsolete systems would allow for the recovery of 37 million pounds of ozone depleting CFCs—or 64 million metric tons of carbon dioxide equivalents. Additionally, the improvement in new chiller efficiency that would be achieved by replacing these old systems would save 17.2 million metric tons of carbon dioxide from reduced electricity consumption—the equivalent of taking 3.3 million cars off the road.

While CFC chiller replacement is cost-effective over the long-term, the high up-front costs mean that many building owners do not make these investments. This moderate tax incentive improves the economics and reduces the up-front cost, substantially increasing the number of systems replaced.

Collaterally, but just as significantly, this bill is a jobs bill. For instance, if all CFC chillers are replaced, we expect that approximately 10,500 American jobs can be directly created or preserved in the manufacturing, removal and installation of new chillers. Additional jobs will be created by the engineering services required to take advantage of these incentives, adding up to a potential 60,000 jobs.

Finally, the bill improves the combined heat and power incentive, which was enacted last October as part of the tax extenders package. The package added a 10 percent investment tax credit for combined heat and power systems. The expansion of the combined heat and power tax credit would increase the credit's applicability from the first 15 megawatts to the first 25 megawatts of system capacity and remove the overall system size cap of 50 megawatts, allowing a greater number

of combined heat and power projects to be financially viable and move forward. A recent Department of Energy study estimates that ramping up total U.S. combined heat and power to account for twenty percent of electricity capacity, a percentage that is within our reach, would eliminate over sixty percent of the expected increase in carbon dioxide emissions from today to 2030—the equivalent of taking more than half of current passenger vehicles in the U.S. off the road.

Together, these four industrial energy efficiency incentives capture a large portion of the energy efficiency potential in the industrial sector. These incentives will catalyze the deployment of new technologies that will decrease carbon emissions and protect our natural resources, all while saving money on energy costs and creating jobs.

I look forward to working with Senator SNOWE to see these provisions enacted into law.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1639

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Expanding Industrial Energy Efficiency Incentives Act of 2009''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.
Sec. 2. Modifications in credit for combined heat and power system property.
Sec. 3. Motor energy efficiency improvement tax credit.
Sec. 4. Credit for replacement of CFC refrigerant chiller.
Sec. 5. Qualifying efficient industrial process water use project credit.

SEC. 2. MODIFICATIONS IN CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) MODIFICATION OF CERTAIN CAPACITY LIMITATIONS.—Section 48(c)(3)(B) is amended—

(1) by striking ''15 megawatts'' in clause (ii) and inserting ''25 megawatts'',

(2) by striking ''20,000 horsepower'' in clause (ii) and inserting ''34,000 horsepower'', and

(3) by striking clause (iii).

(b) NONAPPLICATION OF CERTAIN RULES.—Section 48(c)(3)(C) is amended by adding at the end the following new clause:

''(iv) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term 'combined heat and power system property' includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankine, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clause (ii).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 3. MOTOR ENERGY EFFICIENCY IMPROVEMENT TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 45R. MOTOR ENERGY EFFICIENCY IMPROVEMENT TAX CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the motor energy efficiency improvement tax credit determined under this section for the taxable year is an amount equal to $120 multiplied by the motor horsepower of an appliance, machine, or equipment—

''(1) manufactured in such taxable year by a manufacturer which incorporates an advanced motor system into a newly designed appliance, machine, or equipment or into a redesigned appliance, machine, or equipment which did not previously make use of the advanced motor system, or

''(2) placed back into service in such taxable year by an end user which upgrades an existing appliance, machine, or equipment with an advanced motor system.

For any advanced motor system with a total horsepower of less than 10, such motor energy efficiency improvement tax credit is an amount which bears the same ratio to $120 as 1 horsepower bears to such total horsepower.

''(b) ADVANCED MOTOR SYSTEM.—For purposes of this section, the term 'advanced motor system' means a motor and any required associated electronic control which—

''(1) offers variable or multiple speed operation, and

''(2) uses permanent magnet technology, electronically commutated motor technology, switched reluctance motor technology, or such other motor systems technologies as determined by the Secretary of Energy.

