House of Representatives

The House met at 9 a.m. and was called to order by the Speaker.

PRAYER

The Chaplain, the Reverend Patrick J. Conroy, offered the following prayer:

Loving God, we give You thanks for giving us another day.

During these cold, early darkening days, we ask Your special blessing upon those who labor in the Nation’s Capitol.

Help the Members of the House, and those of the Senate, to act wisely and carefully in the important work they do. In the waning days of the session, may they continue to heed the voices of all their constituents, both those who voted for them and those who did not.

May all that is done within the people’s House be for Your greater honor and glory.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day’s proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from North Carolina (Mr. BUDD) come forward and lead the House in the Pledge of Allegiance.

Mr. BUDD led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to five requests for 1-minute speeches on each side of the aisle.

12 DAYS OF SALT

(Ms. SHERRILL asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SHERRILL. Madam Speaker, on the seventh day of SALT, my constituents have said to me that we cannot fix the SALT deduction cap by simply slaughtering our State and local taxes because these taxes fund critical community priorities like our public school system.

I am incredibly proud that New Jersey’s public school system was just ranked number one in the entire country. A number of factors go into that achievement, including student achievement, the success of students once they leave school, and school funding.

Madam Speaker, New Jersey ranks third in the country in the percentage of our tax dollars allocated to education. That is because our residents know that investment in our schools is a downpayment on a bright future. It is why so many families make New Jersey their home.

This investment benefits not only New Jersey. Our students grow up to work, serve, and lead in organizations across the Nation and around the globe. That includes four—yes, four—NASA astronauts produced by the public schools in my congressional district alone.

We need to restore the SALT deduction cap and stop penalizing States like New Jersey that prioritize investment in our children and the professionals who educate the next generation, investments that benefit the entire country.

REMEMBERING THE LIFE OF CAMERON WALTERS

(Mr. CARTER of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER. Madam Speaker, I rise today to remember the life of Mr. Cameron Walters, who passed away at the age of 21 on Friday, December 6, during the barbaric attack on Naval Air Station Pensacola.

Originally from Richmond Hill in the First Congressional District of Georgia, Mr. Walters was a pilot in training at the naval air station.

He had recently passed an exam in order to stand watch over the entrances to the station, and when the shots rang out, it was his first time on guard duty.

Before the tragic attack, Mr. Walters joined the Navy to follow in his father’s footsteps and build a better sense of purpose in life.

His father remembers that when he graduated boot camp, the grin on his face said it all. He was so proud to have the opportunity to earn his wings as a Navy airman.

For his friends and classmates, his bright personality and sense of humor could light up any room he walked into. It is truly devastating that Mr. Walters’ life was cut so short by this tragic event, a life which had so much enthusiasm to serve his country and make this world a better place to live.

Mr. Walters’ family and friends will be in my thoughts and prayers during this most difficult time.

HOUR OF MEETING ON TOMORROW

Ms. ROYBAL-ALLARD. Madam Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon tomorrow.

The SPEAKER pro tempore (Mrs. FLETCHER). Is there objection to the request of the gentlewoman from California?

There was no objection.
URGING SUPPORT FOR PASSAGE OF ELIJAH E. CUMMINGS LOWER DRUG COSTS NOW ACT

(Ms. ROYBAL-ALLARD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROYBAL-ALLARD. Madam Speaker, I am proud to be voting today for the passage of the Elijah E. Cummings Lower Drug Costs Now Act, a bill to lower healthcare costs by allowing Medicare to negotiate lower drug prices for certain high-cost drugs.

I am confident that H.R. 3 will reinvest the savings from these drug negotiations into a transformational expansion of Medicare benefits, which includes routine vision, hearing, and dental care.

I have fought for years to include these critical services in my Seniors Have Eyes, Ears, and Teeth Act because they will prevent healthcare costs and suffering due to senior accidents, falls, cognitive impairment, oral cancer, and increased chronic conditions.

Most importantly, giving our older adults the gift of hearing, vision, and oral health would go a long way to helping them enjoy their golden years free from depression and social isolation.

It is time to recognize total healthcare for our seniors must include adequate access to vision, hearing, and dental services.

I urge my colleagues to vote “yes” on H.R. 3.

CELEBRATING NATIONAL GUARD ANNIVERSARY

(Mr. SPANO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SPANO. Madam Speaker, I rise today to wish a happy birthday to the Army and Air National Guard.

Today, the Army and Air National Guard are made up of 184,000 heroes, past and present.

Established in 1636, our Nation’s first militia units organized in the Massachusetts Bay Colony and were referred to as Minutemen during the Revolutionary War.

Today, the Army and Air National Guard are made up of 184,000 heroes who bravely stepped up to defend our freedom.

They made history by forming one of the first all-African American units during the Civil War. They contributed 50,000 personnel following the 9/11 attacks. As I speak, they help secure our southern borders.

More importantly, the National Guard sets itself apart as each member is sworn to uphold two constitutions, both Federal and State.

Most of us are familiar with Guard units helping communities deal with floods, tornadoes, hurricanes, snowstorms, and other emergencies. But in times of civil unrest, the citizens of a State can rest assured that the Guard will be ready, if needed.

These incredible Americans deserve to be recognized and celebrated for their long and continued service to our Nation. So on behalf of a grateful Nation, I thank them for their sacrifice and commitment.

ANTI-SEMITISM THREATENS OUR COUNTRY

(Mr. GOTTHEIM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOTTHEIM. Madam Speaker, I rise today because violent anti-Semitism continues to threaten our country, including in my home State of New Jersey.

Investigations are still underway, but I was devastated to learn that the victims in a kosher market in Jersey City, New Jersey, were likely targeted because they were Jewish.

All Americans should be outraged when fellow citizens are targeted simply because of their religion. The Anti-Defamation League has reported that anti-Semitism remains at near historic levels, with New Jersey ranked third in the Nation last year.

We must stand together now to denounce hate targeted at anyone and prevent more violence.

New Jersey stands together to honor the police officers harmed in the attack, who were doing what they do every single day, getting our backs, especially Detective Joseph Seals, a wonderful father of five beautiful children and a 15-year police veteran who gave his own life protecting his community.

We mourn with his loved ones, and our prayers are with the officers and community members still recovering.

Together, as one New Jersey, and as Americans, I know we can combat this hate, which has no place in our community, in the State of New Jersey, or in our country.

May God continue to bless the people of Jersey City, the State of New Jersey, and the United States of America.

HONORING THE LIFE OF COLONEL JOHN EDWARD GRAY

(Mr. BUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUDD. Madam Speaker, I rise today to honor the life of retired Colonel John Edward Gray of Mount Ulla, North Carolina, who passed away earlier this month at age 94.

Colonel Gray was born in Cleveland, North Carolina, on August 24, 1925, and went on to serve in five campaigns against the Japanese in the Pacific theater in World War II.

Following the war, he returned home and resumed his education at Davidson College. After he graduated in 1949, he served again in both the Korean and Vietnam wars.

Selfless, legendary, valiant are all the words that come to mind when thinking about all that this man accomplished in his life.

Colonel Gray is survived by his wife of 72 years, Sue, and his 5 children, 12 grandchildren, and 1 great-grandchild.

Madam Speaker, please join me in honoring the life of Colonel John Edward Gray.

TOWNHALLS ESSENTIAL TO CONGRESSIONAL WORK

(Mr. DELGADO asked and was given permission to address the House for 1 minute.)

Mr. DELGADO. Madam Speaker, I rise today because tomorrow I will be holding my 3rd town hall since being sworn in, with three in each of the 11 counties making up my district.

I promised my constituents that I would be transparent, accountable, and accessible. New York Congressional District 19 is nearly 8,000 square miles, larger than Connecticut and Rhode Island combined. In the past year, we spent hours in the car, driving in the rain, snow, and sleet to meet folks where they are.

We have held town halls in fire departments, schools, small businesses, and theaters, and even had crowds spilling into the hallway. When the broadband signal was strong enough, the entire conversation was streamed on Facebook Live.

These open forums are essential to my work to represent our district. That is how democracy is supposed to work: Civil conversations with constituents, finding common ground, and concluding with legislation reflecting the needs of the community.

Townhalls are a true highlight of my first year in office, and we are just getting started. I look forward to meeting more folks tomorrow at the Highland Middle School in Ulster.

COMMEMORATING 150TH ANNIVERSARY OF GARDEN CITY

(Miss RICE of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Miss RICE of New York. Madam Speaker, I rise today to commemorate the 150th anniversary of the founding of my hometown, Garden City, New York.

As the first planned suburban community in the United States, the village of Garden City is steeped in history.

Home to Mitchel Air Force Base, Garden City has played a critical role in our Nation’s aviation industry. It was here where our Nation’s first fighter pilots were trained during World War I. During World War II, the airbase played a pivotal role in defending our Nation’s Eastern seaboard and later served as a staging ground for the European air campaign against Nazi Germany.

Garden City is also at the epicenter of countless cultural and tourist attractions on Long Island, including the
December 12, 2019

CONGRESSIONAL RECORD—HOUSE

H10129

The Speaker pro tempore (Ms. DelBene), pursuant to House Resolution 758 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 3).

Will the gentlewoman from Texas (Mrs. Fletcher) kindly take the chair.

Mr. WALDEN. Madam Chair, I yield myself 1 minute.

Madam Chair, with this legislation, Democrats are fulfilling our pledge to the American people in passing legislation that will bring down prescription drug costs for the people. That is one of the three central pillars of our For the People Agenda.

With H.R. 3, the Elijah E. Cummings Lower Drug Costs Now Act, we are delivering for the people. This legislation, named in memory of our dear friend and our colleague, Elijah Cummings, who fought so hard to lower the cost of prescription drugs, will give Medicare the power to negotiate directly with drug companies, which will help bring drug prices down, as we do now, Madam Chair, for our veterans.

It will make those lower drug prices available to Americans with private insurance as well—not just Medicare, but with private insurance—and it will create a new out-of-pocket limit of $2,000, a cap on out-of-pocket expenses for prescription drugs for those on Medicare part D.

According to the nonpartisan Congressional Budget Office, H.R. 3 will save American taxpayers approximately half a trillion dollars over the next 10 years.

Now, H.R. 3 reinvests those savings, Madam Chair, in key initiatives, including expanding Medicare benefits to cover dental, vision, and hearing services; investing in new research, treatment, and cures; and combating the opioid crisis—all three objectives that the American public overwhelmingly support.

President Trump, Madam Chair, promised in 2016, before his election, that he would work to negotiate lower drug prices, something this bill would give his administration the authority to do. For that reason, he ought to support it.

He said in 2016: "When it comes time to negotiate drug prices, we are going to negotiate like crazy." He said that in a campaign setting. Hopefully, he still believes that today.

I hope he will join in encouraging the Senate to take up H.R. 3, because in 2018, he said this: "One common cancer drug is nearly seven times as expensive for Medicare as it is for other countries. . . . This happens because the government pays whatever price the drug companies set without any negotiation whatsoever." So said President Trump on October 25, 2018.

He went on to say just 2 months ago, in October: "... we want to bring our prices down to what other countries are paying, or at least close. . . . Madam Chair, that is what this legislation does.

President Trump went on to say: "... and let the other countries pay more. Because they're setting such low prices that we're actually subsidizing other countries, and that's just not going to happen anymore."

Those were remarks before the Cabinet meeting on October 16, 2019, just a few weeks ago.

That is what this legislation does. That is why the Senate ought to pass this legislation and the President ought to sign it. I hope he will join us in encouraging the Senate to take up H.R. 3 immediately. And I urge the President to reverse his opposition to this bill and sign it, his opposition being totally inconsistent with those three quotes that I just articulated.

Too many Americans, Madam Chair, are struggling to pay for their prescription drugs. I have heard awful stories from constituents in my district, as I know every one of us has, about families rationing insulin and having to forego rent or food or other necessities in order to pay for their prescription drugs. That is not an option. Without them, their health will deteriorate, and, yes, they may die.

One senior from Clinton, Maryland, in my district, wrote to tell me that one of her prescription drugs more than doubled in price, and she left the pharmacy empty-handed because she couldn't afford it.

With H.R. 3, we can bring relief to people like her.

With H.R. 3, we can lower the cost of prescription drugs so that Americans can live healthy lives and pursue their American Dream.

Madam Chair, I want to thank Chairwoman Pallone, Chairman Neal, Chairmen Scott, and their committees for working hard on this bill to help Americans lower their prescription drug costs and live longer and healthier lives.

Madam Chair, this should not be a partisan issue. The President articulated the desire to achieve the objective of bringing prices down. That is what this bill does. That is what CBO says it does. So I urge my colleagues to support this.

Now, Madam Chair, I know you could do this, but I want to do it because I am so proud not only of Haley Stevens, who is an extraordinary Member of the Congress of the United States, a wonderful member of the previous administration, and somebody who has worked in the private sector and the public sector and who has been elected president of your class, Madam Chair, the freshman class, an extraordinary group of 63 people, but if we count our friend Conor Lamb, who was elected in a special election just before you—and he, of course, lords it over you that he is a senior member of the freshman class; I understand that.

But Haley Stevens leads an extraordinary group of 63 people who have contributed so much to our society already in their lives, in their productive, constructive lives, and now have come to the Congress. And they came with a promise to do three things, at least.

Number one, to help with wages and jobs and opportunities; Number two, to bring prescription costs down; and Number three, to invest in infrastructure.

In this bill, we meet one-third of those promises, and they have made it possible.

Madam Chair, I yield the balance of my time to the distinguished Whip of Michigan (Ms. Steversons), the president of the freshman class, so she may manage the remainder of the time.

Ms. STEVENSONS. Madam Chair, I reserve the balance of my time.

Mr. WALDEN. Madam Chair, I yield myself 1 minute.

I appreciate the distinguished majority leader's comments about President Trump.

I have been around Congress for 21 years, and I have never seen a President, either party, move more forward in trying to get down the cost of prescription drugs, to give taxpayers more of their hard-earned income, to get an
economy up and running like we have never seen it before, to tackle the issue of unemployment and get unemployment numbers down to the lowest level in 50 years in every category all across the country, and to reduce the burdens of overregulation. President Trump has done all those things.

He also has called for getting down the price of prescription drugs. I have been in several meetings where he has done that, and I share his passion for that, and I know he wants a bipartisan bill that can become law and be put on his desk.

Everything you heard from the distinguished majority leader about President Trump’s views are accurate, but he actually read H.R. 3. And if you read the Statement of Administration Policy, he recognizes that this goes too far and he would have to veto it, that it is a partisan-only bill—partisan only.

And here is part of the problem with H.R. 3: It hands the government a club. There is no negotiation in here. If you don’t agree to what the government says the price should be, the government in Washington comes after your revenues, and up to 95 percent of your revenues for selling that drug they can just come and take.

By the way, when you throw in the cost of taxation and everything else, it is well over 100 percent that a drug manufacturer who is innovating some new drug and has the patent for that great American innovation, the government says: If you don’t sell it for what we want within a band, we are taking it. We are not taking your patent—well, they might come back and do that in another iteration, but: What we are doing is taking all the revenues. We will bankrupt you.

That is why 138 different small innovative startup innovators in this space wrote to the Speaker and the Republican leader. And I want to quote from their letter. It says: We represent the community of emerging biotechnology companies whose researchers and scientists strive daily to develop innovative life-changing therapies and cures for patients. We take pride that we are providing hope to patients and their families and changing the world through medical breakthroughs. These dreams will be shattered if H.R. 3, the Lower Drug Costs Now Act, is passed.

