(Mr. FEINGOLD) was added as a cosponsor of S. 1504, a bill to provide that Federal courts shall not dismiss complaints under rule 12(b)(6) or (e) of the Federal Rules of Civil Procedure, except under the standards set forth by the Supreme Court of the United States in Conley v. Gibson, 355 U.S. 41 (1957).

S. 1511

At the request of Mr. CARDIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1511, a bill to amend titles XVIII and XIX of the Social Security Act to improve awareness and access to colorectal cancer screening tests under the Medicare and Medicaid programs, and for other purposes.

S. 1547

At the request of Mr. REED, the name of the Senator from Maryland (Ms. MIKULSKI) 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. 1583

At the request of Mr. ROCKEFELLER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1583, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit through 2014, and for other purposes.

S. 1612

At the request of Mrs. LINCOLN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1612, a bill to amend the Internal Revenue Code of 1986 to improve the operation of employee stock ownership plans, and for other purposes.

S. 1624

At the request of Mr. WHITEHOUSE, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of 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.

S. 1635

At the request of Mr. DORGAN, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of 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.

S. 1663

At the request of Mr. BROWN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1663, a bill to make available funds from the Emergency Economic Stabilization Act of 2008 for funding a voluntary employees' beneficiary association with respect to former employees of Delphi Corporation.

S. RES. 263

At the request of Mr. GRASSLEY, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. Res. 263, a resolution designating October 2009 as ''National Medicine Abuse Awareness Month''.

AMENDMENT NO. 2361

At the request of Mr. GREGG, the names of the Senator from Wyoming (Mr. BARRASSO) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of amendment No. 2361 intended to be proposed to H.R. 3288, a bill making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2365

At the request of Ms. LANDRIEU, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of amendment No. 2365 intended to be proposed to H.R. 3288, a bill making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY:

S. 1669. A bill to provide all Medicare beneficiaries with the right to guaranteed issue of a Medicare supplemental policy; to the Committee on Finance.

Mr. KERRY. Mr. President, a key component of the health reform debate is ensuring that all people—regardless of their health status—have access to comprehensive and affordable coverage options. Unfortunately, under current law Medicare beneficiaries are subject to discriminatory medical practices that deny coverage options based on their age, condition, or disability.

Medigap plans provide vital assistance to Medicare beneficiaries in paying Medicare cost-sharing. Without supplemental coverage, the absence of an out-of-pocket limit in Medicare leaves beneficiaries vulnerable to catastrophic medical expenses.

Unfortunately, Medicare beneficiaries with disabilities or who have end-stage renal disease, ESRD, do not have the same guaranteed issue rights as Medicare beneficiaries age 65 and older. In the absence of equal opportunity and access to Medigap policies at the Federal level, 29 States have chosen to grant the same rights to disabled and ESRD beneficiaries that seniors currently enjoy.

ESRD beneficiaries are also the only group of Medicare beneficiaries currently denied the same Medicare choices as other Medicare beneficiaries. They are statutorily prohibited from enrolling in Medicare Advantage plans.

Today I am introducing the Equal Access to Medicare Options Act, a bill that improves coverage options to Medicare beneficiaries. First, the legislation would extend guaranteed issue of Medigap policies to all Medicare beneficiaries rather than limiting guaranteed issue to those beneficiaries who are over 65 years of age. This change will significantly improve coverage options and affordability for beneficiaries with disabilities or end-stage renal disease.

Second, the legislation recognizes that Medicare beneficiaries need flexibility to adjust their coverage as changes to their plans are made. More specifically, the legislation would give guaranteed issue rights to Medicare Advantage enrollees if they decide to switch to traditional Medicare during an enrollment period. Today, if a Medicare Advantage enrollee learns of premium increases or benefit reduction in their plan, they have the option of returning to traditional Medicare but they have no assurance they can buy Medigap coverage if they do so.

Third, the legislation would provide guaranteed issue to dual eligibles who lose their Medicaid coverage and find themselves in traditional Medicare without the cost protections of Medicaid and without supplemental coverage options.

Finally, this legislation would for the first time give beneficiaries with end-stage renal disease the option of enrolling in Medicare Advantage plans.

I would like to thank a number of organizations who have been integral to the development of the Equal Access to Medicare Options Act and who have endorsed it today, including the AARP, California Health Advocates, Center for Medicare Advocacy, Consortium for Citizens with Disabilities, Consumers Union, Dialysis Patient Citizens, Fresenius Medical Care, Medicare Rights Center, and the National Kidney Foundation.

These reforms would ensure that all Medicare beneficiaries regardless of their disability or age have equal opportunity and access to affordable Medicare options to reduce out-of-pocket costs. I look forward to working with my colleagues in the Senate to achieve these goals in the context of health care reform.

By Mr. LEAHY (for himself, Mr. SESSIONS, Mr. KOHL, Mr. HATCH, and Mr. KYL):

S. 1670. A bill to reform and modernize the limitations on exclusive rights relating to secondary transmissions of certain signals; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, during the past decade we have witnessed tremendous development in the way video content is made available to consumers. Today, as a result of digital technology, we can watch movies, television programs, and other video not only on our television sets, but also on our computers, phones, and other mobile devices. In order to maximize the potential of digital content, Congress must ensure that our copyright and communications laws are modernized and updated to accommodate the digital revolution. Today, I join with Senators Sessions, KOHL, HATCH, and KYL in introducing the Satellite Television Modernization Act of 2009. Our legislation will reauthorize, modernize, and simplify important portions of the statutory license used by satellite providers that will otherwise expire at the end of this year.

The transition to digital television requires Congress to modernize the statutory copyright licenses that allow cable and satellite providers to retransmit the content of local broadcast stations. In February, many stations across the country, including those in Vermont, made the digital transition and can now offer multiple programming channels over a single, crystal-clear digital signal. In June, the remaining broadcast stations across the country completed the digital transition. The current statutory licenses, however, are based on the now outdated analog standard. In our reauthorization, we seek to ensure that the licenses work properly in the digital world.

In June 2008, the U.S. Copyright Office issued a report on the statutory licenses, and offered recommendations on how to improve the current system. The Copyright Office's principal recommendation was to move toward abolishing the compulsory licenses, in particular the distant signal licenses. Short of that, the Copyright Office offered suggestions on how to harmonize and streamline the licenses.

The legislation we introduce today draws on the recommendations of the Copyright Office and takes important steps toward limiting future reliance on the section 119 distant signal license used by satellite providers. This legislation will move locally oriented elements out of the distant signal license—such as the special exception that allows Vermonters in the State's southern-most counties to receive Vermont broadcast stations by satellite—and place them into the section 122 license, which facilitates the retransmission of local content with the consent of the broadcaster. The bill will also fix an anomaly in the distant signal license, which will make it easier for satellite providers to serve local markets that are missing a network affiliate.