''(c) AGGREGATE PER TAXPAYER LIMITATION.—

''(1) IN GENERAL.—The amount of the credit determined under this section for any taxpayer for any taxable year shall not exceed the excess (if any) of $2,000,000 over the aggregate credits allowed under this section with respect to such taxpayer for all prior taxable years.

''(2) AGGREGATION RULES.—For purposes of this section, all persons treated as a single employer under subsections (a) and (b) of section 52 shall be treated as 1 taxpayer.

''(d) SPECIAL RULES.—

''(1) BASIS REDUCTION.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

''(2) NO DOUBLE BENEFIT.—No other credit shall be allowable under this chapter for property with respect to which a credit is allowed under this section.

''(3) PROPERTY USED OUTSIDE UNITED STATES NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1).

''(e) APPLICATION.—This section shall not apply to property manufactured or placed back into service before the date which is 6 months after the date of the enactment of this section or after December 31, 2013.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended by striking ''plus'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting '', plus'', and by adding at the end the following new paragraph:

''(36) the motor energy efficiency improvement tax credit determined under section 45R.''.

(2) Section 1016(a) is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 45R(d)(1).''.

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45R. Motor energy efficiency improvement tax credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property manufactured or placed back into service after the date which is 6 months after the date of the enactment of this Act.

SEC. 4. CREDIT FOR REPLACEMENT OF CFC REFRIGERANT CHILLER.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45S. CFC CHILLER REPLACEMENT CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the CFC chiller replacement credit determined under this section for the taxable year is an amount equal to—

''(1) $150 multiplied by the tonnage rating of a CFC chiller replaced with a new efficient chiller that is placed in service by the taxpayer during the taxable year, plus

''(2) if all chilled water distribution pumps connected to the new efficient chiller include variable frequency drives, $100 multiplied by any tonnage downsizing.

''(b) CFC CHILLER.—For purposes of this section, the term 'CFC chiller' includes property which—

''(1) was installed after 1980 and before 1993,

''(2) utilizes chlorofluorocarbon refrigerant, and

''(3) until replaced by a new efficient chiller, has remained in operation and utilized for cooling a commercial building.

''(c) NEW EFFICIENT CHILLER.—For purposes of this section, the term 'new efficient chiller' includes a water-cooled chiller which is certified to meet efficiency standards effective on January 1, 2010, as defined in table 6.8.1c in Addendum M to Standard 90.1–2007 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers.

''(d) TONNAGE DOWNSIZING.—For purposes of this section, the term 'tonnage downsizing' means the amount by which the tonnage rating of the CFC chiller exceeds the tonnage rating of the new efficient chiller.

''(e) ENERGY AUDIT.—As a condition of receiving a tax credit under this section, an energy audit shall be performed on the building prior to installation of the new efficient chiller, identifying cost-effective energy-saving measures, particularly measures that could contribute to chiller downsizing. The audit shall satisfy criteria that shall be issued by the Secretary of Energy.

''(f) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a CFC chiller replaced by a new efficient chiller the use of which is described in paragraph (3) or (4) of section 50(b), the person who sold such new efficient chiller to the entity shall be treated as the taxpayer that placed in service the new efficient chiller that replaced the CFC chiller, but only if such person clearly discloses to such entity in a document the amount of any credit allowable under subsection (a) and the

person certifies to the Secretary that the person reduced the price the entity paid for such new efficient chiller by the entire amount of such credit.

''(g) TERMINATION.—This section shall not apply to replacements made after December 31, 2012.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting '', plus'', and by adding at the end the following new paragraph:

''(37) the CFC chiller replacement credit determined under section 45S.''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45S. CFC chiller replacement credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to replacements made after the date of the enactment of this Act.

SEC. 5. QUALIFYING EFFICIENT INDUSTRIAL PROCESS WATER USE PROJECT CREDIT.

(a) IN GENERAL.—Section 46 is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5), and by adding at the end the following new paragraph:

''(6) the qualifying efficient industrial process water use project credit.''.

(b) AMOUNT OF CREDIT.—Subpart E of part IV of subchapter A of chapter 1 is amended by inserting after section 48C the following new section:

''SEC. 48D. QUALIFYING EFFICIENT INDUSTRIAL PROCESS WATER USE PROJECT CREDIT.