Unfortunately, H.R. 3 is an unprecedented and aggressive government intervention in the U.S. market of drug development and delivery that will limit patient access to these extraordinary advancements in health care. This legislation would expand the current U.S. biomedical innovation, destroying our ability to attract private investment dollars that allow us to develop new treatments and change the course of healthcare delivery for so many patients.

We strongly urge you to abandon H.R. 3. Further, in order to keep pace with this biomedical revolution and ensure America remains the world leader in innovation, we hope that you will pursue bipartisan, holistic policies that modernize our health care payment system and lower drug costs for patients.

Sincerely,

Adelene Perkins, Chair & CEO, Infinity Pharmaceuticals; Adrian Gottschalk, President & CEO, Foghorn Therapeutics; Alden Fritchard, CEO, Kalo Therapy Inc.; Alex Nichols, PhD, President & CEO, Mythic Therapeutics; Amit Munshi, President & CEO, Arena Pharmaceuticals Inc.; Andre Turene, President & CEO, Octurnal Therapeutics, Inc.; Armando Anido, Chairman & CEO, Zymeworks; Brian Bolt, Co-Founder, President & CEO, Inozyme Pharmaceuticals; Barry Quar, President & CEO, Heron Therapeutics; Bassil Dahiyat, President & CEO, Xencor, Inc.; Bill Enright, CEO, Vacctimech, Ltd.; Bill Newell, CEO, Sutro Biopharma; Blake Wise, CEO, Achaogen; Bonnie Anderson, Chairman & CEO, Veracyte, Inc.; Bradford Zakes, President & CEO, Cerevast Therapeutics; Brandi Simpson, CEO, Navient Pharmaceuticals; Brooklyn Lung Therapeutics, Inc.; Briggs W. Morrison, MD, CEO, Syndax Pharmaceuticals; Bruce Clark, PhD, President & CEO, Zydus Pharmaceuticals; Casey Lynch, CEO, Cortexxide; Cedric Francois, Co-Founder, CEO & President, Apellis Pharmaceuticals; Chris Gibson, Co-Founder & CEO, Recursion; Christopher Barden, CEO, Treventis Corporation; Christopher Burns, PhD, President & CEO, Axovia Pharmaceuticals, Inc.; Christopher Schaber, President & CEO, Soligenix, Inc.; Ciara Kennedy, PhD, CEO, Amrylxy Pharmaceuticals; Clay Geigl, President, CEO & Chairman, Seattle Genetics; Craig Chambliss, President & CEO, Neovii; David Baker, President & CEO, Valbon Pharmaceuticals; David Bears, Founder & CEO, Tolero Pharmaceuticals; David de Graaf, PhD, President & CEO, eMerck Pharmaceuticals, Inc.; David Donabedian, PhD, Co-Founder & CEO, Axial Biotherapeutics; David Lucchino, President & CEO, Frequency Therapeutics Inc.; David Mazzo, President & CEO, Caladrius Biosciences; David Meeker, CEO, KQX Therapeutics; Doug Kahn, Chairman & CEO, TetraGenetics, Inc.; Douglas Doerfler, President & CEO, MaxCyte, Inc.; Dr. Elizabeth Poscillo, President & CEO, EliuSys Therapeutics, Inc.; Eric Schuur, CEO, Tensorx Therapeutics; Erle Schum, President & CEO, HopaTx Corporation; Erika Smith, CEO, ReNetX Bio; Francesco LePort, Founder & CEO, Gordian Biosciences; Gail Maderis, President & CEO, Antiva Biosciences; Gary Phillips, President & CEO, Orphan Medical; Georgie Milhorman, President & CEO, Elseula Oncology, Inc.; George Scangos, CEO, VIR Bio-technology; Gil Van Bokkelen, Founder, Chairman & CEO, Alnylam Pharmaceuticals; James Breitmeyer, President & CEO, Oterna Therapeutics, Inc.; James Flanigan, CEO, Honeycomb Biotechnologies; James Sapirstein, President & CEO, AzurRx BioPharma; Jay Evans, President & CEO, Inimmune Corporation; Joe Kelper, CEO, Nimbus Therapeutics; Jeff Cieland, PhD, Executive Chair, Orphesis, Inc.; Jeff Jonker, President & CEO, Ambs Medicines; Jeff Kindler, CEO, Centrexion Therapeutics; Jeremy Friedman, Co-Founder & CEO, Ovid Therapeutics, Inc.; Joe Payne, President & CEO, Arcutis Therapeutics Inc.; John Crowley, Chairman & CEO, Amicus Therapeutics, Inc.; John Jacobs, President & CEO, Harmony Biosciences; John Marzannik, President and CEO, Pharmaceuticals; Julia Owens, President & CEO, Millendo Therapeutics, Inc.; Justin Gover, CEO & Executive Director, Greenwich Biosciences; Liane Boxonne, CEO, Casma Therapeutics; Keith Murphy, Founder, CEO & President, Viscient Biosciences; Ken Mills, CEO, REXENTX Inc; President & CEO, Cognition Therapeutics; Kent Savage, CEO, PhotoPharmics, Inc.

Kevin Gorman, CEO, Neurocure Biosciences; Kiran Reddy, MD, CEO, Praxis Medicine; Lawrence Brown, CEO, Galactia Pharmaceuticals; Lorenzo Paleologo, Founder, Palladio Biosciences; Marc DeGardel, Chair & CEO, Corvidia Therapeutics; Marilyn Bruno, PhD, CEO, Aequor, Inc.; Mark Leshnower, Executive Chair, Aleta Biotherapeutics; Mark Pruzanski, MD, President & CEO, Intercept Pharmaceuticals, Inc; Mark Timmey, CEO, Aegle company; Markus Renesch, MD, President & CEO, Cyteir Therapeutics.
Mr. WALDEN. Madam Chair, I know the Democrats yesterday said: We don’t care. It is worth it. We don’t need all those cures.

That is, in effect, what they said.

And then they said: Oh, those are just somebody’s talking points.

No. This is the Congressional Budget Office’s independent analysis that said that

H.R. 3 will let cures right out of the gate in the next two decades because of

H.R. 3, and that for every year thereafter in the 2030s, we will lose 10 percent of what we otherwise would have.

Is that the cure for Alzheimer’s? Rheumatoid arthritis? ALS? Parkinson’s?

That is what Democrats are saying they don’t care about, that it is worth it to let those go in order to force the government price in this market.

We don’t think that has to be the case. I don’t think it is an either/or choice. They are making it that with

H.R. 3.

I think we can have innovation without the heavy-handed club muffing innovation that will stop 45 of the companies when they don’t agree with what the government sets as the price.

And we know in foreign countries that they want to model America after, upwards of 40 percent of cancer drugs are not available in those countries, and they are available here in the United States.

You can go across every one of the six indicator countries, look at how they control drug costs, and, yes, they do have lower drug costs—and that is why we have innovation, so we can get lower drug costs in these trade agreements and stop getting ripped off—but what they do to really control is they control access.

There was a lot talked about in terms of death panels when ObamaCare was considered. This bill actually represents that.

We are told that by the people who innovate in this space that they will not be able to continue to innovate as they have in the past and that drugs that save lives will not be available because they won’t be invented.

That is not just my words. That is the Congressional Budget Office; that is the Council of Economic Advisers.

There isn’t a think tank out there yet that I have seen, no independent analysis that says H.R. 3 is going to do anything but that.

We have bipartisan legislation in our substituting that will bring down prices, bring down drug costs, bring about transparency, put a cap on what seniors spend on their insulin cost issue, and it can become law.

Madam Chair, I reserve the balance of my time.

Ms. STEVENS. Madam Chair, I yield myself as much time as I may consume.
H.R. 3 is a long overdue change to the way we do business around here. This will untie the hands of the Federal Government to negotiate prices for the oldest and most expensive drugs in Medicare part D and apply those prices to all Americans. In my district, in Michigan’s 11th District, southeastern Michigan, H.R. 3, the Lower Prescription Drugs Now Act stands to benefit over 100,000 people enrolled in Medicare part D alone, as well as over 600,000 people who are enrolled in privaten health insurance.

We all know someone who has had their life impacted by cancer, whether it be a parent, a cousin, a relative, a dear friend. For the 9,000 women diagnosed with breast cancer in Michigan this year, H.R. 3 will lower their medication by 65 percent from $69,000 to $23,000 per year. For the 4,500 Michiganders diagnosed with prostate cancer this year, H.R. 3, the Lower Prescription Drugs Now Act will lower the cost of medication from over $100,000 to $70,000 per year. And the list goes on.

Many of these patients live as close as a 10-minute drive from Canada in Michigan where Canadians are paying cents on the dollar for the exact same drugs. We ask why should that be in a country as wealthy, as prosperous, as innovative, as creative, and successful as ours? Drugs like insulin. H.R. 3 will finally level the global playing field for Americans.

The tremendous savings generated from H.R. 3, the Lower Prescription Drugs Now Act, will go right back into the research to develop new drugs with some of the savings also bringing us one step closer to stemming the devastating tide of the opioid epidemic. I ask my friends to join me in commandeering this opioid epidemic that is ravaging far too many communities across this beautiful country. Far too many communities. Where recent graduates from high school say we go to our high school reunions in graveyards, in cemeteries because of this opioid epidemic.

I am proud that this historic piece of legislation also includes a bill that I had the privilege of authoring to lower prescription drug costs for lower-income, older adults, who are enrolled in the lowest cost part D plan that covers their medication needs.

The time is now, and I urge my colleagues to impose on them, to follow the will of their constituents and pass H.R. 3, the Lower Drug Costs Now Act of 2019.

Madam Chair, I reserve the balance of my time.

Mr. WALDEN. Madam Chair, I yield myself such time as I may consume.

It is important to know that in our substitute we cut the costs of cancer treatment for seniors in half, as well. There is bipartisan agreement on this. In fact, everything in our substitute is bipartisan.

It is also important to note that in Canada it takes 14 months longer to get access to miracle new medicines compared to what we have in America. They have 52 percent of the medicines that we have here. They have 60 percent of the cancer medicines. That means 40 percent of the cancer medicines, the latest cutting-edge ones, the ones we read about and see on “60 Minutes” that are curing cancer here in America, you can’t get in Canada. I don’t want to import that here.

And when it comes to reducing access to drugs, they are bilateral. Nobody has done more to deal with that than the gentleman from Michigan, former chairman of the committee, FRED UPTON, who led the effort with Cures to get more research in the National Institutes of Health.

Madam Chair, I yield 3 minutes to the gentlemen from Michigan (Mr. UPTON).

Mr. UPTON. Madam Chair, I thank the gentleman for yielding.

I thank the Democratic leadership for, I think the first time this year, allowing our side to actually have a substitute to a major piece of legislation. And I thank our leadership, because that substitute is not a bipartisan substitute but, rather, a bipartisan substitute. In fact, every single provision in this bill has got strong bipartisan support, which was packaged together. Tomorrow will mark the third anniversary of President Obama’s signing of 21st Century Cures, a bill that DIANA DeGETTE and I helped shepherd through our committee on a unanimous vote, and we passed here in the House 392–26.

21st Century Cures increased NIH funding by some $45 billion over a 10-year span. It sped up the approval of new drugs and devices, and just after 3 years we have seen the number of cell, gene, and nucleoid therapies have more than doubled. In fact, research this last year will actually exceed $13 billion. The FDA is predicted to approve as many as 20 gene therapy drugs by the year 2025. That is wonderful news.

We all want to do something about drug prices, and that is what a vote for our substitute, H.R. 19, will do. The President will sign that bill, but he is not going to sign this bill, H.R. 3, because it is going to slow down the ability to find the cures that we want to find for these awful diseases.

Now, those aren’t my words. That is the CBO, a nonpartisan group, it is the CEA, the Council of Economic Advisers.

But in today’s “Wall Street Journal,” the former director of the FDA, Scott Gottlieb, writes, “This week the House will vote on legislation known as H.R. 3. The price-control approach would eliminate or reduce returns from biotech investment, raising the cost of capital for these invaluable endeavors.” He is right on. We want to find new cures. We want to find new technologies and to use those.

We want to increase investment in these invaluable endeavors. Madam Chair, I include the “Price Controls Would Stifle Biotech Innovation” in the RECORD.

PRICE CONTROLS WOULD STIFLE BIOTECH INNOVATION

A House price-control bill would do the most damage to transformative and life-saving medications.

(By Scott Gottlieb, Dec. 11, 2019)

Victoria Gray of Mississippi recently became the first U.S. patient with a genetic disorder to be treated using the Crispr gene-editing technique. Doctors used a novel drug to correct the function of a faulty gene that gave rise to her sickle-cell disease. Advances in life science can define this century, but policy makers must resist the urge to use price controls for cancer drugs and punish drugmakers for taking risks.

The convergence of information technology and biology allows scientists to translate the human genome into digital data that can accelerate diagnoses and cures. Over the next decade, it is a near certainty that we will have gene-therapy cures for deadly inherited disorders such as muscular dystrophy. Cell-based and regenerative medicine can restore human functions lost to disease, including returning some sight to the blind. Gene editing will take other DNA to erase the origins of a range of debilitating inherited disorders.

There are only some of the opportunities at hand. Yet bad policies could sap the risk-taking that brings forth the most important innovations. For instance, the Lower Drug Costs Now Act would eliminate biotech drugs to government price controls. The high-cost drugs lawmakers target are often the most innovative and potentially transformative new medicines.

The House will vote on legislation, known as H.R. 3.

The price-control approach would increase uncertainty and reduce returns from biotech investment, raising the cost of capital for these invaluable endeavors. It would alter incentives and shift money from the most speculative but highest-value science, including regenerative medicine and gene editing. Money would flow instead to known disease areas and well-characterized targets, using proven approaches such as pill-form drugs.

New and high-risk drug platforms like gene therapies are often targeted first to treat rare and serious conditions, so they are proven to work safely, they will be used to treat more common maladies, such as heart disease. This is how medicine advances. But if investors knew their returns would be capped, they would direct their investments toward safer projects with lesser payoffs. We would still get new drugs, but the treatments would be very different.

Fifteen years ago, the standard refrain from drug-industry critics was that all the big drugmakers did was develop “me too” medicines—the seventh version of a blood-pressure pill or a cholesterol-lowering statin. In response, the federal government took steps, some of which Congress Part D, to encourage investment in “speciality” drugs that were more novel.

Since then, investment capital has shifted sharply away from cancer and other diseases to receive substantially more attention and resources. The number of cell, gene and nucleotide therapies in development has more than doubled, and there has been a tripling of what the Food and Drug Administration approved over the past three years, with 800 similar kinds of products in various stages of development. An assessment of the current pipeline and historical success of such drugs suggests that by 2025 the FDA will be approving 10 to 20 gene-therapy drugs a year. Progress
is especially strong in oncology. The number of cancer drugs in development has quadrupled since 1996. These specialty drugs often aren’t cheap. They target new conditions for which the cost of risk-taking and drug development is amortized over a smaller number of eligible patients. High-level drug platforms can also cost more initially to perfect. Based on my informal survey of companies, enrolling a single patient in a clinical trial for a gene-altering drug often costs between $500,000 and $700,000 and can reach as high as $1 million.

To support this innovation, total spending on research and development by the largest drugmakers topped $100 billion in 2018, up 32 percent in the past five years. A cancer cure, or a gene-therapy remedy, can sharply reduce the lifetime cost of treating a debilitating disease. It can dramatically alter the length and productivity of people’s lives. But high-cost treatments can pricing out a growing number of underinsured patients, keeping them from using medications that could alter their providence. This is unacceptable.