Making these changes will improve the ability of satellite providers to deliver a full complement of network stations to consumers, as well as make it easier for them to offer local stations. In Vermont, these changes will have the additional benefit of fostering competition between DISH Network and DirecTV, by allowing DISH to offer Vermont broadcast stations in southern Vermont, a service DirecTV provides today. The legislation also adds a new provision to the local license that will allow satellite providers such as DISH to import a missing network station from an adjacent market when the local market is not served by all four principle networks, after the provider first obtains the station's consent. This new provision will make it more likely and reasonable for DISH to launch local service in these markets, which is good for local broadcasters, good for satellite providers, and good for consumers.

These changes will not only improve the satellite licenses, but will begin the process of phasing out the distant signal license as satellite providers offer local service in more markets. As the distant signal license fades, Congress should follow the Copyright Office's suggestion and move ultimately toward a market-based system, in which statutory licenses are unnecessary.

One further step we can take toward a marketplace model this year is to allow broadcast stations to opt-out of the statutory licenses. All non-broadcast channels carried by cable and satellite providers, such as ESPN and the USA Network, are able to aggregate a complex series of content rights, and negotiate for carriage in the free market. Local broadcasters should be permitted to do the same if they, too, are able to aggregate the necessary rights to license directly to cable and satellite providers. This is a proposal I expect the Judiciary Committee to examine as the bill moves through the mark up process. I encourage all industry participants to work with the Committee so that we can address any concerns about this market-based approach.

Short of repealing the compulsory licenses, the Copyright Office recommended harmonizing the cable and satellite licenses in order to create regulatory parity between the two industries. The section 111 license used by cable, for instance, is based on FCC rules that have long since been repealed, and the license itself has not been significantly updated since it was established more than 30 years ago. The arcane nature of the cable license can at times produce unintended results, such as cable companies paying copyright holders for content that consumers do not actually receive. This is referred to as the phantom signal problem. In contrast, satellite companies pay a flat, per subscriber rate based on consumers actually receiving a broadcast station. Comprehensive reforms to section 111 that aim to modernize the statute and create regulatory parity between cable and satellite providers would address these disparities. We take a more modest approach in the bill we introduce today. The legislation contains an amendment that will resolve the phantom signal issue. I appreciate that members of the content community and the cable system came together to find a solution on which they can all agree.

The Satellite Television Modernization Act is one component of the reauthorization. Portions of the expiring law are within the jurisdiction of the Senate Committee on Commerce, and I look forward to working with the leadership of that Committee, and our counterparts in the House of Representatives, to enact legislation that once again improves the law by fostering competition, protecting broadcasters, and improving service to consumers.

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. 1670

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 ''Satellite Television Modernization Act of 2009''.

SEC. 2. LIMITATIONS ON EXCLUSIVE RIGHTS: SECONDARY TRANSMISSIONS OF SUPERSTATIONS AND NETWORK STATIONS FOR PRIVATE HOME VIEWING.

Section 119 of title 17, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking ''subparagraphs (B) and (C)'' and inserting ''subparagraph (B)''; and

(II) by striking ''(5), (6), (7), and (8)'' and inserting ''(4), (5), (6), and (7)'';

(ii) in subparagraph (B)—

(I) in clause (i), by striking the second sentence; and

(II) in clause (ii)—

(aa) in subclause (I)—

(AA) by striking ''the Individual Location'' and all that follows through ''No. 98–201,'' and inserting ''the predictive digital model established by the Federal Communications Commission,''; and

(BB) by striking ''under section 339(c)(3) of the Communications Act of 1934 (47 U.S.C. 339(c)(3))''; and

(bb) in subclause (II), by striking ''section 339(c)(4) of the Communications Act of 1934 (47 U.S.C. 339(c)(4))'' and inserting ''rules established by the Federal Communications Commission'';

(iii) by striking subparagraph (C);

(iv) by redesignating subparagraph (D) as subparagraph (C); and

(v) in subparagraph (C) (as so redesignated)—

(I) in clause (i), by striking ''network station—'' and all that follows through the period at the end and inserting ''network station a list, aggregated by designated market area (as that term is defined in section 122(j)), identifying (by name and address, including street or rural route number, city, State, and zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission to subscribers in unserved households.'';

(II) in clause (ii), by striking ''the network—'' and all that follows through the period at the end and inserting ''the network a

list, aggregated by designated market area (as that term is defined in section 122(j)), identifying (by name and address, including street or rural route number, city, State, and zip code) any persons who have been added or dropped as subscribers under clause (i)(I) since the last submission under clause (i).''; and

(III) in clause (iv), at the end of the second sentence, by striking the ending quotation mark and semicolon;

(B) by striking paragraph (3);

(C) by redesignating paragraphs (4) through (14) as paragraphs (3) through (13), respectively;

(D) by amending paragraph (3) (as so redesignated) to read as follows:

''(3) STATUTORY LICENSE WHERE RETRANSMISSIONS INTO LOCAL MARKET AVAILABLE.—

''(A) FUTURE APPLICABILITY.—The statutory license under paragraph (2) shall not apply to the secondary transmission by a satellite carrier of a primary transmission of a network station to a person who—

''(i) is not a subscriber lawfully receiving such secondary transmission as of December 31, 2009; and

''(ii) at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the secondary transmission of the primary transmission of a local network station affiliated with the same television network pursuant to the statutory license under section 122, and such secondary transmission of such primary transmission can reach such person.

''(B) OTHER PROVISIONS NOT AFFECTED.—This paragraph shall not affect the applicability of the statutory license to secondary transmissions to unserved households included under paragraph (11).

''(C) WAIVER.—A subscriber who is denied the secondary transmission of a network station under this paragraph may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station in the local market affiliated with the same network where the subscriber is located. The network station shall accept or reject the subscriber's request for a waiver within 30 days after receipt of the request. If the network station fails to accept or reject the subscriber's request for a waiver within that 30-day period, that network station shall be deemed to agree to the waiver request. Unless specifically stated by the network station, a waiver that was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 under section 339(c)(2) of the Communications Act of 1934 (47 U.S.C. 339(c)(2)) shall not constitute a waiver for purposes of this subparagraph.

''(D) AVAILABLE DEFINED.—For purposes of this paragraph, a satellite carrier makes available a secondary transmission of the primary transmission of a local station to a subscriber or person if the satellite carrier offers that secondary transmission to other subscribers who reside in the same zip code as that subscriber or person.'';

(E) in paragraph (4) (as so redesignated), by striking ''section 509'';

(F) in paragraph (6) (as so redesignated)—

(i) in subparagraph (A)(ii), by striking ''$5'' and inserting ''$250''; and

(ii) in subparagraph (B)—

(I) in clause (i), by striking ''$250,000'' and inserting ''$2,500,000''; and

(II) in clause (ii), by striking ''$250,000'' and inserting ''$2,500,000''; and

(G) by striking paragraph (15); and

(H) by redesignating paragraph (16) as paragraph (14);

(2) in subsection (b)—

(A) by striking the subsection heading and inserting ''(b) DEPOSITS AND DISTRIBUTION OF ROYALTY FEES.—''; and

(B) in paragraph (1), by striking the matter following subparagraph (B);

(3) by amending subsection (c) to read as follows:

''(c) ADJUSTMENT OF ROYALTY FEES.—

''(1) APPLICABILITY AND DETERMINATION OF ROYALTY FEES.—

''(A) INITIAL FEE.—The appropriate fee for purposes of determining the royalty fee under subsection (b)(1)(B) for the secondary transmission of the primary transmissions of network stations and superstations shall be the appropriate fee set forth in subchapter E of chapter III of title 37, Code of Federal Regulations, as in effect on July 1, 2009, as modified under this paragraph.