''(a) IN GENERAL.—

''(1) ALLOWANCE OF CREDIT.—For purposes of section 46, the qualifying efficient industrial process water use project credit for any taxable year is an amount equal to the applicable percentage of the qualified investment for such taxable year with respect to any qualifying efficient industrial process water use project of the taxpayer.

''(2) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

''(A) 10 percent in the case of a qualifying efficient industrial process water use project which achieves a net energy consumption of less than 3,000 kilowatt hours per million gallons of water, and is placed in service before January 1, 2013,

''(B) 20 percent in the case of a qualifying efficient industrial process water use project which achieves a net energy consumption of less than 2,000 kilowatt hours per million gallons of water, and

''(C) 30 percent in the case of a qualifying efficient industrial process water use project which achieves a net energy consumption of less than 1,000 kilowatt hours per million gallons of water.

''(b) QUALIFIED INVESTMENT.—

''(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying efficient industrial process water use project.

''(2) EXCEPTIONS.—Such term shall not include any portion of the basis related to—

''(A) permitting,

''(B) land acquisition, or

''(C) infrastructure associated with sourcing or water discharge.

''(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

''(4) SPECIAL RULE FOR SUBSIDIZED ENERGY FINANCING.—Rules similar to the rules of section 48(a)(4) (without regard to subparagraph (D) thereof) shall apply for purposes of this section.

''(5) LIMITATION.—The amount which is treated for all taxable years with respect to any qualifying efficient industrial process water use project with respect to any site shall not exceed $10,000,000.

''(c) DEFINITIONS.—

''(1) QUALIFYING EFFICIENT INDUSTRIAL PROCESS WATER USE PROJECT.—The term 'qualifying efficient industrial process water use project' means, with respect to any site, a project—

''(A) which replaces or modifies a system for the use of water or steam in the production of goods in the trade or business of manufacturing (including any system for the use of water derived from blow-down from cooling towers and steam systems in the generation of electric power at a site also used for the production of goods in the trade or business of manufacturing), and

''(B) which is designed to achieve—

''(i) a reduction of not less than 20 percent in water withdrawal and a reduction of not less than 10 percent of water discharge when compared to the existing water use at the site, or

''(ii) a reduction of not less than 10 percent in water withdrawal and a reduction of not less than 20 percent of water discharge when compared to the existing water use at the site, and

''(2) ELIGIBLE PROPERTY.—The term 'eligible property' means any property—

''(A) which is part of a qualifying efficient industrial process water use project and which is necessary for the reduction in withdrawals or discharge described in paragraph (1)(B),

''(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

''(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer, and

''(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

''(3) NET ENERGY CONSUMPTION.—The term 'net energy consumption' means the energy consumed , both on-site and off-site, with respect to the water described in paragraph (1)(A). Net energy consumption shall be normalized per unit of industrial output and measured under rules and procedures established by the Secretary, in consultation with the Administrator of the Environmental Protection Agency.

''(4) WATER DISCHARGE.—The term 'water discharge' means all water leaving the site via permitted or unpermitted surface water discharges, discharges to publicly owned treatment works, and shallow- or deep-injection (whether on-site or off-site).

''(5) WATER WITHDRAWAL.—The term 'water withdrawal' means all water taken for use at the site from on-site ground and surface water sources together with any water supplied to the site by a public water system.

''(d) TERMINATION.—This section shall not apply to periods after December 31, 2014, under rules similar to the rules of section 48(m) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking ''and'' at the end of clause (iv), by striking the period at the end of clause (v) and inserting '', and'', and by adding after clause (v) the following new clause:

''(vi) the basis of any property which is part of a qualifying efficient industrial use water project under section 48D.''.

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48B the following new item:

''Sec. 48D. Qualifying efficient industrial process water use project credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after January 1, 2011, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

By Mr. WYDEN (for himself, Mr. CORNYN, and Mr. HARKIN):

S. 1640. A bill to amend title XVIII of the Social Security Act to provide coverage of intensive lifestyle treatment; to the Committee on Finance.