The generic market also allows specialty drugs more affordable without eroding the incentives that drive capital into the riskiest but most promising endeavors. One is to help secondary patients use second-line drugs. We have seen firsthand the different families impacted by these awful diseases, whether they are the investments that critics who lamented, we can create a new regulatory designation to streamline development of a competitive generic product and select to real-world, post-approval settings.

Many drugs targeted by H.R. 3 for government price controls are examples of the innovation we should try to encourage. In fact, they are the investments that critics who griped about me-too medicines said they wanted. Now the same crowd is crafting policies they think will reduce investment back into the more mundane endeavors they once lamented.

Mr. UPTON. Madam Chair, I have served on the Health Subcommittee for all my days on the Energy and Commerce Committee, and we have seen firsthand the different families impacted by these awful diseases, whether it be Alzheimer’s or sickle cell, cystic fibrosis, or cancer.

Just this last week, we witnessed real advancements, we think, in pancreatic cancer stage III, stage IV. SMA, spinal muscular atrophy, a disease that is often fatal by the year 9 or 10; we saw what had been only palliative drug for 15 days, and for the first time she could actually move her neck after more than 10 years literally trapped in a wheelchair.

If we want to find the advancements and cures for these diseases, we need to pass H.R. 19.

I urge my colleagues to vote for that substitute and get a bill to the President that he will actually sign, and we can get something done.

Ms. STEVENS. Madam Chair, I yield 1½ minutes to the gentleman from Washington (Ms. DELBENE).

Ms. DELBENE. Madam Chair, I thank the gentlewoman for yielding. I rise today in support of H.R. 3, the Elijah E. Cummings Lower Drug Costs Now Act.

The rising costs of prescription drugs is one of the top issues I hear about from my constituents, and it has been getting worse for the last 2 years. This year alone, I have received nearly four times as many calls and letters about prescription drug prices than all of last year. And there are many, many stories, but I would like to share one today to remind us why this legislation is so necessary.

A constituent of mine, Dana from Kenmore, Washington, has lived with type 1 diabetes for nearly 14 years. When Dana was first diagnosed, insulin cost her $30 each month. Today that same insulin costs over $650 per month. That is an 11 percent increase for the exact same product.

We talked about innovation, but there have been virtually no changes to insulin since Dana’s diagnosis, so the price spike is inexplicable.

Dana is not only a diabetes patient, but she is also a nurse practitioner and a diabetes educator. And she has told me about her patients that go to Canada where they can get insulin for just $10 a month. She has also shared stories of her own patients who can’t afford their medications, who ration their insulin, which we know can lead to poorer health, vision loss, kidney failure, and even death.

H.R. 3 will finally give the Health and Human Services secretary the power to negotiate a fair price for insulin, which will dramatically help patients like Dana and all the patients that she serves.

Madam Chair, I urge my colleagues to support this legislation.

Mr. WALDEN. Madam Chair, I yield 1 minute to the gentleman from Georgia (Mr. CARTER), Congress’s only pharmacist.

Mr. CARTER of Georgia. Madam Chair, I thank the gentleman for yielding.

We have a situation here where we all want the same thing. We all want to bring down prescription drug prices. We want the same thing. We need the same thing. We can achieve the same thing. We can achieve the same thing without taking the risk of drugs not coming to the market.

Physicians take an oath when they graduate from medical school, it is called the Hippocratic Oath. It says, “First, do no harm.” Now, whether you believe the Congressional Budget Office that it will bring eight to 15 drugs, or whether you believe the Council of Economic Advisers that it will be over 100 drugs, even if it is one drug, that is one drug too many.

It is simply a chance we cannot afford to take. Every one of us in this body knows a story, knows someone who has suffered from that awful disease Alzheimer’s. It is an awful disease.

Barbara Lutz tells the story about her husband, Richard, who suffered from Alzheimer’s disease. She tells the story about how she and her family suffered through that with him. Oftentimes, it is the caregivers who suffer so much.

Finally, Richard has succumbed to that disease after a 7-year fight. Now, people who are grieving or who have family and loved ones who are diagnosed with Alzheimer’s come up to Barbara and ask her: “What do I do? What do I do?” Barbara simply told me: “All I can tell them is to pray for a cure, or a gene-therapy remedy, can sharply alter the length and productivity of people’s lives. But high-cost treatments can pricing out a growing number of underinsured patients, keeping them from using medications that could alter their providence. This is unacceptable.

The generic market also allows specialty drugs more affordable without eroding the incentives that drive capital into the riskiest but most promising endeavors. One is to help secondary patients use second-line drugs. We have seen firsthand the different families impacted by these awful diseases, whether
over the interests of the American people and their health.

For far too long, American families have been forced to pay 4, 5, or even 10 times more for their prescriptions than patients in other countries.

Do my colleagues on the other side think that that is right, that your constituents are subsidizing the healthcare for people across the world when you have people in your own neighborhood who are rationing their medications, who are being forced to either ration their prescription or their rent, buy food, or take the necessary medication as prescribed by their doctors? Well, I don’t. I don’t think that that is a choice the American people should have to make.

Today, we are taking the necessary action to move this legislation forward, and I hope that my colleagues on the other side will work with us and that the President will work with us.

What my constituents tell me is not that they are Democrats, not that they are Republicans, not that they are independents. They tell me that they have diabetes, that they have heart disease, that they have cancer, that they have asthma, that they have HIV and AIDS, that they need healthcare and that they need the healthcare that they demand.

Madam Chair, I ask us to pass H.R. 3.

Mr. WALDEN. Madam Chair, may I inquire as to how much time each side has remaining.

The Acting CHAIR. The gentleman from Oregon has 18 minutes remaining.

The gentlewoman from Michigan has 17½ minutes remaining.

Mr. WALDEN. Madam Chair, I yield 1½ minutes to the gentleman from North Carolina (Mr. HOLDING).

Mr. HOLDING. Madam Chair, H.R. 3 is a shortsighted proposal and a bad deal for our constituents.

It will compromise the strong legacy of innovation that our Nation is proud of. It is a mistake to fundamentally change the market structure that makes America a viable market for cutting-edge innovation in biopharmaceuticals.

Government price setting will kill innovation in clinical areas where it is most needed. The pricing scheme outlined in H.R. 3 would disincentivize research and development for drugs that are first in their class, such as the future cure for Alzheimer’s or ALS.

Government controls will not only kill innovation but will also fundamentally change the doctor-patient relationship in this country. This bill would allow bureaucrats to make the most personal of choices about the course of treatment for our constituents. Treatment decisions in this country should be made between a patient and their physician and should not be based on the rationing of treatments by bureaucrats in foreign nations.

In North Carolina, H.R. 3’s pricing scheme would shatter the biopharmaceutical ecosystem that supports 40,000 jobs directly, 200,000 jobs indirectly, and generates $13 billion in economic output annually. That is just in North Carolina.

H.R. 3 would put small and mid-sized biotech firms out of business and threaten hundreds of thousands of our constituents’ jobs. We should reject it.

Madam Chair, I rise today to speak in favor of H.R. 3, the Elijah E. Cummings Lower Drug Costs Now Act, and I am eager to vote for this landmark piece of legislation today.

I am proud that we are here boldly taking a stand against the influence of special interests in Congress and a stand for the American people, to help them afford critical lifesaving medications.

Back home in Colorado’s Sixth Congressional District, when I am hosting townhalls or roundtables with families, college students, or seniors, I hear the same thing: Prescription drugs are too expensive, and Congress needs to act now.

Currently, as we stand here, one in three Coloradans can’t afford to pay for their basic medications and are having to either ration their medication or stop taking it altogether. This needs to stop now.

Thousands of Coloradans are diagnosed with cancer every year, and the treatments for these patients cost $100,000 or more. Instead of working to increase access and lower costs, the pharmaceutical companies are price gouging these patients, our constituents, across the country. This needs to stop now.

I am proud to have worked with my freshman colleague, Representative PORTER, to introduce H.R. 4663, the Freedom from Price Gouging Act, which has been included as a provision in H.R. 3. Our provision would hold these bad actors accountable and prevent them from raising the cost of prescription drugs past the rate of inflation. The CBO recently found that this measure would save American taxpayers $38 billion over the next decade.

Importantly, H.R. 3 gives the Federal Government the authority to negotiate prices for insulin and other lifesaving drugs.

As I stand here today, 300,000 Coloradans with diabetes will save up to 75 percent on their insulin under H.R. 3. It also caps the exorbitant amount that seniors have to pay for drugs that simply improve the quality of their life.

As I stand here today, hundreds of thousands of Coloradans with heart disease, asthma, arthritis, and cancer will directly benefit from H.R. 3.

On top of the drug pricing provisions, this bill invests billions in savings back into our healthcare system. $10 billion would go to our Nation’s community health centers, which serve over 29 million Americans from underserved communities.

It also invests $10 billion into the NIH and $2 billion into the FDA to promote research and drug safety. It invests another $10 billion to respond to our Nation’s opioid epidemic, which has destroyed far too many American families.

We cannot wait any longer while our neighbors’ and family members’ lives are at risk and while pharmaceutical companies continue to fill their pockets, making tens of billions of dollars, historic profits.

Americans rightly expect us to deliver on our promise to fight and reduce the cost of prescription drugs. That is why I will cast my vote as a “yes” today to deliver relief for my constituents and the American people.

Ms. STEVENS. Madam Chair, I yield myself 1½ minutes.

Ms. STEVENS. Madam Chair, I want to make clear that I am always willing to come to the other side of the aisle to work these things out.

All of us came here with similar cause and calling, to lower the price of prescription drugs, to stop the abuse and bad behavior of pharmaceutical companies when they keep generics from coming to market. But I don’t think anybody came here to take away cures for patients who come to our offices every year begging for a cure for Alzheimer’s, pancreatic cancer, or AIDS, you name the drug.

My mother died of ovarian cancer. My father had bladder cancer. My sister-in-law died of brain cancer. We lost a son to a heart defect. We all want cures.

We know by independent analysis that H.R. 3 denies access to cures. That is a fact. It is a fact that the Council of Economic Advisers says up to 100 cures will be lost. The Congressional Budget Office says in the next two decades, 38 cures would be lost. It doesn’t have to be that way.

We can lower drug costs. We can incent innovation. My friend from Michigan talked about being involved in the innovation world. This is a letter signed by 138 leaders of these incredible American innovators who beg us not to shatter the dreams of Americans, which they say H.R. 3 will do by completely upending the process.

That is why President Trump said he cannot sign this. Congress has ever leaned further than President Trump.

The Acting CHAIR. The time of the gentleman has expired.
Mr. WALDEN. Madam Chair, I yield myself 15 additional seconds.

We have an alternative. Everything in our substitute bill is bipartisan. Even if you feel like you have to vote for H.R. 3, there is no reason you should have to vote against the proposal in here. There is not a poison pill. They are all bipartisan. They will all bring meaningful relief to our folks at home, and nothing in here will reduce innovation.

Ms. STEVENS. Madam Chair, I yield 2 minutes to the gentleman from Arizona (Mrs. KIRKPATRICK).

Mrs. KIRKPATRICK. Madam Chair, I thank the Congresswoman for yielding.

I want to echo what I hear from my constituents: Do I put gas in my car, or do I buy my medication? Do I put food on the table for my family, or do I pay for my prescription drugs? Do I buy a generic drug here in the United States that costs $900, or do I drive to Mexico where I can buy it for $9?

There are real, lifesaving, life-or-death issues that we are dealing with. I want you to know this is personal to me because, when I was a 19-year-old waitress, I came home one night to my family, and my parents weren't home. They said, "Your mom took your dad to the hospital," and I drove to the hospital.

I said: "Okay, I will go check on him."

As I was walking in the door, the doctor walked out, and he said: "Your dad is dead."

That was due to a lack of healthcare, including prescription drugs.

□ 1000

He had an undiagnosed heart disease that could have been treated, and in this day and age it would not have been an issue. So I fully support H.R. 3. This is something that is critical to American families and they are dealing with every day.

A mother shouldn't have to decide if she is going to drive to Mexico, where she is not exactly sure if the drug she is purchasing for her child has the same standards and quality that she would get here in the United States.

So, Madam Chair, I urge my colleagues to support H.R. 3. This is life or death.

Mr. BRADY. Madam Chair, I yield 2 minutes to the gentleman from Ohio (Mr. WENSTRUP), who is a key leader on healthcare on the Ways and Means Committee.

Mr. WENSTRUP. Madam Chair, 26 years ago, my sister had two forms of leukemia that most people die from immediately; but because of earlier clinical trials and innovative treatments, there was a way to get some leukemia patients into remission.

Then we developed bone marrow transplants, and I matched her for that.

Five years later, they called her a cure.

Today, my sister is alive, working, raising a family, and we have treatments for leukemia that lead to a cure without even needing bone marrow transplants.

These treatments are just steps in finding cures; and, as we work to lower prescription drug prices, I want to make sure that we are looking at it from all angles. We need to be aware of the impacts on the quality of and access to care when considering effective solutions to lower drug prices. H.R. 3 takes a big step towards putting a knife in the heart of the pillars of research and development that have helped make America the leader in health innovation.

Relying on foreign countries to set our prices is misguided. I don't want to see the U.S. be controlled or manipulated by an arrangement some other cabal of countries makes to affect our markets and our patients. Other countries do not always share the same priorities we do on access to quality care and saving lives.

What do we sacrifice with this bill? The best care? Cutting-edge research? A lifesaving drug? Unfortunatley, the approach before us today is a dangerous one. Government price controls and a looming threat of a 95 percent tax will dramatically hurt our country's ability to research and innovate new cures. Estimates show that the bill would lead to the loss of dozens of new drugs. That means fewer lifesaving drugs and fewer American lives saved.

As a physician, I can attest that every doctor's goal is to get the best treatment for their patients. We can do more without going and having this stop development and innovation.

The Republican alternative to this bill, H.R. 19, is bipartisan, and it is an effort to lower prescription drug prices while also ensuring patients' access to new medicines and cures.

Americans deserve to have a healthcare system that delivers treatments when they need it most and makes care more affordable.

Ms. STEVENS. Madam Chair, I yield 1 minute to the gentleman from California (Mr. Rouda).

Mr. RODA. Madam Chair, I thank the gentlewoman from Michigan for yielding 1 minute.

Madam Chair, I rise today in support of H.R. 3, the Elijah E. Cummings Lower Drug Costs Now Act.

Earlier this year, Chairman Cummings and I joined our first Oversight and Reform Committee hearing to examine the impact of soaring prescription drug costs on our constituents. It is fitting we named this legislation to honor our friend who used his gavel to highlight the stories of Americans who are suffering and dying because they couldn't afford astronomical drug prices while living in the greatest and richest country in the world.

This bill would institute negotiation for fair drug prices, lower out-of-pocket costs for seniors, improve coverage for Medicare beneficiaries, and invest in innovative new treatment in our fight against the addiction crisis.

Madam Chair, I support this legislation because it would improve access to affordable prescription drugs for more than 600,000 of my constituents, and I urge my colleagues to support this legislation and ensure our constituents have access to lifesaving medication.

Mr. BRADY. Madam Chair, I yield myself 2 minutes.

So we have heard today that we should pass H.R. 3 because you can go to Canada and get medicines for pennies on the dollar. Here is what they don't tell you:

There are lots of medicines you can get for zero in Canada because they are not available. Canadians have access to about half of the lifesaving cures available here in America.

Guess where they come when they need that cure and that recent medical breakthrough? They come to America.

What happens when we start acting and behaving like Canada? Who is going to be our safety net?

Why should patients in America have to choose between affordable medicines and a lifesaving cure for Alzheimer's, ALS, Parkinson's, or cancer?

Why should parents and sick children in America be forced to wait longer for the newest drug breakthrough that could save their life? Why should Americans face a shorter life?