''(B) FEE SET BY VOLUNTARY NEGOTIATION.—On or before January 4, 2010, Copyright Royalty Judges shall cause to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining the royalty fee to be paid by satellite carriers for the secondary transmission of the primary transmission of network stations and superstations under subsection (b)(1)(B).

''(C) NEGOTIATIONS.—Satellite carriers, distributors, and copyright owners entitled to royalty fees under this section shall negotiate in good faith in an effort to reach a voluntary agreement or agreements for the payment of royalty fees. Any such satellite carriers, distributors, and copyright owners may at any time negotiate and agree to the royalty fee, and may designate common agents to negotiate, agree to, or pay such fees. If the parties fail to identify common agents, Copyright Royalty Judges shall do so, after requesting recommendations from the parties to the negotiation proceeding. The parties to each negotiation proceeding shall bear the cost thereof.

''(D)(i) AGREEMENTS BINDING ON PARTIES; FILING OF AGREEMENTS; PUBLIC NOTICE.—Voluntary agreements negotiated at any time in accordance with this paragraph shall be binding upon all satellite carriers, distributors, and copyright owners that are parties thereto. Copies of such agreements shall be filed with the Copyright Office within 30 days after execution in accordance with regulations that the Register of Copyrights shall prescribe.

''(ii)(I) Within 10 days after publication in the Federal Register of a notice of the initiation of voluntary negotiation proceedings, parties who have reached a voluntary agreement may request that the royalty fees in that agreement be applied to all satellite carriers, distributors, and copyright owners without convening a proceeding pursuant to subparagraph (F).

''(II) Upon receiving a request under subclause (I), the Copyright Royalty Judges shall immediately provide public notice of the royalty fees from the voluntary agreement and afford parties an opportunity to state that they object to those fees.

''(III) The Copyright Royalty Judges shall adopt the royalty fees from the voluntary agreement for all satellite carriers, distributors, and copyright owners without convening a proceeding unless a party with an intent to participate in the proceeding and a significant interest in the outcome of that proceeding objects under subclause (II).

''(E) PERIOD AGREEMENT IS IN EFFECT.—The obligation to pay the royalty fees established under a voluntary agreement which has been filed with the Copyright Office in accordance with this paragraph shall become effective on the date specified in the agreement, and shall remain in effect until December 31, 2014, or in accordance with the terms of the agreement, whichever is later.

''(F) PROCEEDING TO ESTABLISH ROYALTY FEES.—

''(i) NOTICE OF INITIATION OF PROCEEDINGS; VOLUNTARY AGREEMENTS.—On or before May 3, 2010, the Copyright Royalty Judges shall cause notice to be published in the Federal Register of the initiation of proceedings for the purpose of determining the royalty fee to be paid for the secondary transmission of primary transmission of network stations and superstations under subsection (b)(1)(B) by satellite carriers and distributors—

''(I) in the absence of a voluntary agreement filed in accordance with subparagraph (D) that establishes royalty fees to be paid by all satellite carriers and distributors; or

''(II) if an objection to the fees from a voluntary agreement submitted for adoption by the Copyright Royalty Judges to apply to all satellite carriers, distributors, and copyright owners is received under subparagraph (D) from a party with an intent to participate in the proceeding and a significant interest in the outcome of that proceeding.

Such proceeding shall be conducted as provided under chapter 8 of this title.

''(ii) ESTABLISHMENT OF ROYALTY FEES.—In determining royalty fees under this paragraph, the Copyright Royalty Judges shall establish fees for the secondary transmissions of the primary transmission of network stations and superstations that most clearly represent the fair market value of secondary transmissions, except that the Copyright Royalty Judges shall adjust those fees to account for the obligations of the parties under any applicable voluntary agreement filed with the Copyright Office pursuant to subparagraph (D). In determining the fair market value, the Copyright Royalty Judges shall base their decision on economic, competitive, and programming information presented by the parties, including—

''(I) the competitive environment in which such programming is distributed, the cost of similar signals in similar private and compulsory license marketplaces, and any special features and conditions of the retransmission marketplace;

''(II) the economic impact of such fees on copyright owners and satellite carriers; and

''(III) the impact on the continued availability of secondary transmissions to the public.

''(iii) PERIOD DURING WHICH DECISION OF COPYRIGHT ROYALTY JUDGES EFFECTIVE.—The obligation to pay the royalty fee established under a determination which is made by the Copyright Royalty Judges under this paragraph shall be effective as of January 1, 2010.

''(iv) PERSONS SUBJECT TO ROYALTY FEE.—The royalty fee referred to clause (iii) shall be binding on all satellite carriers, distributors, and copyright owners, who are not party to a voluntary agreement filed with the Copyright Office under subparagraph (D).

''(2) ROYALTY FEE ANNUAL ADJUSTMENT.—The royalty fee payable under subsection (b)(1)(B) for the secondary transmission of the primary transmission of network stations and superstations shall be adjusted annually by the Copyright Royalty Judges to reflect any changes occurring during the preceding 12 months in the cost of living as determined by the most recent Consumer Price Index (for all consumers and items) published by the Secretary of Labor prior to December 1. Notification of the adjusted rates shall be published in the Federal Register prior to December 1 of that year.'';

(4) in subsection (d)—

(A) in paragraph (10)—

(i) by amending subparagraph (A) to read as follows:

''(A)(i) is located in a local market in which there is no primary network station affiliated with such network licensed to a community within such local market; or

''(ii) cannot receive, through the use of a conventional, stationary, outdoor rooftop receiving antenna, an over-the-air signal of a primary network station affiliated with that network that does not exceed the signal intensity standard in section 73.622(e)(1) of title 47 of the Code of Federal Regulations as in effect on January 1, 2010;'';

(ii) in subparagraph (B), by striking ''(a)(14)'' and inserting ''(a)(13)''; and

(iii) in subparagraph (D), by striking ''(a)(12)'' and inserting ''(a)(101'';

(B) in paragraph (11), by striking '', except that'' and all that follows through ''located'';

(C) by striking paragraph (12); and

(D) by redesignating paragraph (13) as paragraph (12); and

(5) by striking subsection (f).

SEC. 3. LIMITATIONS ON EXCLUSIVE RIGHTS: SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS WITHIN LOCAL MARKETS.