Mr. WYDEN. Mr. President, I rise today to introduce the Take Back Your Health Act of 2009. I want to thank my friends Senator CORNYN and Senator HARKIN for joining as original cosponsors of this bill.

This bill is another example of how Democrats and Republicans can come together on health reform. This bill incorporates ideas that bridge the philosophies of both parties: prevention, individual responsibility, and paying for health care services that provide value.

These days, health care reformers talk about bending the cost curve down and focusing on delivery system ''game changers''. Often my friends and I have talked about how pevention—preventing disease or illness before it happens—does both, but is not scored as bending the cost curve by the Congressional Budget Office.

Over the last year, I have worked with some of the brightest minds in prevention—Doctors Dean Ornish, Mike Roizen, and Mark Hyman—on how to design a program that will change the focus of medicine from treating medical problems to preventing them while delivering savings. The road that took us to this bill has not been an easy one, but I believe this bill achieves all of our goals when it comes to encouraging healthier behaviors that will help prevent disease, especially chronic diseases.

The heart of this bill is what's called an intensive lifestyle treatment program. This program is an individualized health plan prescribed by a doctor that gets people living healthier and getting healthier through exercise, nutrition counseling, care coordination, medication management, and stopping smoking.

This type of program has been proven to help or even reverse the progression of many chronic diseases. A Highmark Blue Cross Blue Shield study found that their costs went down 50 percent after their patients took part in an intensive lifestyle program. That can mean big savings for Medicare and for seniors.

Even a CMS Medicare demonstration—which notoriously does not score

savings for anything—found that people who went through a lifestyle program had the same or lower costs over three years than as Medicare beneficiaries who didn't go through the program.

In times like these, the American people want to know that the Medicare program is going to get their money's worth. The Take Back Your Health Act embraces a pay-for-performance type system. Doctors are paid a bundled payment to encourage efficiency and teamwork, and they are held responsible for their success. If a patient's health status does not improve according to at least two measures, the doctor doesn't get paid. In addition, if a patient goes through the program for diabetes, but still has problems and has to go to the hospital, the lifestyle treatment doctor doesn't get paid.

The last innovation in this program is that it gives individuals a financial incentive for getting healthier. Every person who goes through this treatment program and improves his or her health status gets a one-time $200 reward.

The beauty of this bill is that everyone has skin in the game: the doctor, the patient, and the government. That will be the secret of its success. It is just this kind of innovative program that can be a real game-changer for Medicare and for our entire health care system, by bringing the focus of our health care system back to the basics of making us healthier.

I look forward to working with Chairman BAUCUS and Senator GRASSLEY on including this bill in health reform. I urge my colleagues to join me as cosponsors on this bill.

By Ms. SNOWE (for herself and Mr. BINGAMAN):

S. 1643. A bill to amend the Internal Revenue Code of 1986 to allow a credit for the conversion of heating using oil fuel to using natural gas or biomass feedstocks, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, addressing our Nation's dependence on imported oil and our greenhouse gas emissions will require policies that extend across the economy, as well as policies that are more narrowly tailored to specific sectors. Today, I rise with my colleague from Maine, Senator SNOWE, to offer a bill that would enhance energy security and reduce greenhouse gas emissions associated with heating our nation's homes and buildings. Our bill, the Cleaner, Secure and Affordable Thermal Energy Act, creates significant incentives for consumers, businesses, and tax-exempt entities that now rely on heating oil to convert to energy-efficient natural gas or biomass heating systems.

Across the country, and particularly in the Northeast and Midwest, many homes and buildings still derive heat from oil-burning furnaces. According to the Energy Information Administration, in 2007, our Nation consumed nearly 160 million barrels of oil for heating fuel. This use of heating oil continues despite the existence of widely available alternatives that are cleaner, more secure, and more affordable.

On April 22, I held a hearing in the Energy and Natural Resources Committee on the Energy Efficiency Resource Standards. The Committee heard from several witnesses about the advantages of and efforts to convert residential, business, and public users from fuel oil to natural gas and biomass heating systems. For each household that converts from fuel oil to a natural gas heating system, we avoid 2.1 metric tons of greenhouse gas emissions. For each commercial building, we avoid 9.9 metric tons, and for each industrial facility, we avoid as much as 2,984 metric tons. These emission reductions are even more significant for conversions to heating systems that are fired by biomass resources.