Because the costliest and most painful drug to me is the one that was never created.

At the depths of Nancy Pelosi's drug bill is a dangerous trade-off: lower drug prices in the short term, but fewer lifesaving cures in the future.

This is a cruel and false choice, which is why this bill will quickly die with no bipartisan support in the Senate.

As Republicans, we believe we need to do both: lower drug prices and accelerate new lifesaving cures.

Mr. Chairman, I reserve the balance of my time.

Ms. STEVENS. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, it is a fact that pharmaceutical drug companies spend more on marketing than they do on R&D.

It is a fact that life expectancy in this country is going down, and it has gone down for the third year in a row. It is a fact that we are in a moment of crisis, and now is the time for us to pass the Lower Drug Costs Now Act.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Nevada (Mrs. Lee), who is my good friend.

Mrs. LEE of Nevada. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I am here to speak in support of the Elijah E. Cummings Lower Drug Costs Now Act, and, in particular, I want to speak in support of my bill which is included in the act, the Enhancing Retirement Security for Medicare Beneficiaries Act, which would guarantee that the disbursements of retirement savings are not counted when determining if someone qualifies for Medicare part D's low-income subsidy program.
As a young girl, I learned the importance of saving money. My first job was running a paper route in my neighborhood in Canton, Ohio, at the age of 8. At the end of every week, I would put aside a quarter or two just to save up for a candy bar. It wasn’t much, but it taught me the importance that saving money is worth it.

Americans and our seniors should not be punished for saving for their retirement, but when retirement savings are counted towards eligibility for prescription coverage, we are punishing the very seniors who have been working hard and saving money.

The fact is that no group of Nevadans relies more on prescription drugs than our seniors, and the rising cost of living is hard enough on older Americans. We should be making it easier for them to retire in dignity, and that means not forcing them to choose between buying groceries or lifesaving medication.

Mr. Chairman, I am pleased that my bill was included in the underlying text of H.R. 3, and it is time that we lower prescription drug costs not just for seniors on Medicare, but for all Americans.

Mr. BRADY. Mr. Chairman, I yield myself 30 seconds.

It is a fact that drug companies in America spend three times as much on R&D than on marketing and advertising.

It is a fact that the dangerous Pelosi drug bill robs up to $1 trillion of research and development costs that will not be used for lifesaving cures in America.

It is a fact, from the Congressional Budget Office, that we will lose at least 38 new cures as a result of this bill; the Council of Economic Advisers, 100 new cures; and the California Life Sciences Association says 9 out of 10 cures that they would be working on will never happen in America.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. SLOTKIN), who is a key leader on the Ways and Means Committee.

Ms. SLOTKIN. Mr. Chairman, I yield myself 2 minutes to the gentleman from Texas (Mr. ARRINGTON), who is a key leader on the Ways and Means Committee.

Mr. ARRINGTON. Mr. Chairman, I thank my friend and ranking Republican on Ways and Means for the opportunity, and I thank him for his leadership on this important issue.

Mr. Chairman, we all agree that the prices of drugs are too high. We agree that something needs to be done to fix this for all Americans, not just our seniors.

The problem I have—and it is a big problem—is the way we go about doing this. It is like a rerun of ObamaCare. It is this government knows best, this top-down, government-controlled, let’s tax, regulate, and mandate our way to a better system. It doesn’t work.

So we are doubling down on a failed philosophy on how to deliver affordable quality products to the American people.

The approach should be more choices, more competition, a healthier market, and greater transparency.

By the way, we have worked on those issues in a bipartisan fashion. I have introduced two pieces of legislation with my Democrat friends that would do just that.

The problem here is not just this top-down, heavy-handed government knows better way, and assume nothing bad will happen. It is that nothing is going to come of this H.R. 3. It is a messaging bill. It is purely political, and it won’t help the people whom we all intend to help.

I do not share the motives of my colleagues. I think they want to help our seniors just as I do. But we can’t do it with partisan messaging bills. We have to do it by working together.

In a former life, I was vice chancellor at Texas Tech, and I was responsible for bringing new drug technologies, therapies, and biologics to market.

Ms. STEVENS. Mr. Chairman, I yield 3 minutes to the gentlewoman from Michigan (Ms. SLOTKIN), who is my dear friend.

Ms. SLOTKIN. Mr. Chair, for the last 2 years, the single most common issue that Michiganders raise with me is the cost of prescription drugs. Michiganders, regardless of party, are demanding that Congress do something about it. People literally clutch my arm at the grocery store to tell me how their son is rationing his insulin or their daughter couldn’t go to summer camp because she couldn’t afford the inhalers.

That is why shortly after being sworn in in January, I started working in earnest on the issue. I am very proud to stand behind my colleagues and support H.R. 3, the Lower Drug Costs Now Act. This important legislation will drive down the cost of the country’s most expensive drugs by allowing our government to negotiate for the very best prices.

To be clear, the VA does the exact same thing: I am on military insurance, and the VA can negotiate for drug prices. Why not allow Medicare to do the very same thing?

To put this in perspective, there are over 800,000 Michiganders living with diabetes, and common insulin medications can cost somewhere between $1,200 and $20,000 a year. This includes Sarah, a woman who lives in Holly, Michigan, where I live, who literally says she is being priced out of her life. Her insulin costs are higher than her rent per month.

This bill, if passed, would allow the government to negotiate, bringing the price down to as little as $400 a year. Once the price is negotiated, all Americans, including Medicare recipients, benefit from that price. The bill would also improve Medicare coverage for seniors and lower their out-of-pocket costs.

Two months ago, I cointroduced a bill that included vision coverage in Medicare. That means Medicare recipients, once every 2 years, will get an eye exam and one set of either glasses or contacts.

I am very pleased that this was incorporated into this bigger bill along with other measures that would include hearing coverage and dental coverage for the first time. So, finally, preventive care will be part of the routine coverage for Medicare.

Mr. McCarthy, you may say for itself. Negotiation saves us, according to the CBO, $450 billion, which covers the additions to Medicare and still gives $10 billion for research and development to the National Institutes of Health.

Mr. Chairman, you hear my colleagues and Big Pharma say that you have to make a choice between research and lifesaving cures and the price of prescription drugs. That is a false choice, and anyone who watches TV and sees those annoying ads knows that the drug companies have plenty of places to cut their funding.

Members from both parties in the House and Senate, and indeed the President, have said the right things when it comes to lowering drug prices. Now it is time to walk the walk.

Mr. BRADY. Mr. Chairman, I yield some time as he may due to the gentleman from California (Mr. McCARTHY), the Republican leader of the House.

Mr. McCARTHY. Mr. Chairman, I thank the gentlewoman for yielding, but most importantly I thank him for his work on this bill, and all the others, as well, in their committees.

There is an urgent need to address the soaring cost of prescription drugs that burden too many American families. It is well past time that we offer a practical solution that actually lowers costs while ensuring new cures can reach Americans fighting disease and illness.

This Congress in the past has spent a great deal of time not what we have cures for the future. That is why Republicans introduced this bill, Lower Costs, More Cures Act, and I urge all my colleagues to support it.

The bill was written with a rule: each policy must be bipartisan. I know in this town and in this climate, that is not achieved very often, but for an issue as crucial as lowering the cost of prescription drugs for Americans, partisanship should be set aside.

Later today, we will see which side and which bill is bipartisan. By drawing on the very best ideas, H.R. 19 makes crucial reforms that will lower out-of-pocket costs for Americans at drugstore counters. For seniors, it makes medication more affordable by capping their out-of-pocket costs. It increases the availability of generics and biosimilar drugs by prohibiting drug companies from delaying the start of their exclusivity period. It speeds up the FDA approval process. It provides greater price transparency by requiring insurance companies to report information about drug costs available in the doctor’s office before a prescription is written. And for diabetics who have...
Mr. Chairman, Speaker Pelosi's partisan plan, H.R. 3, will make our broken system worse by placing more barriers between Americans and their medication, including by reducing the number of new drugs on the market instead of helping them reach the patients. According to estimates from the Council of Economic Advisers, the Speaker's radical proposal could kill upwards of 100 new drugs over the next decade.

Pause for one moment and think about that: 100 new drugs over the next decade will be killed by passing H.R. 3. That is one-third of the total number of new drugs expected to enter the market during that time.

Moreover, the Council estimates that H.R. 3 would reduce America's average life expectancy by 4 months. Nearly a quarter of the projected gains in life expectancies over the next decade simply because you want to appease the progressive base and have a partisan bill that denies us more cures and shortens our lifespan.

But there will be one goal today: You will have one party vote for a bill that will not become law, but you will appease a base with this and impeachment.

And it is not just the Council. The CBO reports that fewer drugs will be available because of the provisions in H.R. 3. The Democrat's plan is yet another example of how unnecessary government control harms the very people it claims to help.

All of us have or know someone with a loved one who has fought a disease or an illness for which no cure has been found. Imagine how demoralizing it is to lose the cures, even the loss of too many. The best way to lower costs is not to lose the cures, even the loss of one.

Mr. Chairman, Americans want their government to put the best available ideas into action. They deserve solutions, not political posturing filled with empty promises. The saddest part of today, we could have had prescription drug prices lowered on this floor even earlier in this year. There was a window of opportunity, a moment in time when you did not see the partisan divide, a moment in the Committee on Energy and Commerce where every single Democrat and every single Republican voted on three bills to lower the price of prescription drugs.

But as I learned as a child on "Schoolhouse Rock," "I am just a bill on Capitol Hill," at the time it goes from a committee and before it gets to the floor, it goes through leadership. It is usually the leadership across this country, leadership changed that bill, not the Members in the House. They changed that bill so when it came to the floor it became partisan.

And if these drugs were not lowered, the bill did not become law, and we are impeding the exact same thing today.

You will have two choices: You will have a choice of H.R. 3, that, yes, had to be negotiated even this week with progressives on the other side to appease them to make sure this was as bipartisan as can be. It won't become law. It will be another talking point, a moment of time to try to explain why you wasted a majority on just investigating...

But you will have another opportunity, a substitute. If you want to lower drug prices in 2019, vote for H.R. 19. You know why? Because every single provision in that bill is bipartisan. It is not partisan, at one time put partisanship aside: Can we put people before politics? Can we expand our life expectancy? Can we find 100 more cures? Can we do that?

I know you might upset a few in your party, but think about how many more lives we will save. There is always a moment in time that I have hope that this Congress will rise and keep the promises that I heard before an election took place, that we would be different, that we would govern together, that we would find bipartisanship.

Today, on the floor, you will have that window. You will have a bill that has every single provision. You will have bipartisan votes. No, you won't. And if you stop 100 new cures in the next decade. No, they will give hope to the American public that there will be opportunity to cure disease that you have today and live a long and full life.

And you know what? It is the only bill on the floor today that could become law. So if you want to make a real change, you have a voting card to do it.

Ms. STEVENS. Mr. Chairman, I yield 1 minute to the gentlewoman from New York (Mr. Rose), my friend.

Mr. ROSE of New York. Mr. Chair, before I came to Congress, my job was to make sure that those without healthcare and those who could barely afford it, could have access.

Every day, we would see doctors and nurses do the impossible in the worst system. And without fail, we all would wonder why no one would do anything to change it. Well, today we are. This bill will move to a base. This bill does not cater to Big Pharma, but this bill does cater to that family tonight who is going to have to choose between paying for prescription drugs or putting food on the table. This bill caters to the American people.

Today, Big Pharma loses, and the American people win. Because what we are doing today is giving Medicare the power to negotiate skyrocketing costs of prescription drugs. The historic legislation included a provision that would loosen limits on prescription drug costs for Medicare beneficiaries. It reinvests savings so that we can create new breakthrough treatments and cures at NIH, and it provides $10 billion in funding to combat the opioid epidemic.

For decades, Big Pharma and corporate PACs could count on their lobbyists and politicians to keep them safe at the expense of the American people. Not anymore. Today, the American people win. I urge all my colleagues to vote "yes."

Mr. BRADY. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska (Mr. FORTENBERRY), one of the leaders in healthcare.

Mr. FORTENBERRY. Mr. Chair, I thank both leaders, first of all, for this debate. This is absolutely critical, and here is why:

The other day, I went to the doctor—a kind of a common ailment. The doctor prescribed an antidepressant.

I said, "Doc, let's check the price before we use the credit card."

He said, "Don't worry about it. It is going to be about $6. It is commonly used."

But guess what? The list price was about $430. It used to be $6 in 2011; now, it is $430.

We have a problem. We have a big problem in America. A very big Democrat, a very big Republican problem. I want to commend my Democratic colleagues for raising the issue, for putting this on the agenda, for making an attempt to propose something. There is strong disagreement with the nature of the policy proposal, but there ought to be bipartisan support for the idea that we have to do something.

I commend my Republican colleagues for putting together a bill of all the bipartisan initiatives that are around here that we can agree on.

So what is going to happen is we are going to get stuck again, really, really quickly. This bill now has a chance of going into law, the bipartisan bill. There is some opposition to it, and it could be fleshed out further. The President has called for negotiations. This is an important part of all of us. So let's get back to work after we get past this moment.

Mr. Chair, I thank everyone for a spirited and good debate.

Ms. STEVENS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. PELOSI), the Speaker of the House.

Ms. PELOSI. Mr. Chairman, I thank the gentlewoman from Michigan, a leader in the freshman class, for yielding time and for her extraordinary leadership in so many ways.

It is just so invigorating to see the freshmen Members of this class taking...
the lead on this important legislation. Many of us just came in from the steps of the Capitol where, again, the freshmen Members took the lead.

Following up on a promise made last year during the election, For the People, we will lower the cost of healthcare in America by lowering the cost of prescription drugs. H.R. 3 does just that, named for our great and departed—may he rest in peace—Elijah E. Cummings Lower Drug Costs Now Drug Act.

This is very, very important. And it may come as news to some of our Republican friends who were saying things to the contrary, but this is a product of the work of three committees in Congress.

I thank Chairman PALLONE of the Committee on Energy and Commerce, Chairman RICHIE NEAL of the Committee on Ways and Means, and BOBBY SCOTT, chair of the Committee on Education and Labor, for their relentless and persistent work on this lifesaving legislation where many freshmen are speaking now, controlling the time.

But in the course of the debate of yesterday, under the aegis of the committees of jurisdiction, many of them spoke at that time as well, demonstrating the leadership on this issue, making it a reality on the floor of the House. Again, I thank them for their bold urgency to lower the cost of drugs.

The crushing burden of prescription drugs is an issue that impacts every family in America. Much talk is given around here about having a seat at the table. The most important seat at the most important table is the kitchen table of America’s working families where they enjoy family, but also address challenges that face them, whether it is in their health or in their financial health and how that is related.

This legislation today speaks to that important table of concerns.

In my travels across the country, I have seen grown men cry about how they cannot meet the needs of their families when it comes to prescription drug costs, a spouse with a long-term illness, children with chronic diseases, and the rest.

Prescription drug prices are out of control. The price of insulin invented nearly a century ago—when people say we have to cover our research costs—doubled from 2012 to 2016 because of Big Pharma.

Many people use it. A lot of people buy it. Let’s increase our profits, they say.

Americans are paying four times or more for what Big Pharma charges for the exact drugs in other countries.

While Big Pharma companies reap record-breaking profits and multibillion-dollar windfalls from the GOP tax scam, what is impacting millions cost our country to afford to fill a prescription they needed to stay healthy in the past year—58 million Americans.

Thirty-four million Americans know a loved one who died from not being able to afford a treatment that they needed.

We face medical, economic, and moral crises that demand that we act and that we act now.