Section 122 of title 17, United States Code, is amended—

(1) by amending subsections (a), (b), and (c) to read as follows:

''(a) SECONDARY TRANSMISSIONS OF TELEVISION BROADCAST STATIONS BY SATELLITE CARRIERS.—

''(1) SECONDARY TRANSMISSIONS OF TELEVISION BROADCAST STATIONS WITHIN A LOCAL MARKET.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station into the station's local market shall be subject to statutory licensing under this section if—

''(A) the secondary transmission is made by a satellite carrier to the public;

''(B) with regard to secondary transmissions, the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals; and

''(C) the satellite carrier makes a direct or indirect charge for the secondary transmission to—

''(i) each subscriber receiving the secondary transmission; or

''(ii) a distributor that has contracted with the satellite carrier for direct or indirect delivery of the secondary transmission to the public.

''(2) SIGNIFICANTLY VIEWED AND LOW POWER STATIONS.—A secondary transmission of a performance or a display of a work embodied in a primary transmission of a television broadcast station or low power television station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall, if the secondary transmission is made by a satellite carrier that complies with the requirements of paragraph (1), be subject to statutory licensing under this paragraph as follows:

''(A) SECONDARY TRANSMISSIONS OF SIGNIFICANTLY VIEWED SIGNALS.—The statutory license shall apply to the secondary transmission of the primary transmission of a network station or a superstation to a subscriber who resides outside the station's local market but within a community in which the signal has been determined by the Federal Communications Commission, to be significantly viewed in such community, pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, applicable to determining with respect to a cable system whether signals are significantly viewed in a community.

''(B) CARRIAGE OF LOW POWER TELEVISION STATIONS.——

''(i) IN GENERAL.—The statutory license shall apply to the secondary transmission of the primary transmission of a network station or a superstation that is licensed as a low power television station, to a subscriber who resides within the same local market.

''(ii) NO APPLICABILITY TO REPEATERS AND TRANSLATORS.—Secondary transmissions provided for in subparagraph (A) shall not apply to any low power television station that retransmits the programs and signals of another television station for more than 2 hours each day.

''(3) SPECIAL EXCEPTIONS.—A secondary transmission of a performance or a display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall, if the secondary transmission is made by a satellite carrier that complies with the requirements of paragraph (1), be subject to statutory licensing under this paragraph as follows:

''(A) STATES WITH SINGLE FULL-POWER NETWORK STATION.—In a State in which there is licensed by the Federal Communications Commission a single full-power station that was a network station on January 1, 1995, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmission of that station to any subscriber in a community that is located within that State and that is not within the first 50 television markets as listed in the regulations of the Commission as in effect on such date (47 C.F.R. 76.51).

''(B) STATES WITH ALL NETWORK STATIONS AND SUPERSTATIONS IN SAME LOCAL MARKET.—In a State in which all network stations and superstations licensed by the Federal Communications Commission within that State as of January 1, 1995, are assigned to the same local market and that local market does not encompass all counties of that State, the statutory license provided under this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmissions of such station to all subscribers in the State who reside in a local market that is within the first 50 major television markets as listed in the regulations of the Commission as in effect on such date (section 76.51 of title 47 of the Code of Federal Regulations).

''(C) ADDITIONAL STATIONS.—In the case of that State in which are located 4 counties that—

''(i) on January 1, 2004, were in local markets principally comprised of counties in another State; and

''(ii) had a combined total of 41,340 television households, according to the U.S. Television Household Estimates by Nielsen Media Research for 2004,

the statutory license provided under this paragraph shall apply to secondary transmissions by a satellite carrier to subscribers in any such county of the primary transmissions of any network station located in that State, if the satellite carrier was making such secondary transmissions to any subscribers in that county on January 1, 2004.

''(D) CERTAIN ADDITIONAL STATIONS.—If 2 adjacent counties in a single State are in a local market comprised principally of counties located in another State, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier to subscribers in those 2 counties of the primary transmissions of any network station located in the capital of the State in which such 2 counties are located, if—

''(i) the 2 counties are located in a local market that is in the top 100 markets for the year 2003 according to Nielsen Media Research; and

''(ii) the total number of television households in the 2 counties combined did not exceed 10,000 for the year 2003 according to Nielsen Media Research.

''(E) NETWORKS OF NONCOMMERCIAL EDUCATIONAL BROADCAST STATIONS.—In the case of a system of 3 or more noncommercial educational broadcast stations licensed by a single State, political, educational, or special purpose subdivision of a State, or a public agency, the statutory license provided for in this paragraph shall apply to the secondary transmission of that system to any subscriber in any county or county equivalent within that State that is located in a designated market that is not otherwise eligible to receive secondary transmissions of a noncommercial television broadcast station located within that State pursuant to paragraph (1). If a satellite carrier makes secondary transmissions to an adjacent underserved county, local noncommercial educational broadcast stations shall not be repositioned in the channel lineup as a consequence of these retransmissions.

''(4) SHORT MARKETS.—A secondary transmission of a performance of a display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of a primary transmission of a network station from a market adjacent to such local market and no station affiliated with such network is licensed to a community within the local market.

''(5) APPLICABILITY OF ROYALTY RATES.—The royalty rates under section 119(b)(1)(B) shall apply to the secondary transmissions to which the statutory license under paragraphs (3) and (4) apply.

''(b) REPORTING REQUIREMENTS.—

''(1) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station under subsection (a) shall, within 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station—

''(A) a list, aggregated by designated market area (as that term is defined in subsection (j)), identifying (by name in alphabetical order and street address, including county and zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission under subsection (a); and

''(B) a list, to be prepared and submitted separately from the list required under subparagraph (A), aggregated by designated market area (by name and address, including street or rural route number, city, State, and zip code), which shall indicate those subscribers being served pursuant to paragraphs (2), (3), or (4) of subsection (a).

''(2) SUBSEQUENT LISTS.—After the list is submitted under paragraph (1), the satellite carrier shall, on the 15th of each month, submit to the network—

''(A) a list, aggregated by designated market area (as that term is defined in subsection (j)), identifying (by name in alphabetical order and street address, including county and zip code) any subscribers who have been added or dropped as subscribers since the last submission under this subsection; and

''(B) a list, to be prepared and submitted separately from the list required under subparagraph (A), aggregated by designated market area (by name and street address, including street or rural route number, city, State, and zip code), identifying those subscribers whose service pursuant to paragraphs (2), (3), or (4) of subsection (a) has been added or dropped.

''(3) USE OF SUBSCRIBER INFORMATION.—Subscriber information submitted by a satellite

carrier under this subsection may be used only for the purposes of monitoring compliance by the satellite carrier with this section.

''(4) REQUIREMENTS OF NETWORKS.—The submission requirements of this subsection shall apply to a satellite carrier only if the network to which the submissions are to be made places on file with the Register of Copyrights a document identifying the name and address of the person to whom such submissions are to be made. The Register of Copyrights shall maintain for public inspection a file of all such documents.