Besides being cleaner, natural gas and biomass are far more secure resources. Ninety-eight percent of domestically consumed natural gas is produced in North America, and domestic reserves of natural gas are estimated at 100 years based on current consumption.

Finally, since the price of natural gas and biomass is lower and less volatile than the price oil, converting offers significant short- and long-term cost savings to consumers. For instance, while the average annual cost of using fuel oil for home heating averages $1,734, the average annual cost of operating a natural gas furnace is $1,004.

But significant up-front costs prevent many families and businesses from converting their heating systems.

The Cleaner, Secure and Affordable Thermal Energy Act will make these conversions more affordable for American families, businesses, and tax-exempt entities.

First, for residential consumers, the Act establishes a 30 percent tax credit for costs associated with converting from a fuel oil to natural gas or biomass heating system. The credit is capped at $3,500, $4,000 in the case of biomass stoves. To qualify, the replacement equipment must be energy efficient; a natural gas boiler must have an AFUE rating of at least 85 percent, a replacement natural gas furnace must have an AFUE rating of at least 92 percent, and a replacement biomass appliance must have a thermal efficiency rating of more than 75 percent.

For business taxpayers, the act authorizes bonus depreciation for property installed before 2012. This would enable business taxpayers to expense—that is, immediately write-off—half of the cost of qualifying property, and depreciate the remaining balance over the typical cost-recovery period.

Many of the Nation's heating oil systems are used by public entities, particularly school systems. To help public entities finance their conversions to natural gas and biomass heating, the Act adds conversion programs as an activity eligible for Qualified Energy Conservation Bonds.

Finally, to encourage expansion of natural gas service capabilities, the act includes a two-year extension of the 15-year depreciation schedule created for distribution facilities under the Energy Policy Act of 2005.

The act would move us significantly in the direction of a low-carbon economy while enhancing energy security and reducing heating costs. I look forward to working with Senator SNOWE to enacting our bill into law.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 245—RECOGNIZING SEPTEMBER 11 AS A ''NATIONAL DAY OF SERVICE AND REMEMBRANCE''

Mr. SCHUMER (for himself, Mrs. GILLIBRAND, Mr. MENENDEZ, Mr. LAUTENBERG, Mr. CASEY, Mr. SPECTER, Mr. DODD, and Mr. LIEBERMAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 245

Whereas, on September 11, 2001, terrorists ruthlessly attacked the United States, leading to the tragic deaths and injuries of thousands of innocent United States citizens and other citizens from more than 90 different countries and territories;

Whereas in response to the attacks in New York City, Washington, D.C., and Shanksville, Pennsylvania, firefighters, police officers, emergency medical technicians, physicians, nurses, military personnel, and other first responders immediately and without concern for their own well-being rose to service, in a heroic attempt to protect the lives of those still at risk, consequently saving thousands of men and women;

Whereas in the immediate aftermath of the attacks, thousands of recovery workers, including trades personnel, iron workers, equipment operators, and many others, joined with firemen, police officers, and military personnel to help to search for and recover victims lost in the terrorist attacks;

Whereas in the days, weeks, and months following the attacks, thousands of people in the United States and others spontaneously volunteered to help support the rescue and recovery efforts, braving both physical and emotional hardship;

Whereas many first responders, rescue and recovery workers, and volunteers, as well as survivors of the 9/11 terrorist attacks, continue to suffer from serious medical illnesses and emotional distress related to the physical and mental trauma of the 9/11 tragedy;

Whereas hundreds of thousands of brave men and women continue to serve every day, having answered the call to duty as members of the United States Armed Forces, with thousands having given their lives or suffered injury to defend our Nation's security and prevent future terrorist attacks;

Whereas the entire Nation witnessed and shared in the tragedy of September 11, 2001, and in the immediate aftermath of the attacks became unified under a remarkable spirit of service and compassion that inspired and helped heal the Nation;

Whereas in the years immediately following the attacks of September 11, 2001, the U.S. Bureau of Labor Statistics documented