Yes, they have a motion to recommit. I think it was appropriate that the Republicans have the opportunity to put an alternative on the floor, incremental pieces, not going to the heart of the matter. How dare they even think of enabling the Secretary to negotiate for lower prices, which is the heart of the matter.

We have been trying to do this for a number of years. Today, we will.

Last year, again, we made the promise For the People, that we would lower the cost of prescription drugs. We are finally giving Medicare the power to negotiate lower drug prices.

Some Republicans say it is un-American for the Secretary to be able to negotiate for lower prices—un-American—then making those lower prices available to the hundreds of millions of Americans with private insurance, too.

We are insisting that American seniors and families shouldn’t have to pay more than what Big Pharma charges for the same drug overseas. I say that again. H.R. 3 means lowering the cost of medication for Americans with leukemia by more than 70 percent. It means lowering the cost of medication for arthritis, which is not which more than 50 million Americans have, by almost 75 percent. It means lowering the cost of asthma medication for 25 million Americans with this condition from $1,500 to $270.

Yesterday, we had Mr. Riordan testify at our press conference. The cost of his medication for asthma, in his case, was over $60,000 a month. Eighty percent of it was covered by Medicare, but he had to pay over $4,000 a month.

Can you absorb that? $4,000 a month for a drug that you are supposed to take four times a month? He was talking it twice a month, once a month, or not at all, not a healthy thing to do, but reaping big profits for Big Pharma.

Under H.R. 3, some commonly used insulins could cost as little as $100 a year.

With the Elijah E. Cummings Lower Drug Costs Now Act of 2019, we put more money back into the pockets of seniors and hardworking families. We drive down insurance premiums, making it easier to afford coverage.

When we lift the immense burden of drug costs on employers, the CBO says American businesses can expect bigger paychecks and salaries for their workers.

H.R. 3 also represents the most transformative expansion of Medicare since its inception.

Now, many people on the other side of the aisle did not support Medicare at its inception, but this is a vast improvement because we are investing more than a half-trillion dollars—that is with a T-R—a half-trillion dollars that we are saving by lowering out-of-control prices and investing in historic new benefits for vision, dental, and hearing for Medicare beneficiaries for the first time.

With these huge savings, we are also investing in new research for new treatments and cures and fighting the opioid epidemic, as the gentleman from New York (Mr. Rose) pointed out, and in the community health centers that deliver quality healthcare to so many Americans.

Advocacy groups representing tens of millions of Americans, seniors, retirees, patients, providers, faith leaders, businesses, and the men and women of labor, and more, support H.R. 3.

AARP wrote to Members of Congress this week and said: “This important legislation is a bold step toward lowering prescription drug prices and improving Medicare for seniors and families across the country. . . . H.R. 3 will help more Americans afford their prescription drugs and get the care they need to stay healthy.” They said that in their support of the legislation.

There is every reason to be proud for Republicans to join us in passing this bill. The bill delivers on President Trump’s promise to the American people. In his words, he said: “When it comes time to negotiate the cost of drugs, we are going to negotiate like crazy.”

Negotiation is what this bill is about. The Republican substitute is what this bill is not about, as its critics say. Negotiation is the heart of the matter.

The President also said: “It’s unacceptable that Americans pay vastly more than people in other countries for the exact same drugs, often made in the exact same place. This is wrong; this is unfair; and together, we will stop it.”

Actually, in creating this bill, and working with the committees to do so, we’re working with the members of the White House, the administration, on all of this.

I don’t know where it happened, but somewhere along the way, negotiation was not part of the rest that followed and that, again, could be attributed to I don’t know what.

Democrats named H.R. 3, as I mentioned, in honor of Chairman Elijah Cummings, our North Star who worked across the aisle and down Pennsylvania Avenue—he met with the President—to lower prescription drug prices.

In honor of Chairman Cummings, and for the sake of the millions of Americans struggling with high prescription drug costs, I urge a strong vote on H.R. 3 to lower drug costs now for all Americans, for the people. I urge an “ayes” vote.

Mr. BRADY, Mr. Chairman, I yield myself 30 seconds.

When the Republican Congress, in 2003, joined with President Bush to create the affordable drug plan for seniors, then-Leader NANCY PELOSI and Demo-
Can you imagine how many seniors’ lives would have been lost if Democrats had succeeded in stopping the affordable Medicare drug program that 43 million seniors have come to depend upon? They were dangerously wrong then, and they are dangerously wrong again.

Mr. CHAIRMAN, I yield 2 minutes to the gentleman from California (Mr. NUNES), the leader of the Health Subcommittee for the Ways and Means Committee.

Mr. NUNES. Mr. Chair, I thank the gentleman from Texas for yielding to me. I want to speak in opposition to H.R. 3.

Saying that drug costs are too high for many Americans, Republicans and Democrats can agree on that. That is why we spent the better part of a year working toward a bipartisan solution to lower out-of-pocket prescription drug costs and crack down on overpriced drugs.

Saying that Democrats abandoned that effort in favor of the socialist policies in H.R. 3. For Democrats, the answer is always more government, and H.R. 3 is no exception.

The bill gives the government sweeping new powers to allow government bureaucrats to arbitrarily set drug prices. Democrats keep calling it negotiation.

Here is how negotiation works under H.R. 3. The Federal Government will tell a drug company what the drug price is going to be. If the drug company doesn’t like it, they have two options: pay a 95 percent tax on their revenue or leave the U.S. market. That doesn’t sound like negotiation to me.

The Congressional Budget Office claims this will result in such low drug prices that some of the lifesaving cures won’t even come to market. Under this arrangement, there is very little incentive for drug companies to invest the time and money it takes to create new cures and treatments. We know it takes $2.6 billion and 10 to 15 years, on average, to bring one drug to market.

This bill’s arbitrary action against drug companies carries a steep cost to the American people in the form of fewer future cures. What cures will those be? Alzheimer’s? Cancer? Schizophrenia?

Killing drug innovation and ending the development of lifesaving cures is unacceptable. We can’t take that risk. We have to do better for sick Americans hoping and praying for a cure for themselves or their loved ones.

We can solve this problem, but not with the Democrats’ fewer cures act. We have to do this in a bipartisan way.

Fortunately, there is an alternative to the Democrats’ proposal. This week, Republicans have introduced H.R. 19.

The Acting CHAIRMAN (Mr. ROUDA). The time of the gentleman has expired.

Mr. BRADY. I yield the gentleman from California an additional 15 seconds.

Mr. NUNES. I have introduced H.R. 19, the Lower Cost, More Cures Act. This bill contains effective bipartisan policies that could become law right now.

It cracks down on overpriced drugs and lowers costs for patients without crushing the hope of future lifesaving medicines.

It is time to stop playing political games and start working toward solutions for the American people.

H.R. 3 is a terrible idea that will drive drugs out of the U.S. market. It is a terrible idea. It is not a bargain. As Ms. STEVENS, Mr. Chairman, if the gentleman from Texas is prepared to close, I am prepared to close.

I reserve the balance of my time.

Mr. BRADY. Mr. Chairman, I yield myself the balance of my time.

Imagine life under H.R. 3, the Democrats’ fewer cures bill. There will be lower costs for some medicines, no doubt. Both bills do that. But if you have a rare disease, or your loved one does, whether it is ALS you are struggling with or Alzheimer’s, if you were a dynamic person who now is struggling with Parkinson’s, cancer, diabetes, pulmonary hypertension, the hope for your cure may never come. The waiting for your cure may be years, decades, or never. The truth of the matter is—and it is undeniable—H.R. 3, the Democrats’ bill, will cause fewer cures here in America.

Don’t take my word for it. The Congressional Budget Office estimates 38 cures lost over the next several decades.

California Life Sciences Association said, if we do what NANCY PELOSI’s bill does, nearly 9 out of 10 drugs we would have created will never exist. There will be fewer cures for Americans when we need it most.

I will tell you, drug prices are too high in many cases. There is no excuse for these price spikes. But I will tell you what, the costliest drug ever is the one that is never created, that leaves the ravages of these diseases to these loved ones who are struggling with them.

We already know this is the case because in Canada, France, these other countries that H.R. 3 wants to make us look like, they have about half the medicines we do. When they do get a medicine, they will wait a year or 2 longer to even get it.

Well, if you have got ALS, if you have got a glioblastoma, you are done at that point. That is what that bill brings about.

We know, fewer drugs in America, because today, we have created, over the last several years, 111 new drugs in America. France, this is the France drug pricing scheme, 11. 111 in America. Eleven in France.

That is their vision of a day in the life of someone with a rare, deadly disease. Is that a beacon of hope for so many?

The answer from our Democratic majority today is solutions, solutions and more solutions for the American people. Let’s prove to America that we can actually work together.

Every one knows, in good faith, we have to tackle these drug prices. Let’s prove to America that we can actually work together. Let’s come back, for those who really matter to families back home.

Mr. Chair, I yield back the balance of my time.

Ms. STEVENS. Mr. Speaker, I yield myself the balance of my time.

Mr. Chairman, we have heard compelling arguments today. We have heard compelling argument around the need to bring down the costs of prescription drugs now. We are taking bold and reasonable steps today to bring down the costs of prescription drugs in this country. It is a significant and historic day for all Americans.

Many Americans because we crack down on overpriced drugs. We give seniors, for example, the power and the information to choose the right place for their medicines, which can lower their chemotherapy by half.

We pull back the curtain on everyone involved in this drug pricing process. We force drug companies to pay more and shoulder more burden in the part D prescription plan. We force them to justify their increases. We force them to list their prices in the ad so we know.

We accelerate; we don’t kill lifesaving medical cures. We go further, further than H.R. 3. We permanently make it easier for Americans to deduct high medical expenses from their taxes, allowing them to use their HSAs for over-the-counter medicines, including feminine hygiene products. We save seniors over $300 a year in the popular Medicare prescription drug program.

All these ideas are bipartisan. All these ideas can be passed. All can be signed by President Trump this year if Democrats abandon their partisan game and continue what was really good bipartisan work that got shelved for this bill that dies.

This is our mission. It is to come back together. Let’s work together. Everyone knows, in good faith, we have to tackle these drug prices. Let’s prove to America that we can actually work together. Not just for impeachment, not for the sake of the America that we care about, but for things that really matter to families back home.

Mr. Chair, I yield back the balance of my time.

Ms. STEVENS. Mr. Speaker, I yield myself the balance of my time.

Mr. Chairman, we have heard compelling arguments today. We have heard compelling argument around the need to bring down the costs of prescription drugs now. We are taking bold and reasonable steps today to bring down the costs of prescription drugs in this country. It is a significant and historic day for all Americans.

The answer from our Democratic majority today is solutions, solutions based on fact, solutions based on the guiding principle of the people, who we represent, to deliver for them.

The question is, when will we do something? Today, our legislation, the Elijah E. Cummings Lower Drug Costs Now Act, that is what we are going to bring to the floor, lowering costs now for the people who cannot wait, for the child of parents who are pushed to the brink, for the older American who is afraid to go to the pharmacy to pick up their prescription drug because of what it might cost, for the senior who is afraid to go to the doctor just to get that prescription, for the one-third of Americans who forgo their prescription drugs because of their costs.

President Truman said that America is not built on fear. America is built on imagination. America is built on courage. And America is built on the willingness to do the job at hand.
That, my friends, is what our majority is doing here today, tackling a solution for the millions of people, the countless number of people, whose voices only make their way into this Chamber by those who represent them, not the large multinational company that knows what to do with it. It is for the individual, hardworking American, which is why, today, I ask my colleagues to join me in passing the Elijah E. Cummings Lower Drug Costs Now Act for every American, for the people, by the people.

This is a historic and proud day, Mr. Chairman, and this is what we came here for.

Mr. Chairman, I yield back the balance of my time.

Mr. DeFazio. Mr. Chair, today, I will vote in support of H.R. 3, the Elijah E. Cummings Lower Drug Costs Now Act.

Because of pharmaceutical companies’ price gouging, Americans pay more out-of-pocket for prescription drugs than individuals in any other country. Americans need lower drug prices now, and Congress has the ability to enact important reforms to deliver immediate relief.

I believe H.R. 3 takes some important first steps towards delivering that relief and towards improving the health and financial security of American seniors and families.

In particular, I am strongly supportive of provisions that will lower out-of-pocket prescription drug costs for Medicare Part D beneficiaries and limit excessive increases under Medicare Part D by creating an inflation rebate. Specifically, if a drug company raises the price of a drug in Part B or D above the 2016 rate of inflation, the company must lower the price or be required to pay the entire price above inflation in the form of a rebate back to the Treasury.

After strong pushback from myself and other progressive members, I am pleased that House leadership restored language designed to prevent pharmaceutical price-gouging for upward of 150 million Americans with private health care plans and increased the minimum number of drugs that must be negotiated per year from 25 to 50.

While I believe these provisions will ultimately deliver relief to millions of Americans, I believe Congress can and must do more to combat rising drug prices and price-gouging pharmaceutical companies.

Currently, pharmaceutical companies charge outrageous prices because there is no adequate law to prevent drug companies from reaping profits and protect patients with drugs developed on the taxpayer’s dime.

To combat this ridiculous practice, I introduced H.R. 4640, the Affordable Drug Pricing for Taxpayer-Funded Prescription Drugs Act, which would end price gouging on prescription drugs developed with taxpayer-funded research. This would enable federal agencies and federally-funded non-profits to secure affordable pricing agreements from drug manufacturers before granting them exclusive rights to develop drugs or other health care products. Americans should not pay to develop a drug only to see it put on the shelves in the U.S. at a much higher price than other nations.

I partnered with Rep. Doggett to offer an amendment to H.R. 3 that is similar to my legislation. While the amendment was not made in order, I will continue to push House leadership for full consideration of H.R. 4640.

Beyond this, I am a strong supporter of the Prescription Drug Price Relief Act, which would require the Secretary of Health and Human Services to make sure that Americans don’t pay more for prescription drugs than the median price of: Canada, the United Kingdom, France, Germany, and Japan. If pharmaceutical manufacturers refuse to negotiate, HHS would be required to approve cheaper generic versions of those drugs. This would protect patients or market exclusivities. If Congress were to enact this legislation, prices of most brand name drugs would be significantly reduced.

Furthermore, uninsured patients should have access to negotiated prices under H.R. 3. That’s why I supported an amendment that would have guaranteed that any negotiated price savings could have been accessed by the most vulnerable in our country, those who lack health insurance. Unfortunately, this amendment was not included in the final bill, meaning uninsured patients continue to face the highest price at the pharmacy counter—pharmaceutical companies’ list price.

I am also disappointed that an amendment I supported to allow the federal government to negotiate prescription drug prices for Medicare Part D was not included in the final bill.

In 2003, the House Republican majority passed Medicare Part D. While I have consistently been a leader in the fight to lower drug prices for seniors, I opposed this legislation because it included a provision that prevents the federal government from negotiating better prescription drug prices for Medicare recipients. This means that drug companies are free to charge Medicare recipients higher prices, more than anyone else in the world.

This is unacceptable.

The amendment offered to H.R. 3 would have authorized the federal government to negotiate prescription drug prices for Medicare Part D, and if drug companies refuse to negotiate, this legislation would enable the federal government to issue a competitive license to manufacture the medication as a generic. The bottom line is that seniors shouldn’t have to ration their pills or limit their dosage because they can’t afford to pay for prescriptions each month.

Mr. Larson of Connecticut. Mr. Chair, I rise in support of H.R. 3, the “Elijah E. Cummings Lower Drugs Costs Now Act,” named after my dear friend and colleague Elijah Cummings who passed away earlier this year. I commend the Speaker, Chairman Neal, Chairman Pallone and Chairman Scott for their efforts to bring this historic legislation to the floor today.