''(c) NO ROYALTY FEE REQUIRED FOR CERTAIN SECONDARY TRANSMISSIONS.—A satellite carrier whose secondary transmissions are subject to statutory licensing under paragraphs (1) and (2) of subsection (a) shall have no royalty obligation for such secondary transmissions.'';

(2) in subsection (f)—

(A) in paragraph (1)(B), by striking ''$5'' and inserting ''$250''; and

(B) in paragraph (2)—

(i) in subparagraph (A)(ii), by striking ''$250,000'' and inserting ''$2,500,000''; and

(ii) in subparagraph (B)(ii), by striking ''$250,000'' and inserting ''$2,500,000'';

(3) in subsection (j)—

(A) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(B) by inserting after paragraph (2) the following new paragraph:

''(3) LOW POWER TELEVISION STATION.—The term 'low power television station' means a low power television as defined under section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term 'low power television station' includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.''.

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.

Section 338(a) of the Communications Act of 1934 (47 U.S.C. 338(a)) is amended—

(1) by amending the first paragraph (3) to read as follows:

''(3) CARRIAGE OF LOW POWER, SIGNIFICANTLY VIEWED, AND SPECIAL EXCEPTION STATIONS OPTIONAL.—No station whose signal is provided under paragraph (2) or (3) of section 122(a) of title 17, United States Code, shall be entitled to insist on carriage under this section, regardless of whether the satellite carrier provides secondary transmissions of the primary transmissions of other stations in the same local market pursuant to such section 122, nor shall any such carriage be considered in connection with the requirements of subsection (c) of this section.''; and

(2) by redesignating the second paragraph (3) (relating to effective date) and paragraph (4) as paragraphs (4) and (5), respectively.

SEC. 5. EXTENSION OF AUTHORITY.

Section 4(a) of the Satellite Home Viewer Act of 1994 (17 U.S.C. 119 note; Public Law 103-369) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2014''.

SEC. 6. MODIFICATIONS TO THE CABLE STATUTORY LICENSE.

(a) UPDATE AND CLARIFICATION OF ROYALTY CALCULATION METHODOLOGY.—Section 111(d)(1) of title 17, United States Code, is amended by striking subparagraphs (B), (C), and (D) and inserting the following:

''(B) except in the case of a cable system whose royalty fee is specified in subparagraph (C) or (D), a total royalty fee for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during said period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

''(i) 1.064 per centum for the privilege of further transmitting any nonnetwork programming of a primary transmitter in whole or in part beyond the local service area of such primary transmitter, such amount to be applied against the fee, if any, payable pursuant to clauses (ii) through (iv).

''(ii) 1.064 per centum of such gross receipts for the first distant signal equivalent.

''(iii) 0.701 of 1 per centum of such gross receipts for each of the second, third, and fourth distant signal equivalents.

''(iv) 0.330 of 1 per centum of such gross receipts for the fifth distant signal equivalent and each distant signal equivalent thereafter;

''(C) in computing the amounts payable under clauses (ii) through (iv), any fraction of a distant signal equivalent shall be computed at its fractional value or in the case of any cable system located partly within and partly without the local service area of a primary transmitter, gross receipts shall be limited to those gross receipts derived from subscribers located without the local service area of such primary transmitter;

''(D) in computing the amounts payable under clauses (ii) through (iv), if a cable system provides a secondary transmission of a primary transmitter to some but not all communities served by that cable system, the gross receipts and the distant signal equivalent values for each secondary transmission shall be derived solely on the basis of the subscribers in those communities where the cable system provides each such secondary transmission, provided, however, that the total royalty fee for the period paid by such system shall in no event be less than the royalty fee calculated in accordance with clause (i) multiplied by the gross receipts from all subscribers to the system; and provided further, that a cable system that on a statement submitted prior to the date of enactment of the Satellite Television Modernization Act of 2009, computed its royalty fee consistent with the methodology in this subparagraph or that amends a statement filed prior to the date of enactment of such Act to compute the royalty fee due using this methodology shall not be subject to an action for infringement, or eligible for any royalty refund, arising out of its use of such methodology on such statement;

''(E) if the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters total $263,800 or less, gross receipts of the cable system for the purpose of this subparagraph shall be computed by subtracting from such actual gross receipts the amount by which $263,800 exceeds such actual gross receipts, except that in no case shall a cable system's gross receipts be reduced to less than $10,400. The royalty fee payable under this subparagraph shall be 0.5 of 1 per centum, regardless of the number of distant signal equivalents, if any; and

''(F) if the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are more than $263,800 but less than $527,600, the royalty fee payable under this subparagraph shall be—

''(i) 0.5 of 1 per centum of any gross receipts up to $263,800; and

''(ii) 1 per centum of any gross receipts in excess of $263,800 but less than $527,600 regardless of the number of distant signal equivalents, if any.''.

(b) NO QUINQUENNIAL ADJUSTMENTS UNTIL 2015.—Section 804(b) of title 17, United States Code, is amended by striking ''2005'' each place that term appears and inserting ''2015''.

(c) ACCEPTANCE OF ADDITIONAL DEPOSITS.—Any royalty fee payments received by the Copyright Office from cable systems for the secondary transmission of primary broadcast transmitters (as such terms are defined in subsection (f) of section 111 of title 17, United States Code) that are in addition to the payments calculated and deposited in accordance with subsection (d) of such section 111 shall be deemed to have been deposited for the particular accounting period during which they are received and shall be distributed as specified in subsection (d) of such section 111.

(d) EFFECTIVE DATE OF NEW ROYALTY FEE RATES.—The royalty fee rates established in section 111(d)(1)(B) of title 17, United States Code, as amended by subsection (a), shall take effect beginning with the statement of account covering the first accounting period in 2010.

Mr. HATCH. Mr. President, I rise today to introduce with my colleague from Vermont, Senator LEAHY, the Satellite Television Modernization Act. I also note the efforts of Senators SESSIONS, KOHL, and KYL in crafting this bipartisan bill.

It is hard to believe that 5 years have transpired since we passed the Satellite Home Viewer Extension Act, SHVERA, of 2004. Much has occurred since that time, including the transition from analog to digital signals, which occurred in June. That is why the proposed legislation will not only reauthorize the statutory license used by satellite television providers, but will bring all of the statutory licenses into the digital age so that consumers can receive a good quality digital signal. Additionally, S. 1670 expands access to low power stations by broadening the license for low power stations to cover the entire local market; permits satellite providers to carry a noncommercial educational broadcast station if a station is part of a state-wide network; improves the ability of both DirecTV and DISH Network to provide local signals to local markets; and addresses the ''phantom signal'' issue, where currently cable providers may be required to pay royalty fees under section 111 based on subscribers who do not receive the content for which the royalty is being paid.

I hasten to point out, however, that much more needs to be done to move away from government regulation and toward a marketplace where satellite providers and cable providers can compete based on market forces. This is not a new issue for this body. In fact, during the 2004 reauthorization of SHVERA, Congress required that the U.S. Copyright Office prepare a report to make recommendations on the operations of, and revisions to, sections 111, 119, and 122 of the Copyright Act. The Copyright Office provided this report to Congress on June 30, 2008.

While I will not provide a line by line summary of the Report, I will underscore some key findings that the Copyright Office, under the leadership of Register of Copyrights Marybeth Peters, suggests that Congress consider

when legislating in this area of the law. Specifically, the Copyright Office found that ''below-market rates may have been justifiable when cable and satellite were nascent industries and needed a mechanism to allow them to serve their subscriber base with valuable distant signals.'' The Report continues by stating that ''the current multichannel video distribution marketplace is robust and has, for a long time, overshadowed the broadcast industry.'' Moreover, the Copyright Office further argues that ''it is now time to phase out section 111 and section 119 so that copyright owners can negotiate market rates for the carriage of programming.''

I agree with the Copyright Office that something needs to be done to ''phase out'' these compulsory licenses. There is no longer any reason that the cable and satellite industries need a government-sponsored subsidy—paid for by program providers—for the right to retransmit broadcast signals. I believe we can devise a way that would phase out these compulsory licenses without disrupting the market. In fact, it is already being done today, as cable and satellite services license programming for more than 550 non-broadcast networks directly in the marketplace without a need for a compulsory license.

Some have suggested a market trigger mechanism that would create an opportunity for, but not require, copyright owners to license their copyrighted programming on broadcast television in the same manner as they do currently for cable channels like TBS, ESPN, Nickelodeon, Disney Channel, FX, and Bravo. Copyright owners would have a choice between continuing to operate under the compulsory license, or if they prefer, licensing cable and satellite retransmission of their works directly through the free market as is done every day for the hundreds of non-broadcast cable channels.

I hope that industry stakeholders will participate in creating a practical and reasonable approach to rectifying this important issue. At a minimum, it is time to let program creators and distributors have the option to determine the terms and conditions for their intellectual property rights. I am pleased that Senate Judiciary Committee Chairman PAT LEAHY is committed to exploring viable options for a marketplace model, and I look forward to working with him and our colleagues on this and other issues before final passage of this bill.

By Mr. REED (for himself, Ms. SNOWE, and Mrs. SHAHEEN):

S. 1672. A bill to reauthorize the National Oilheat Research Alliance Act of 2000; to the Committee on Energy and Natural Resources.

Mr. REED. Mr. President, today I introduce, along with Senator SNOWE and Senator SHAHEEN, the National Oilheat Research Alliance Reauthorization Act of 2009. Since its establishment in 2001, the National Oilheat Research Alliance, NORA, has been a helpful entity for consumers of home heating fuel.

As part of the Energy Act of 2000, Congress authorized the heating oil industry to conduct a referendum to create NORA and to permit a small fraction of the wholesale price of heating oil—2/10 of a cent per gallon—to be paid by oilheat wholesale distributors to fund industry-led research and development, energy conservation, safety, training, and consumer education initiatives.

Since that time, R&D funded in part by NORA has been responsible for gains in efficiency as well as improvement in equipment that run on biofuels. In my home state, the next generation of oilheat technicians is being taught using classes developed by NORA.

NORA's current authorization expires in February 2010. The bipartisan bill we are introducing today extends the authorization for another year to allow NORA to continue operating. This extension will give Congress time to complete a longer-term reauthorization that will make important reforms to NORA. It is essential that this extension be signed into law before the end of this year. Otherwise, NORA will be forced to start shutdown procedures in advance of the authorization lapsing.

Currently, the oilheat industry in 23 states and the District of Columbia—representing more than 8.5 million homes and businesses—participates in NORA. It is important that Congress act quickly on this bill to ensure that the benefits NORA creates for these families and businesses continue uninterrupted.

Mr. President, I ask unanimous consent to have the text of the bill printed in the RECORD.

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

S. 1672

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 ''National Oilheat Research Alliance Reauthorization Act of 2009''.

SEC. 2. REAUTHORIZATION.

Section 713 of the National Oilheat Research Alliance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–469) is amended by striking ''the date that is 9 years after the date on which the Alliance is established'' and inserting ''February 6, 2011''.

By Mr. BEGICH (for himself and Ms. MURKOWSKI):

S. 1673. A bill to amend the Internal Revenue Code of 1986 to encourage charitable contributions of real property for conservation purposes by Native Corporations; to the Committee on Finance.

Mr. BEGICH. Mr. President, I am pleased today to join my colleague, Senator MURKOWSKI, in introducing legislation that would give Alaska Native Corporation, ANC, parity for an important tax incentive encouraging the permanent protection of land through the charitable donation of a conservation easement. I would also like to commend our colleague Congressman DON YOUNG, who today introduces a companion bill in the House of Representatives.

America's wildlife, waters, and land are an invaluable part of our Nation's heritage. It is imperative to preserve these natural treasures for future generations. Congress long ago concluded that it was good public policy to encourage the charitable contribution of conservation easements to organizations dedicated to maintaining natural habitats or open spaces help protect the nation's heritage. A conservation easement creates a legally enforceable land preservation agreement between a willing landowner and another organization. The purpose of a conservation easement is to protect permanently land from certain forms of development or use. The property that is the subject to the easement remains the private property of the landowner. The organization holding the easement must monitor future uses of the land to ensure compliance with the terms of the easement and to enforce the terms if a violation occurs.

In 2006, Congress enhanced the charitable tax deduction for conservation easements in order to encourage such gifts. With the 2006 legislation, Congress temporarily increased the maximum deduction limit for individuals donating qualified conservation easements from 30 percent to 50 percent of the taxpayer's adjusted gross income. Congress also created an exception for qualified farmers or ranchers, which are non-publicly traded corporations or individuals whose gross income from the trade or business of farming is greater than 50 percent of the taxpayer's gross income. In the case of a qualified farmer or rancher, the limitation increased from 30 percent to 100 percent. The 2008 Farm Bill extended the temporary rules for two additional years to charitable contributions made before December 31, 2009.

Unfortunately, the way the law was crafted has disadvantaged a number of important landowners in my home state. Alaska Native Corporations, ANCs, own nearly 90 percent of the private land in Alaska, including some of the most scenic and resource rich. However, although they are very similar to the small communal family farms that are eligible, subsistence-based Alaskan Native communities are ineligible for these important new tax incentives. For thousands of years, Alaska has been home to Native communities, whose rich heritages, languages, and traditions have thrived in the region's unique landscape. Members of Alaska Native communities continue to have a deeply symbiotic relationship with the land even today. Much like their ancestors, many Native Alaskan communities engage in

traditional subsistence activities, with nearly 70 percent of their food coming from the land or adjacent waters. For many communities, subsistence is an economic necessity considering both the lack of economic development and the cost and difficulty involved in purchasing food. For example, in Kotzebue, a community in Northwestern Alaska, milk costs nearly $10 per gallon. In Buckland, a village home to approximately 400 people, a pound of hamburger, when it is actually available, costs $14.00.