For too long Americans have seen prices for prescription drugs rise out of control, to the point where many must make the decision about whether they will spend limited income on their necessary prescriptions, or food, housing, and transportation. How is it possible in the wealthiest country in the world this is happening?

I’ve heard from many constituents who are indeed facing this very choice.

Patricia, a 66 year old woman in Connecticut, said, “I have to lose my rent or stop eating in order to continue breathing. I don’t want to end up in a nursing home on oxygen. I am not an ex-smoker. I am the proud daughter of a West Virginia coal miner. Please help me and other poor frail elderly.”

Rosemary from Wethersfield wrote, “The cost of the Epi-Pen is outrageous. Even with my insurance it is so expensive I couldn’t get the prescription filled and took my chances. When I had an allergic reaction I called 911 instead.”

Kevin from Manchester, a young man in his mid-30s who has a job and health insurance, also wrote, “The annual cost of my medications is about $8,000 . . . I stop taking my medication. My asthma is noticeably worse. I worry that it’s only a matter of time until I have a flare up and end up in the hospital.”

H.R. 3 will allow the Secretary of Health and Human Services to negotiate for better prices on prescription drugs in Medicare, lowering prices for patients in Medicare and the private market.

I have long advocated for negotiation of drug prices and have included it in the Medicare Buy In and Health Stabilization Act introduced with my colleague from New York, Rep. Brian Higgins, and with my colleague from Connecticut, Rep. Joe Courtney.

The bill also caps Medicare beneficiaries’ out-of-pocket spending on prescription drugs at $2,000. And for the first time, with the savings from Medicare reimbursement for drugs, we are able to expand Medicare to cover dental, hearing and vision services as a benefit to traditional Medicare. In my district alone, more than 100,000 people will benefit from adding these new services.

It’s time we implement these much-needed changes and make prescription drugs more affordable. It’s time to pass the Lower Drug Costs Now Act.

Ms. Lee of California. Mr. Chair, I rise today in strong support of H.R. 3, the Elijah E. Cummings Lower Drug Costs Now Act.

This bill takes on Big Pharma to help lower the cost of prescription drugs for everyday families. It is beyond outrageous that the U.S. government is not currently allowed to negotiate drug prices through Medicare. And it is shocking that Big Pharma is charging people in the United States, hundreds of times more than what they charge in other countries.

But H.R. 3 will help fix that. It allows the government to negotiate drug pricing through Medicare, and expands Medicare to cover vision, dental and hearing for the first time, while also investing in community health centers and critical research.

I’m especially pleased that this bill incorporates key provisions championed by our Progressive Caucus Co-Chairs Pramila Jayapal and Mark Pocan that increase the number of drugs that Medicare is able to negotiate and protect 150 million Americans with private health care plans from being price gouged by Big Pharma.

I urge a YES vote on this important bill named for our beloved, departed colleague Elijah Cummings who fought day in and out for the people. We miss him.

Ms. Johnson of Texas. Mr. Chair, today I rise in recognition of H.R. 3, the Elijah E. Cummings Lower Drug Costs Now Act. This legislation will serve as a critical improvement towards ensuring that essential medications are finally affordable and accessible.

As the first registered nurse elected to Congress, I know how the exorbitantly high prices of critical medications burden individuals and their families. Americans should not have to
pay more for their medicines, when compared to the same ones sold by pharmaceutical companies, for drastically lower prices in other countries. It is why I rise today in support of this bill, which provides the authority, mandate, and tools for the Secretary of Health and Human Services to negotiate lower drug prices, and cap annual out-of-pocket costs in Medicare Part D.

The Congressional Budget Office has scored the Elijah E. Cummings Lower Drug Costs Now Act to save our country $456 billion in the next ten years. With these savings generated from lowering drug costs, significant reinvestments will be made to reduce out-of-pocket costs, close coverage gaps for Medicare beneficiaries, invest in critical funding in innovative new treatments, and fight against our nation's opioid crisis.

Specifically, I was very pleased to support the inclusion of Medicare Part B coverage for dental, vision, and hearing benefits. For the thousands of seniors in my district and throughout the state of Texas, it is undeniable that this expansion of coverage will be life-changing, especially for our constituents en- counters additional health challenges associated with aging.

As a member of the Congressional Black Caucus, I am especially vigilant in ensuring that minority communities which face higher rates of diabetes, this disease can be managed in a cost-effective manner that access life-saving medications and are not forced to ration their insulin out of desperation. People living with diabetes will be heartened to learn that the Lower Drug Costs Now Act could potentially save them more than $700 on an annual supply of insulin.

The benefits of the Lower Drug Costs Now Act will even extend to the medical facilities we know and trust throughout our states. Our community health centers and nonprofit hospitals will be able to access the lowered negotiated drug prices because they qualify as providers of services, suppliers, and employers.

This bill moves our nation forward in addressing the need for accessible and affordable medications. However, it is prudent to note that there remains much to be done. We must continue to advocate for the inclusion of the uninsured population in these savings. Texas has the highest rate of uninsured individuals in the nation. Therefore, the lowered drug costs achieved in this bill will have limited impact in my state for the uninsured.

As members of this body, we should all stand in support to lower drug costs. I would like to especially honor the memory of my dear colleague, the Honorable Elijah E. Cummings. It is altogether very fitting that we recognize his long fight against high drug prices by passing H.R. 3, the Elijah E. Cummings Lower Drug Costs Now Act, in his memory.

Ms. SÁNCHEZ. Mr. Chair, I rise in support of H.R. 3, the Elijah E. Cummings Lower Drug Costs Now Act.

I would like to thank Chairmen NEAL, PALLONE, and SCOTT for their tireless efforts to get this legislation passed.

Prescriptions are not recommendations. Doctors have written them for a reason. Patients, our constituents, our friends, our family members, need these medications. They cannot afford to skip their medications.

However, I have heard so many heart-breaking stories from individuals in my district. Alice in Whittier has to rely on her doctors for insulin samples because she cannot afford in-
sulin. Adrian in Norwalk is choosing to pay his bills rather than his eight different medications. David in La Mirada is considering cutting his dosage because he cannot afford to refill his full dosage as often as he should. They, and so many others, are just making do. Frankly, that’s not good enough for me.

With H.R. 3, we are giving power back to the people in my district and to millions of Americans. The savings from this bill will also be given back to the public with reinvestments in innovation and the search for new cures and treatments.

I look forward to this bill’s passage today. It is time to act and lower the cost of prescription drugs now.

The Acting CHAIR. All time for general debate has expired.

In lieu of the amendments in the nature of a substitute recommended by the Committee on Education and Labor, Committee on Energy and Commerce, and the Committee on Ways and Means, printed in the bill, an amendment in the nature of a substitute consisting of the text of Print 116-41, modified by the amendment printed in part A of House Report 116-334, shall be considered as adopted and shall be considered as an original bill for purpose of further amendment under section 301 of the House Rules.

The amendment is as follows:

**SEC. 1. Short title; table of contents.**

(a) SHORT TITLE.—This Act may be cited as the "Elijah E. Cummings Lower Drug Costs Now Act".

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

**TITLE I—LOWERING PRICES THROUGH FAIR DRUG PRICE NEGOTIATION**

Sec. 101. Providing for lower prices for certain high-priced single source drugs.

Sec. 102. Selected drug manufacturer excise tax.

Sec. 103. Fair Price Negotiation Implementation Fund.

**TITLE II—MEDICARE PARTS B AND D PRESCRIPTION DRUG INFLATION REBATES**

Sec. 201. Medicare part B rebate by manufacturers.


Sec. 203. Provision regarding inflation rebates for group health plans and group health insurance coverage.

Sec. 204. Additional monthly costs in group health plans and group health insurance coverage.

Sec. 205. Collection of data.

**TITLE III—PART D IMPROVEMENTS AND MAXIMUM OUT-OF-POCKET CAP FOR MEDICARE BENEFICIARIES**

Sec. 301. Medicare part D benefit redesign.

Sec. 302. Allowing certain enrollees of prescription drug plans and MA-PD plans under Medicare program to spread out cost-sharing under certain circumstances.

Sec. 303. Establishment of pharmacy quality measures under Medicare part D.

**TITLE IV—DRUG PRICE TRANSPARENCY**

Sec. 401. Drug price transparency.
(i) an individual who is entitled to benefits under part A of title XVIII or enrolled under part B of such title if such selected drug is covered under the respective part; and
(ii) an individual who is enrolled under a group health plan or health insurance coverage offered in the group or individual market (as such terms are defined in section 2791 of the Public Health Service Act) with respect to which there is in effect an agreement with the Secretary under section 1197 with respect to such selected drug as so furnished or administered.
(2) A ‘fair price’—The term ‘fair price’ means, with respect to a plan year during a price applicability period and with respect to a selected drug (as defined in this section) that is selected under this subsection for an initial price applicability year during such price applicability period under such section as applicable for any subsequent year during the applicable price applicability period. In applying this subsection to a selected drug that is selected under this subsection for an initial price applicability year shall not count toward the required minimum amount of drugs to be selected under paragraph (1) for any subsequent year, including such a drug so selected that is subject to renegotiation under section 1194.

(2) SELECTION OF DRUGS.—In carrying out subsection (b), the Secretary shall select for inclusion on the published list described in subsection (a) with respect to a price applicability period, the negotiation-eligible drugs that the Secretary projects will result in the greatest savings to the Federal Government or fair price eligible individuals during the price applicability period. In making this projection of savings for drugs for which there is an AIM price for a price applicability period, the savings shall be projected across different dosage forms and strengths of the drugs and not based on the specific formulation or package type of the drugs, taking into consideration both the volume of drugs for which payment is made, the amount paid for such drugs, and the amount by which the net price for the drugs exceeds the AIM price for the drugs.

(3) SELECTED DRUG.—For purposes of this part the term ‘selected drug’ means any negotiation-eligible drug selected under subsection (a) with respect to an initial price applicability period shall be subject to the negotiation process under such section for the voluntary negotiation period with respect to such drug under subsection (a) with respect to the price applicability period described in such section as applicable for any subsequent year during the price applicability period.

In applying this subsection to a selected drug that is selected under this subsection for an initial price applicability year shall not count toward the required minimum amount of drugs to be selected under paragraph (1) for any subsequent year, including such a drug so selected that is subject to renegotiation under section 1194.

(3) PUBLICATION.—Not later than the selected drug publication date with respect to an initial price applicability year, the Secretary shall select and publish in the Federal Register a list of:

(1) (A) With respect to an initial price applicability year, the Secretary shall select and publish in the Federal Register a list of—

(a) all new-entrant negotiation-eligible drugs described in subsection (e)(3).
shall publish in the Federal Register a list of negotiable-eligible drugs with respect to selected drug publication date.

(e) Qualifying single source drug.—For purposes of this paragraph, the term ‘qualifying single source drug’ means any of the following:

(1) Drug products.—A drug that—

(A) is licensed under section 351(a) of the Public Health Service Act, including any product that has been deemed to be licensed under section 351(k) of such Act; and

(B) is not the reference product for any biological product that is licensed and continues to be marketed under section 351(k) of such Act.

(2) Biological products.—A biological product with respect to which—

(A) is licensed under section 351(a) of the Public Health Service Act, including any product that has been deemed to be licensed under section 351(k) of such Act; and

(B) is not the reference product for any biological product that is licensed and continues to be marketed under section 351(k) of such Act.

(3) Insulin product.—Notwithstanding paragraph (1) or (2) of section 505 of the Federal Food, Drug, and Cosmetic Act or licensed under subsection (a) or (k) of section 351 of the Public Health Service Act and continues to be marketed under such section 505 or 351, including any insulin product that has been deemed to be licensed under section 351(k) of the Public Health Service Act and continues pursuant to section 702(e)(4) of the Biologics Price Competition and Innovation Act of 2009, and continues to be marketed under section 351 of such Act; and

(4) Biological product with respect to which—

(A) is licensed under section 351(a) of the Public Health Service Act, including any product that has been deemed to be licensed under section 351(k) of such Act; and

(B) is not the reference product for any biological product that is licensed and continues to be marketed under section 351(k) of such Act.

(f) New-entrant negotiation-eligible drugs.—

(1) In general.—For purposes of this part, the term ‘new-entrant negotiation-eligible drug’ means, with respect to the selected drug publication date with respect to such selected drug publication date, based on the projected spending under title XVIII or in the United States on such drug. For purposes of this paragraph the term ‘United States’ includes the 50 States, the District of Columbia, and the territories of the United States.

SEC. 1193. MANUFACTURER AGREEMENTS.

(a) In general.—For purposes of section 1191(a)(1)(B), the Secretary shall enter into agreements with the manufacturer of a selected drug with respect to such selected drug, under which—

(1) during the voluntary negotiation period for the initial price applicability year for the selected drug, the Secretary and manufacturer, in accordance with section 1194, negotiate to determine (and, by not later than the last date of such period and in accordance with subsection (c), agree to) a maximum fair price for such selected drug of the manufacturer in order to provide access to such price.

(2) the Secretary and the manufacturer shall, in accordance with a process and during a period specified by the Secretary pursuant to rulemaking, renegotiate (and, by not later than the last date of such period and in accordance with subsection (c), agree to) the maximum fair price for such drug if the Secretary determines that the amount described in paragraph (A) of section 1191(c)(1) and are furnished or dispersed such drug during, subject to subparagraph (B), the price applicability period.

(3) In general.—For purposes of this subparagraph (A), as applicable, during the year preceding the selected drug publication date; and

(B) that the Secretary determines under paragraph (2) is likely to be included as a negotiation-eligible drug with respect to the subsequent selected drug publication date.

(2) Determination.—In the case of a qualifying single source drug that meets the criteria described in subparagraph (A) of paragraph (1) with respect to the initial price applicability year, if the wholesale acquisition cost at which such drug is first marketed in the United States is equal to or greater than the median household income as published by the most recent data collected by the United States Census Bureau, the Secretary shall determine before the selected drug publication date with respect to such drug whether such drug is likely to be included in the negotiation-eligible drug with respect to the subsequent selected drug publication date, based on the projected spending under title XVIII or in the United States on such drug. For purposes of this paragraph the term ‘United States’ includes the 50 States, the District of Columbia, and the territories of the United States.

SEC. 1195. MANUFACTURER AGREEMENTS.

(a) In general.—For purposes of section 1191(a)(2), the Secretary shall enter into agreements with the manufacturer of selected drugs with respect to a price applicability period, by not later than June 15 following the selected drug publication date with respect to such selected drug, under which—

(1) the manufacturer agrees that in the case the selected drug of a manufacturer is a drug described in subsection (c), the manufacturer will, in accordance with such subsection, make payments pursuant to such subsection with respect to such drug; and

(2) the manufacturer complies with requirements imposed by the Secretary for purposes of this part by a manufacturer of a selected drug pursuant to such subsection with respect to such drug, and

(3) special rule for certain selected drugs without AIM price.—

(1) In general.—In the case of a selected drug described in subparagraph (A) of section 1191(c)(1) and are furnished or dispersed such drug during, subject to subparagraph (B), the price applicability period, the Secretary shall—

(A) enter into an agreement with the manufacturer of such selected drug, under which—

(i) the Secretary determines that the amount described in paragraph (2)(A) for a unit of such drug is the amount described in paragraph (2)(B) for a unit of such drug, by not later than one year after the date of such determination, the manufacturer of such selected drug shall pay the Secretary an amount equal to the product of—

(ii) the difference between such amount described in subparagraph (A) for a unit of such drug and such amount described in subparagraph (B) for a unit of such drug; and

(iii) the number of units of such drug sold in the United States, including the 50 States, the District of Columbia, and the territories of the United States, during the period described in paragraph (2)(B).