In Alaska, the Native Corporations have an important role to be stewards of the land. Their shareholders see themselves as the caretakers of the land and water as their ancestors have for thousands of years. Nonetheless, in Alaska today this means they have to balance the need for resource development and the need to cultivate the land for subsistence activities. The traditional lifestyles of Native Alaskans are under increasing stress from outside influences. Population growth and the pressure to pursue cash-generating activities have increased the desire for substantial development, significantly adding to the ecological stress on already fragile ecosystems. Without permanent protection, their lands could be developed in a manner that would destroy its ability to support the traditional ways and subsistence lifestyles crucial to Alaskan Native communities. Making use of tax incentives available to other Americans will make it easier for Native communities to make the right decisions for their shareholders.

Today, Alaska Native communities are not eligible for the 50 percent deduction available to individuals because they are federally chartered as C corporations under the Alaska Native Claims Settlement Act of 1971, ANCSA. This leaves Alaska Natives without the ability to convert to an eligible entity as other landowners can. In addition, most Alaska Native Corporations do not have sufficient gross income from the trade or business of what is considered traditional farming to be eligible for the 100 percent deduction available to qualified farmers or ranchers. This is in spite of the fact that as a group the Alaska Native shareholders of Alaska Native Corporations receive far more in subsistence benefits than they receive in income from the Alaska Native Corporation. As a result, Alaska Native Corporations do not have the same ability to offset the cost to permanently protect their properties, which contain important wildlife, fish, and other habitats, through donations of qualified conservation easements.

The bill I am introducing with Senator MURKOWSKI will allow Alaska Native Corporations to protect these important wildlife habitats, many used for subsistence, by providing an enhanced deduction for qualified conservation easements. The legislation modifies Section 170(b)(2) of the Internal Revenue Code by creating a new subsection that provides Alaska Native Corporations with a deduction for donations of certain qualified conservation easements. In order to be eligible, a qualified charitable conservation contribution must: (1) otherwise qualify under Section 170(h)(1); (2) be made by a Native Corporation; and (3) be land that was conveyed by ANCSA. Under Section 170(b)(2)(iii)(I), ''Native Corporation'' is defined by ANCSA, section 3(m). Under Section 170(b)(2)(i), the maximum deduction limit would be set at 100 percent of the taxpayer's adjusted gross income. If the taxpayer has deductions in excess of the applicable percentage-of-income limitation, Section 170(b)(2)(ii) would allow the taxpayer to carry-forward the deduction for up to 15 years.

Congress must act to assist Alaska Native communities in permanently protecting their culturally, historically, and ecologically significant land, preserving the communities and their rich traditions in the process. I urge my colleagues to support this important legislation.

By Mr. WYDEN (for himself, Mr. DODD, Mr. SHELBY, and Mr. INHOFE):

S. 1674. A bill to provide for an exclusion under the Supplemental Security Income program and the Medicaid program for compensation provided to individuals who participate in clinical trials for rare diseases or conditions; to the Committee on Finance.

Mr. WYDEN. Mr. President, I come here today to introduce the bipartisan Improving Access to Clinical Trials Act. I would like to begin by thanking my friend Congressman EDWARD MARKEY for introducing this legislation in the House. I also want to thank Senator DODD, Senator SHELBY and Senator INHOFE for cosponsoring this legislation. I would also like to thank the Cystic Fibrosis Foundation for bringing this issue to my attention.

The legislation I am introducing today is important because it would give people who are eligible for Social Security Income and Medicaid the same access to clinical trials as those who are more financially fortunate. Currently, those with rare diseases, such as Cystic Fibrosis and Tuberous Sclerosis rely on clinical trials as their only hope. Little is known about these diseases and a clinical trial may often be the only way individuals can seek treatment for these rare diseases and contribute to helping find a cure.

Currently, SSI and Medicaid eligible individuals who want to participate in a clinical trial have to worry about whether or not they will see a loss or a reduction in their benefits for their participation in a clinical trial if the trial offers any sort of research compensation to participants as part of its approved Internal Review Board study design. This legislation would make it so benefits that these individuals receive from clinical trials are not counted against those who are seeking SSI or Medicaid benefits or those who are already eligible for these benefits.

A good example of why this legislation is needed is Sean from Maryland. Sean is a Medicaid beneficiary who voluntarily enrolled in a clinical trial. He was paid for his participation in the study and subsequently lost his health benefits. Shortly after the study he contracted pneumonia and was treated for the illness. After hospitalization he found out that the money he received would disqualify him for Medicaid. Because he lost his health benefits he now owes $80,000 for the two weeks of treatment he received for pneumonia.

While I believe this bill fixes a fundamental problem that has precluded hope for too many people who have a rare disease and receive SSI or Medicaid, I have heard some legitimate concerns that research compensation may create the wrong kind of incentives for low-income people. These are important concerns and when it comes to this issue I believe there do need to be important safeguards in place. That is why this bill includes a GAO study to make sure that the program is working and that it is fair to those on SSI and Medicaid who are participating in clinical trials for rare diseases. The bill sunsets in 5 years so that Congress can reexamine the issue after getting the GAO report on the program.

I urge my colleagues to support this legislation so that adults on SSI and Medicaid can have the same access to clinical trials as those more financially fortunate. I look forward to working with Chairman BAUCUS and Ranking Member GRASSLEY on passing this bill this year.

Mr. INHOFE. Mr. President, I am pleased to introduce legislation today with my colleague, Senator RON WYDEN, to introduce the Improving Access to Clinical Trials Act, I-ACT, a bill to allow patients with rare diseases to participate in clinical drug studies without losing their eligibility for public assistance like Supplemental Security Income, SSI, and Medicaid. This bill provides potentially lifesaving treatments through clinical trials for those suffering with rare diseases, like cystic fibrosis, CF, a life-threatening genetic disease that affects about 30,000 people nationwide. This hits especially close to home for me because I have a staff member, Sage Streck, with CF, and she has participated in some of these trials that further drug research as they seek better treatments for rare diseases. About half of these patients are on Medicare or Medicaid and are eligible for SSI benefits.

Cystic fibrosis used to be primarily a childhood disease because people simply didn't live long enough to reach adulthood. But now, thanks to the many treatments discovered through clinical trials, the average life expectancy is 37 years old. Additionally, these advances in science allow CF patients to live more normal lives and not spend all their lives in hospitals or

using respiratory machines. The more CF patients can participate in clinical trials, the faster scientists can discover new treatments and eventually a cure.

Sage has personally seen in her lifetime five drugs that started in clinical trials and are now available to CF patients. Each medication has increased her quality of life and decreased the amount of time she has spent in the hospital or on IV antibiotics. There are more than 30 promising drugs in the research pipeline right now that the CF Foundation is calling miracle drugs so it is imperative that patients have access to clinical trials so these drugs can get on the market.

Under current law, the small compensation provided to trial participants, which averages around $500, is included as additional income that could cause a person to lose their public assistance benefits, like Supplemental Security Income, SSI, and Medicaid. These benefits are crucial for patients living with rare diseases. For instance, nearly 50 percent of the CF population uses SSI or Medicaid. As a result, patients choose not to enroll in clinical trials that could dramatically improve their lives out of the fear that they may lose the benefits on which they rely.