(2) Amounts described.—

(A) Weighted average price before AIM price available.—For purposes of paragraph (1), the amount described in such subparagraph shall include information on sales of such drug for such drug with respect to the first plan year for which the drug is included on the list of negotiation-eligible drugs published under section 1192(d) and ending with the last plan year during the price applicability period for such drug with respect to which there is no AIM price available for such drug.

(B) Amount multiplier after AIM price available.—For purposes of paragraph (1), the amount described in such subparagraph shall be the amount equal to 200 percent of the AIM price for such drug with respect to the first plan year for which the drug is included on the list of negotiation-eligible drugs published under section 1192(d) and ending with the last plan year during the price applicability period for such drug with respect to which there is no AIM price available for such drug.

(3) Drug product.—For purposes of paragraph (1), the amount described in such subparagraph shall include information on sales of such drug, regardless of the name under which the drug is sold, in any foreign country.
that is part of the AIM price. The Secretary shall certify, to the extent practicable, such sales from appropriate officials of the government of the foreign country involved.

"(I) SELECTION OF THE MAXIMUM FAIR PRICE.—Each manufacturer with an agreement in effect under this section shall comply with requirements imposed by the Secretary or a third party with a contract under section 1196(c)(1), as applicable, for purposes of administering the program.

**SEC. 1194. NEGOTIATION AND RENEGOTIATION OF MAXIMUM FAIR PRICE.**

(a) In General.—For purposes of this part, under an agreement under section 1193 between the Secretary and a manufacturer of a selected drug, the Secretary or a third party with a contract under section 1196(c)(1) shall negotiate maximum fair price for such drug, with respect to such drug, for the purpose described in section 1193(a)(1), and

(b) as applicable pursuant to section 1193(a)(2) with the term described pursuant to such section, renegotiate such maximum fair price for such drug for the purpose described in subsection (a).

(b) NEGOTIATING METHODOLOGY AND OBJECTIVE.—

(1) In general.—The Secretary shall develop and use a consistent methodology for negotiations under this section that, in accordance with paragraph (2) and subject to paragraph (3), achieves the lowest maximum fair price for each selected drug while appropriately rewarding the manufacturer of such drug for the value created by research and development.

(2) Prioritizing factors.—In considering the factors described in subsection (d) in negotiating and, as applicable, renegotiating the maximum fair price of a selected drug, the Secretary shall, to the extent practicable, consider all of the available factors listed but shall prioritize the following factors:

(A) RESEARCH AND DEVELOPMENT COSTS.—The factor described in paragraph (1)(A) of subsection (d).

(B) MARKET DATA.—The factor described in paragraph (1)(B) of subsection (d).

(C) UNIT COSTS OF PRODUCTION AND DISTRIBUTION.—The factor described in paragraph (1)(C) of subsection (d).

(D) COMPARISON TO EXISTING THERAPEUTIC ALTERNATIVES.—The factor described in paragraph (2)(A) of such subsection.

(E) Approval of the drug.

(F) National sales data for the drug.

(G) Information on clinical trials for the drug.

(H) Information on approval by the Food and Drug Administration of alternative drug products.

(I) Information on approval by the Food and Drug Administration of alternative drug products.

(J) Information on comparative effectiveness research and, for purposes of negotiating and, as applicable, renegotiating the maximum fair price for such drug, the target price described in this subparagraph for such drug and respective year is the average price for such drug for the purpose described in subsection (c), except that the average price for such drug shall not exceed 120 percent of the AIM price applicable to such drug with respect to such year.

(2) SELECTED DRUGS WITHOUT AIM PRICE.—In the case of a selected drug for which there is no AIM price available with respect to the initial price applicability year for such drug, for each plan year during the price applicability period for such drug, shall not exceed 120 percent of the AIM price applicable to such drug with respect to such year.

(c) LIMITATION.—

(1) In general.—Subject to paragraph (2), the maximum fair price negotiated (including as renegotiated) under this section for a selected drug, with respect to each plan year during the price applicability period for such drug, shall not exceed 120 percent of the AIM price applicable to such drug with respect to such year.

(2) SELECTED DRUGS WITHOUT AIM PRICE.—In the case of a selected drug for which there is no AIM price available with respect to the initial price applicability year for such drug, the maximum fair price negotiated (including as renegotiated) under this section for such selected drug shall not exceed the amount equal to 85 percent of the average manufacturer price for such drug with respect to such year.

(d) CONSIDERATIONS.—For purposes of negotiating and, as applicable, renegotiating (including for purposes of determining whether to renegotiate) the maximum fair price of a selected drug under this section with the manufacturer of the drug, the Secretary, consistent with subsection (b)(2), shall take into consideration the factors described in paragraphs (1), (2), (3), and (4), and may take into consideration the factor described in paragraph (5):

(1) MANUFACTURER-SPECIFIC INFORMATION.—The following information, including as submitted by the manufacturer:

(A) Research and development costs of the manufacturer for the drug and the extent to which the manufacturer has recouped research and development costs.

(B) Market data for the drug, including the distribution of sales across different programs and purchasers and projected future revenues for the drug.

(C) Unit costs of production and distribution of the drug.

(D) Prior Federal financial support for novel therapeutic discovery and development with respect to the drug.

(E) Data on patents and on existing and pending exclusivity for the drug.

(F) National sales data for the drug.

(G) Information on clinical trials for the drug in the United States or in applicable countries described in section 1191(c)(3)(B).

(H) INFORMATION ON THERAPEUTIC ADVANCEMENTS.—The following information:

(A) The extent to which the drug represents a therapeutic advance as compared to existing therapeutic alternatives and, to the extent such information is available, the costs of such existing therapeutic alternatives.

(B) Information on approval by the Food and Drug Administration of alternative drug products.

(C) Information on comparative effectiveness research and, for purposes of negotiating and, as applicable, renegotiating the effects of such products on specific populations, such as individuals with disabilities, the elderly, terminally ill, children, and children with special needs.

In considering information described in subparagraph (C), the Secretary shall not use evidence or findings from comparative clinical effectiveness research in a manner that results in extending the life of an elderly, disabled, or terminally ill individual as of lower value than extending the life of an individual who is younger, not disabled, or not terminally ill.

(3) FOREIGN SALES INFORMATION.—To the extent available on a timely basis, including as provided by a manufacturer of the selected drug or otherwise, information on sales of the selected drug in each of the countries described in section 1191(c)(3)(B).

(4) VA DRUG PRICE INFORMATION.—Information disclosed to the Secretary pursuant to subsection (f).

(5) ADDITIONAL INFORMATION.—Information submitted to the Secretary, in accordance with subsection (b) and, to the extent such information is obtained, from appropriate officials of the government of another country described in section 1191(c)(3)(B).

(6) REQUIREMENT.—In negotiating the maximum fair price with respect to a selected drug, the Secretary shall, after the initial price applicability year and selected drug publication date, include in the requirements of this section, including the requirements of this subsection, the information described in subsection (d)(1); and

(7) by not later than October 1 following the selected drug publication date, the manufacturer of such selected drug shall submit to the Secretary such requested information in such form and manner as the Secretary may require.

(2) SELECTION PROCESS.—In negotiating and, as applicable, renegotiating (including for purposes of determining whether to renegotiate) the maximum fair price of a selected drug under this part with the manufacturer of the drug and, with respect to a subsequent year during the price applicability period, and other relevant data for purposes of this section.

(3) ADDITIONAL INFORMATION.—The factor described in paragraph (2) shall not be applied to the price data applicable to such year in any manner that prevents extending the life of an elderly, disabled, or terminally ill individual as of lower value than extending the life of an individual who is younger, not disabled, or not terminally ill.

(4) TRANSFER OF INFORMATION.—Nothing in this section shall affect the applicability of such section to the extent such information is provided to or acquired by the Secretary.

(5) REPORT.—The Secretary shall submit to Congress a report on the maximum fair prices negotiated (or, as applicable, renegotiated) under this section for each plan year during the price applicability period, and other relevant data for purposes of this section.

(6) PRIORITIZATION.—(A) IN GENERAL.—The Secretary shall, in negotiating and, as applicable, renegotiating (including for purposes of determining whether to renegotiate) the maximum fair price for a selected drug for the purpose described in section 1191(c)(3)(B), otherwise, prioritize information and, to the extent such information is obtained, from appropriate officials of the government of another country described in section 1191(c)(3)(B).

(7) DETERMINATION.—In negotiating and, as applicable, renegotiating (including for purposes of determining whether to renegotiate) the maximum fair price for such drug for the purpose described in section 1191(c)(3)(B), the Secretary shall, to the extent practicable, consider all of the available factors listed but shall prioritize the following factors:

(A) Research and development costs of the manufacturer for the drug and the extent to which the manufacturer has recouped research and development costs.

(B) Market data for the drug, including the distribution of sales across different programs and purchasers and projected future revenues for the drug.

(C) Unit costs of production and distribution of the drug.

(D) Prior Federal financial support for novel therapeutic discovery and development with respect to the drug.

(E) Data on patents and on existing and pending exclusivity for the drug.

(F) National sales data for the drug.

(G) Information on clinical trials for the drug in the United States or in applicable countries described in section 1191(c)(3)(B).

(H) INFORMATION ON THERAPEUTIC ADVANCEMENTS.—The following information:

(A) The extent to which the drug represents a therapeutic advance as compared to existing therapeutic alternatives and, to the extent such information is available, the costs of such existing therapeutic alternatives.

(B) Information on approval by the Food and Drug Administration of alternative drug products.

(C) Information on comparative effectiveness research and, for purposes of negotiating and, as applicable, renegotiating the effects of such products on specific populations, such as individuals with disabilities, the elderly, terminally ill, children, and children with special needs.

In considering information described in subparagraph (C), the Secretary shall not use evidence or findings from comparative clinical effectiveness research in a manner that results in extending the life of an elderly, disabled, or terminally ill individual as of lower value than extending the life of an individual who is younger, not disabled, or not terminally ill.

(3) FOREIGN SALES INFORMATION.—To the extent available on a timely basis, including as provided by a manufacturer of the selected drug or otherwise, information on sales of the selected drug in each of the countries described in section 1191(c)(3)(B).

(4) VA DRUG PRICE INFORMATION.—Information disclosed to the Secretary pursuant to subsection (f).

(5) ADDITIONAL INFORMATION.—Information submitted to the Secretary, in accordance with subsection (b) and, to the extent such information is obtained, from appropriate officials of the government of another country described in section 1191(c)(3)(B).

(6) REQUIREMENT.—In negotiating and, as applicable, renegotiating (including for purposes of determining whether to renegotiate) the maximum fair price for a selected drug under this part with the manufacturer of the drug and, with respect to a subsequent year during the price applicability period, and other relevant data for purposes of this section.

(7) ADDITIONAL INFORMATION.—The factor described in paragraph (2) shall not be applied to the price data applicable to such year in any manner that prevents extending the life of an elderly, disabled, or terminally ill individual as of lower value than extending the life of an individual who is younger, not disabled, or not terminally ill.

(8) DETERMINATION.—In negotiating and, as applicable, renegotiating (including for purposes of determining whether to renegotiate) the maximum fair price for such drug under this part with the manufacturer of such drug, the Secretary shall, after the initial price applicability year and selected drug publication date, include in the requirements of this section, including the requirements of this subsection, the information described in subsection (d)(1); and

(9) by not later than October 1 following the selected drug publication date, the manufacturer of such selected drug shall submit to the Secretary such requested information in such form and manner as the Secretary may require.

(4) SELECTION PROCESS.—(A) IN GENERAL.—With respect to an initial price applicability year and selected drug with respect to such year, not later than April 1 of the plan year prior to such initial price applicability year, the Secretary shall publish in the Federal Register the maximum fair price for such drug negotiated under this part with the manufacturer of such drug.

(5) ADDITIONAL INFORMATION.—(A) Subject to paragraph (B), the amount equal to the maximum fair price published for such drug for the previous year, increased by the annual percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) as of September of such previous year; or
"(B) in the case the maximum fair price for such drug was renegotiated, for the first year for which such price as so renegotiated applies, such renegotiated maximum fair price.

"(D) renegotiated after deadline.—In the case of a selected drug with respect to an initial price applicability year for which the maximum fair price is determined under this part and such renegotiation occurs after the date of publication under this section, the Secretary shall publish such maximum fair price in the Federal Register by not later than 30 days after the date such maximum price is so determined.

**SEC. 1196. ADMINISTRATIVE DUTIES; COORDINATION PROVISIONS.**

"(A) The establishment of procedures (including through agreements with manufacturers under this part, contracts with prescription drug plans under part D of title XVIII and MA–PD plans under part C of such title, and agreements under section 1197 with group health plans and health insurance issuers of health insurance coverage offered in the individual or group market) in which the maximum fair price for a selected drug is provided to fair price eligible individuals, who with respect to such drug are described in subparagraph (A) of section 1191(c), is so determined.

"(B) The establishment of procedures (including through agreements with manufacturers under this part, contracts with prescription drug plans under part D of title XVIII and MA–PD plans under part C of such title, and agreements under section 1197 with group health plans and health insurance issuers of health insurance coverage offered in the individual or group market) under which, in the case of a selected drug furnished or administered by such a hospital, physician, or other provider of services and supplier if fair price eligible individuals (who with respect to such drug are described in subparagraph (B) of section 1191(c)(1)), the maximum fair price for the selected drug is provided to such individuals, who with respect to such drug are described in subparagraph (A) of section 1191(c)(1), is so determined.

"(C) The establishment of procedures (including through agreements with manufacturers under this part, contracts with prescription drug plans under part D of title XVIII and MA–PD plans under part C of such title, and agreements under section 1197 with group health plans and health insurance issuers of health insurance coverage offered in the individual or group market) under which, in the case of a selected drug furnished or administered by a hospital, physician, or other provider of services and supplier (as applicable) with respect to such individuals and providing that such maximum fair price is provided in a manner that does not include any dispensing or similar fee.

"(D) The establishment of procedures to negotiate and apply the maximum fair price in a manner that does not include any dispensing or similar fee.

"(E) The establishment of procedures to carry out the provisions of this part, as applicable, with respect to—

1. (i) fair price eligible individuals who are enrolled under a prescription drug plan under part D of title XVIII or an MA–PD plan under part C of such title;

2. (ii) fair price eligible individuals who are enrolled under a group health plan or health insurance coverage offered by a health insurance issuer offering group health insurance coverage (as such terms are defined in section 2791 of the Public Health Service Act), with respect to a price applicability period and a selected drug with respect to such period—

3. (A) with respect to such selected drug furnished or dispensed at a pharmacy or by mail order service if coverage is provided under such plan or coverage during such period for such selected drug as so furnished or dispensed, and

4. (B) with respect to such selected drug furnished or administered by a hospital, physician, or other provider of services or supplier if coverage is provided under such plan or coverage during such period for such selected drug as so furnished or administered.

"(2) PERFORMANCE REQUIREMENTS.—The Secretary shall establish performance requirements for a third party with a contract under paragraph (1) and safeguards to protect the independence and integrity of the activities carried out by the third party under the program under this part.

**SEC. 1197. VOLUNTARY PARTICIPATION BY OTHER HEALTH PLANS.**

"(A) AGREEMENT TO PARTICIPATE UNDER PROGRAM.—

"(1) IN GENERAL.—Subject to paragraph (2), under the program under this part the Secretary shall be treated as having in effect an agreement with a group health plan or health insurance issuer offering group health insurance coverage (as such terms are defined in section 2791 of the Public Health Service Act), with respect to a price applicability period and a selected drug with respect to such period—

1. (A) with respect to such selected drug furnished or dispensed at a pharmacy or by mail order service if coverage is provided under such plan or coverage during such period for such selected drug as so furnished or dispensed, and

2. (B) with respect to such selected drug furnished or administered by a hospital, physician, or other provider of services or supplier if coverage is provided under such plan or coverage during such period for such selected drug as so furnished or administered.