This bill allows patients with a rare disease to disregard up to $2,000 of compensation received for participation in a clinical trial in their SSI and Medicaid income calculations. Though it will have a negligible impact on the Federal budget, it will make a dramatic difference in the lives of those who will gain access to potentially lifesaving treatments by enrolling in clinical trials as well as all those in the future whose lives will be improved by the medical advances that arise from this research.

Please join me in supporting this legislation that will provide patients with rare disease access to potentially lifesaving clinical trials without losing their public assistance health benefits.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 266—RECOGNIZING THE CONTRIBUTIONS OF JOHN SWEENEY TO THE UNITED STATES LABOR MOVEMENT

Mrs. GILLIBRAND (for herself, Mr. SCHUMER, Mr. DURBIN, Mr. HARKIN, Mr. KERRY, Mr. DODD, Mr. WYDEN, Mr. MENENDEZ, Ms. STABENOW, Ms. KLOBUCHAR, Mr. CASEY, Mr. FRANKEN, Mr. BROWN, Mr. REED, Mr. SANDERS, Mrs. MURRAY, Mr. MERKLEY, Mr. LAUTENBERG, Mr. LEVIN, Mr. LEAHY, Mr. BEGICH, Mr. LIEBERMAN, Mrs. BOXER, Mrs. MCCASKILL, Mr. AKAKA, Mrs. SHAHEEN, Mr. KAUFMAN, Mr. WEBB, and Mr. TESTER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 266

Whereas John Sweeney was born in the Bronx, New York, to hard-working Irish immigrant parents, who instilled in him a sense of faith, a commitment to justice, and a love for the United States and its infinite potential to provide opportunity to all people;

Whereas John Sweeney was raised by his father, a bus driver, and his mother, a domestic worker, who both worked hard to allow him to attend St. Joseph's School, Cardinal Hayes High School, and Iona College, where he worked as a porter and a grave digger to help pay for his tuition;

Whereas because of his upbringing and his experiences growing up, John Sweeney gave up a high-paying career to dedicate his life to helping the labor movement and improving the lives of millions of working families across the United States;

Whereas John Sweeney's career in the labor movement has taken him from working on behalf of the factory workers of the International Ladies' Garment Workers' Union (ILGWU) and the doormen and cleaning women of the Service Employees International Union (SEIU) to being elected, in October 1995, to serve as the president of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO);

Whereas John Sweeney transformed labor organization and engaged the people of the United States on economic justice issues through methods such as the innovative ''Justice for Janitors'' campaign, while also nearly doubling the membership of the SEIU during his time as its president, making it the first union to reach 1,000,000 members;

Whereas John Sweeney led efforts at SEIU that resulted in landmark equal wage rulings for female building employees and launched an organization drive that gave nearly 20,000 home care employees a voice in improving their own income and working conditions;

Whereas John Sweeney has served as a transformational figure for millions of working individuals in the United States, and as president of the AFL-CIO, he has worked to revitalize and modernize the role of labor unions, train a new generation of organizers, promote diversity in union leadership, and make unions a driving force for social justice;

Whereas under John Sweeney's leadership, the National Labor College has become a first-rate institute of higher learning, providing an unparalleled opportunity for advancement to countless workers in the United States;

Whereas John Sweeney has fought on multiple fronts for legislation that advances justice, opportunity, and fairness for workers and their families, including legislation for a fair minimum wage, increased family leave, and improved worker health and safety rules;

Whereas because of his mother's experiences as a domestic worker, John Sweeney has personally dedicated himself to working on a Domestic Workers Bill of Rights for the State of New York;

Whereas John Sweeney has championed the effort to provide high-quality health care that is affordable and available to everyone in the United States; and

Whereas John Sweeney, as an author, father, grandfather, organizer, and inveterate advocate for the voiceless, continues to inspire a new generation of labor leaders: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the contributions that John Sweeney has made to the labor movement and to the lives of working men and women across the United States;

(2) congratulates John Sweeney on his decades of extraordinary and dedicated service; and

(3) honors John Sweeney for his commitment to economic and social justice and his tireless advocacy on behalf of the working families of this Nation.

SENATE RESOLUTION 267—SUPPORTING THE GOALS AND IDEALS OF NATIONAL OVARIAN CANCER AWARENESS MONTH

Ms. STABENOW (for herself, Mr. VOINOVICH, Mr. BENNET, Mrs. HUTCHISON, Mr. BAYH, Mr. FRANKEN, Mr. MENENDEZ, Ms. KLOBUCHAR, and Mrs. BOXER) submitted the following resolution; which was considered and agreed to:

S. RES. 267

Whereas ovarian cancer is the deadliest of all gynecologic cancers, and the reported mortality rate from ovarian cancer is increasing;

Whereas ovarian cancer is the 5th leading cause of cancer deaths among women in the United States;

Whereas the mortality rate for ovarian cancer has not significantly decreased since the ''War on Cancer'' was declared, nearly 40 years ago;

Whereas all women are at risk for ovarian cancer, and 90 percent of women diagnosed with ovarian cancer do not have a family history that puts them at higher risk;

Whereas the Pap test is sensitive and specific to the early detection of cervical cancer, but not to ovarian cancer;

Whereas there is currently no reliable early detection test for ovarian cancer;

Whereas many people are unaware that the symptoms of ovarian cancer often include bloating, pelvic or abdominal pain, difficulty eating or feeling full quickly, urinary symptoms, and several other symptoms that are easily confused with other diseases;

Whereas, due to the lack of a reliable early detection test, 75 percent of cases of ovarian cancer are detected at an advanced stage, making the overall 5-year survival rate only 45 percent;

Whereas, if ovarian cancer is diagnosed and treated at an early stage, before the cancer spreads outside of the ovary, the survival rate is as high as 90 percent;

Whereas there are factors that are known to reduce the risk for ovarian cancer and that play an important role in the prevention of the disease;

Whereas awareness and early recognition of ovarian cancer symptoms are the best way to save the lives of women;

Whereas, each year during the month of September, the Ovarian Cancer National Alliance holds a number of events to increase public awareness of ovarian cancer; and

Whereas the President has designated September 2009 as ''National Ovarian Cancer Awareness Month'': Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of National Ovarian Cancer Awareness Month.

SENATE RESOLUTION 268—RECOGNIZING HISPANIC HERITAGE MONTH AND CELEBRATING THE HERITAGE AND CULTURE OF LATINOS IN THE UNITED STATES AND THEIR IMMENSE CONTRIBUTIONS TO THE NATION

Mr. MENENDEZ (for himself, Mr. REID, Ms. STABENOW, Mr. BINGAMAN, Mr. DURBIN, Mr. SCHUMER, Mrs. MURRAY, Mr. UDALL of New Mexico, Mr. BEGICH, Mr. BROWN, Mr. CARDIN, Mr. WHITEHOUSE, Mr. KERRY, Ms. MIKULSKI,