"(2) OPTING OUT OF AGREEMENT.—The Secretary shall not be treated as having in effect an agreement under the program under this part with a group health plan or health insurance issuer offering group health insurance coverage (as such terms are defined in section 2791 of the Public Health Service Act), with respect to a price applicability period and a selected drug with respect to such period if such health insurance issuer or health insurance coverage, with respect to which such coverage is provided under such plan or coverage for such drug, that has elected under subsection (a) not to participate under the program with respect to such period and drug.

"(B) PUBLICATION OF NOTICE.—With respect to each price applicability period and each selected drug with respect to such period, the Secretary and the Secretary of Labor and the Secretary of the Treasury, as applicable, shall make public a list of each group health plan and each health insurance issuer offering group or individual health insurance coverage, with respect to which such coverage is provided under such plan or coverage for such drug, that has elected under subsection (a) not to participate under the program with respect to such period and drug.

**SEC. 1198. CIVIL MONETARY PENALTY.**

"(a) VIOLATIONS RELATING TO OFFERING OF MAXIMUM FAIR PRICE.—Any manufacturer of a selected drug that has entered into an agreement with the Secretary under section 1191 or section 1192 for a calendar year during the price applicability period for such drug, that does not provide access to a price that is not more than the maximum fair price (or a lesser price) for such drug for such year—

1. (A) to a fair price eligible individual who with respect to such drug is described in subparagraph (A) of section 1191(c)(1) or (section 1192(c)(1)) who is furnished or dispensed such drug during such year; or

"(B) receive, distribute, or facilitate the distribution of funds of manufacturers to appro-
“(2) to a hospital, physician, or other provider of services or supplier with respect to fair price eligible individuals who with respect to such drug is described in subparagraph (B) of such section in the case of a drug or administration of such drug by such hospital, physician, or provider or supplier during such year; shall be subject to a civil monetary penalty equal to ten times the difference between the price for such drug made available for such year by such manufacturer with respect to such individual or hospital, physician or provider, or supplier and the maximum fair price for such drug for such year.

“(b) Violations of Certain Terms of Agreement.—Any manufacturer of a selected drug that does not enter into an agreement under section 1193, with respect to a plan year during the price applicability period for such drug, that is in violation of a requirement imposed pursuant to section 1193(a)(6) shall be subject to a civil monetary penalty of not more than $1,000,000 for each such violation.

“(c) Application.—The provisions of section 1192A (other than subsections (a) and (b)) shall apply to a civil monetary penalty under this section in the same manner as such provisions apply to a penalty or proceeding under section 1192A(a).

“SEC. 1199. MISCELLANEOUS PROVISIONS.

“(a) Paperwork Reduction Act.—Chapter 35 of title 44, United States Code, shall not apply to any requirement imposed under this part.

“(b) National Academy of Medicine Study.—Not later than December 31, 2025, the National Academy of Medicine shall conduct a study, and submit to Congress a report, on recommendations for improvements to the program under this part, including the determination of the limits applied under section 1194(c).

“(c) Limitation on Judicial Review.—The following shall not be subject to judicial review:

“(1) The selection of drugs for publication under section 1192(a).

“(2) The determination of whether a drug is a negotiation-eligible drug under section 1192(d).

“(3) The determination of the maximum fair price of a selected drug under section 1194.

“(4) The determination of units of a drug for purposes of section 1191(c)(1).

“(e) Coordination.—In carrying out this part with respect to group health plans or health insurance issuers, to the private sector, to the individuals enrolled under such plans or coverage, and to hospitals, physicians, and other providers and suppliers participating in such plans and coverage.

“SEC. 727A. FAIR PRICE NEGOTIATION PROGRAM AND APPLICATION OF MAXIMUM FAIR PRICES.

“(a) In General.—In the case of a group health plan or health insurance issuer offering group health plan or health insurance coverage that is treated under section 1197 of the Social Security Act as having in effect an agreement with the Secretary under the Fair Price Negotiation Program under part E of title XI of such Act, with respect to a selected drug (as defined in section 1191(b)(2)) of such Act with respect to such period with respect to which coverage is provided under such plan or coverage, in the same manner as such provisions apply to prescription drug plans and MA–PD plans during such period; and

“(2) the provisions of such part shall apply, as applicable—

“(A) if coverage of such selected drug is provided under such plan or coverage if the drug is furnished or dispensed at a pharmacy or by a mail order service, to the plans or coverage offered by such plan or issuer, and to the individuals enrolled under such plan or coverage during such period, with respect to such selected drug, in the same manner as such provisions apply to prescription drug plans and MA–PD plans;

“(B) if coverage of such selected drug is not provided under such plan or coverage if the drug is furnished or administered by a hospital, physician, or other provider of services or supplier, to the plans or coverage offered by such plan or issuer, to the individuals enrolled under such plan or coverage, and to hospitals, physicians, and other providers and suppliers participating in such plans and coverage during such period, with respect to such drug in the same manner as such provisions apply to prescription drug plans and MA–PD plans during such period; and

“(B) if coverage of such selected drug is provided under such plan or coverage if the drug is furnished or dispensed at a pharmacy or by a mail order service, to the plans or coverage offered by such plan or issuer, and to the individuals enrolled under such plan or coverage during such period, with respect to such selected drug, in the same manner as such provisions apply to prescription drug plans and MA–PD plans.
part B of such title, and to hospitals, physicians, and other providers and suppliers participating under title XVIII during such period; (2) the plan or issuer shall apply any cost-sharing responsibilities under such plan on such selected drug furnished under such plan or coverage, with respect to such selected drug, by substituting an amount not more than the maximum fair price negotiated under such part E of title XI for the drug price paid by the plan or coverage, with respect to such selected drug, by substituting an amount not more than the maximum fair price negotiated under such part E of title XI for the drug price paid by the plan or coverage, with respect to such selected drug, by substituting an amount not more than the maximum fair price negotiated under such part E of title XI for such drug in lieu of the drug price which so sold.

(3) the Secretary shall apply the provisions of such part E to such plan, issuer, and such individuals so enrolled in such plan.

(b) NOTIFICATION REGARDING NONPARTICIPATION IN FAIR PRICE NEGOTIATION PROGRAM.—A group health plan shall publicly disclose in a manner and in accordance with a process specified by the Secretary any election made under section 1197 of the Social Security Act by the plan or issuer to not participate in the Fair Price Negotiation Program under part E of title XI of such Act with respect to a selected drug (as defined in section 1192(c) of such Act) or under such plan or coverage before the beginning of the plan year for which such election was made.

(ii) APPLICATION TO RETIREE AND CERTAIN SMALL GROUP HEALTH PLANS.—Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)) is amended by striking "section 711" and inserting "sections 711 and 716".

(iii) CLERICAL AMENDMENT.—The table of sections for subpart B of part 7 of subtitle B of title XVIII of the Social Security Act is amended—

(I) 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. 9816. FAIR PRICE NEGOTIATION PROGRAM AND APPLICATION OF MAXIMUM FAIR PRICES.

(a) In General.—In the case of a group health plan that is treated under section 1197 of the Social Security Act as having in effect an agreement with the Secretary under the Fair Price Negotiation Program under part E of title XI of such Act, with respect to a selected drug (as defined in section 1192(c) of such Act) or under such plan or coverage before the beginning of the plan year beginning on the date which the manufacturer of the drug has agreed to a maximum fair price under such agreement, the period beginning on the first date after the last date of such renegotiation period and ending on the first date during which the manufacturer of the drug has agreed to a renegotiated maximum fair price under such agreement.

(2) in the case of sales of such drug during the 91st day through the 180th day described in subsection (b) with respect to such drug, 5 percent, and

(3) in the case of sales of such drug during any subsequent day, 95 percent.

(b) SELECTED DRUG.—For purposes of this section—

(I) in general.—The term selected drug means any selected drug (within the meaning of section 1192 of the Social Security Act) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

(II) the term United States has the meaning given such term by section 4612(a)(4).

(III) COORDINATION WITH RULES FOR POSSSESSION ON THE UNITED STATES.—Rules similar to the rules of paragraphs (2) and (4) of section 4123(c) shall apply for purposes of this section.

(IV) OTHER DEFINITIONS.—For purposes of this section, the terms 'maximum fair price' and 'fair price' have the meaning given such terms in section 1191 of the Social Security Act.

(1) tax imposed by this section, the Secretary may

IIH1477

December 12, 2019

CONGRESSIONAL RECORD—HOUSE
(c) CONFORMING AMENDMENTS.—
(1) Section 4221(a) of the Internal Revenue Code of 1986 is amended by inserting “or 492” after “section 4919.”
(2) Section 1906(b)(2) of such Code is amended by inserting “or 492” after “section 4919.”

(d) CLERICAL AMENDMENTS.—
(1) The heading of subsection E of chapter 32 of the Code of 1986 is amended by striking “Medical Devices” and inserting “Other Medical Products”.
(2) The table of subchapters for chapter 32 of such Code is amended by adding at the end the following new item:

"SUBCHAPTER E. OTHER MEDICAL PRODUCTS."
(3) The table of sections for subsection E of chapter 32 of such Code is amended by adding at the end the following new item:

"Sec. 4192. Selected drugs during noncompliance periods.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of the enactment of this Act.

SEC. 102. FAIR PRICE NEGOTIATION IMPLEMENTATION FUND.
(a) IN GENERAL.—There is hereby established a Fair Price Negotiation Implementation Fund (referred to in this section as the “Fund”). The Secretary of Health and Human Services may obligate and spend amounts in the Fund to carry out this title and titles II and III (and the amendments made by such titles).

(b) FUNDING.—There is authorized to be appropriated from any monies in the Treasury not otherwise appropriated, to the Fund $3,000,000,000, to remain available until expended, of which—

(1) $200,000,000 shall become available on the date of the enactment of this Act;
(2) $600,000,000 shall become available on October 1, 2020;
(3) $600,000,000 shall become available on October 1, 2021;
(4) $600,000,000 shall become available on October 1, 2022; and
(5) $600,000,000 shall become available on October 1, 2023.

(c) SUPPLEMENT NOT SUPPLANT.—Any amounts appropriated pursuant to this section shall be in addition to any other amounts otherwise appropriated pursuant to any other provision of law.

TITLE II—MEDICARE PARTS B AND D PRESCRIPTION DRUG INFLATION REBATES

SEC. 201. MEDICARE PART B REBATE BY MANUFACTURERS.
(a) IN GENERAL.—Section 1843 of the Social Security Act (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(c) REBATE BY MANUFACTURERS FOR SINGLE SOURCE DRUGS WITH PRICES INCREASING FASTER THAN INFLATION.—
"(1) REQUIREMENTS.—
"(A) SECTORIAL PROVISION OF INFORMATION.—Not later than 6 months after the end of each calendar quarter beginning on or after July 1, 2022, and each calendar quarter beginning on or after July 1, 2021, the Secretary shall, for each part B rebatable drug, report to each manufacturer of such part B rebatable drug the following for such calendar quarter:
"(i) the total number of units of the billing and payment code described in subparagraph (A)(i) of paragraph (3) with respect to such drug and calendar quarter;
"(ii) the amount (if any) of the excess average sales price increase described in subparagraph (A)(ii) of such paragraph for such drug and calendar quarter;
"(iii) units included under the single payment system for renal dialysis services under section 1881(b)(14); or
"(iv) (C) EXEMPTION FOR SHORTAGES.—The Secretary may reduce or waive the rebate amount with respect to a part B rebatable drug that is a similar biological product (as defined in section 1847A(c)(6)), including a biosimilar biological product (as defined in subparagraph (H) of such section), paid for under this part, except such term shall not include such a drug or biological—
"(i) by virtue of the benchmark quarter and the corresponding quarter for the previous year, or
"(ii) subject to paragraph (4), the amount equal to the product of—
"(A) the inflation-adjusted payment amount determined under subparagraph (C) for such part B rebatable drug during the calendar quarter;
"(B) the total number of units of the billing and payment code for such part B rebatable drug furnished under this part during the calendar quarter; and
"(C) the benchmark period consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year.

"(2) PART B REBATEABLE DRUG DEFINED.—
"(A) IN GENERAL.—In this subsection, the term ‘part B rebatable drug’ means a single source drug or biological (as defined in subparagraph (D) of section 1847A(c)(6)), including a bio-similar biological product (as defined in subparagraph (H) of such section), paid for under this part, except such term shall not include such a drug or biological—
"(i) by virtue of the benchmark quarter and the corresponding quarter for the previous year, or
"(ii) subject to paragraph (4), the amount equal to the product of—
"(A) the inflation-adjusted payment amount determined under subparagraph (C) for such part B rebatable drug during the calendar quarter;
"(B) the total number of units of the billing and payment code for such part B rebatable drug furnished under this part during the calendar quarter; and
"(C) the benchmark period consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year.

"(3) SPECIAL TREATMENT OF CERTAIN DRUGS AND EXEMPTION.—
"(A) SUBSEQUENTLY APPROVED DRUGS.—Subject to subparagraph (B), in the case of a part B rebatable drug first approved or licensed by the Food and Drug Administration after July 1, 2015, clause (ii) of paragraph (3)(C) shall be applied as if the term ‘payment amount benchmark quarter’ were defined under paragraph (3)(D) as the third full calendar quarter after the day on which the drug was first marketed, and clause (ii) of paragraph (3)(E) shall be applied as if the term ‘benchmark period CPI–U’ were defined under paragraph (3)(F) as the CPI–U for the third full calendar quarter after the date on which the drug was first marketed.

"(B) TIMELINE FOR PROVISION OF REBATES FOR SUBSEQUENTLY APPROVED DRUGS.—In the case of a part B rebatable drug first approved or licensed by the Food and Drug Administration after July 1, 2015, paragraph (3)(C) shall be applied as if the term ‘payment amount benchmark quarter’ were defined under paragraph (3)(D) as the third full calendar quarter after the day on which the drug was first marketed, and clause (ii) of paragraph (3)(E) shall be applied as if the term ‘benchmark period CPI–U’ were defined under paragraph (3)(F) as the CPI–U for the third full calendar quarter after the date on which the drug was first marketed.

"(C) EXEMPTION FOR SHORTAGES.—The Secretary may reduce or waive the rebate amount with respect to a part B rebatable drug that is a similar biological product (as defined in section 1847A(c)(6)), including a biosimilar biological product (as defined in subparagraph (H) of such section), paid for under this part, except such term shall not include such a drug or biological—
"(i) by virtue of the benchmark quarter and the corresponding quarter for the previous year, or
"(ii) subject to paragraph (4), the amount equal to the product of—
"(A) the inflation-adjusted payment amount determined under subparagraph (C) for such part B rebatable drug during the calendar quarter;
"(B) the total number of units of the billing and payment code for such part B rebatable drug furnished under this part during the calendar quarter; and
"(C) the benchmark period consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year.

"(D) SELECTED DRUGS.—In the case of a part B rebatable drug first approved or licensed by the Food and Drug Administration after July 1, 2015, paragraph (3)(C) shall be applied as if the term ‘payment amount benchmark quarter’ were defined under paragraph (3)(D) as the third full calendar quarter after the day on which the drug was first marketed, and clause (ii) of paragraph (3)(E) shall be applied as if the term ‘benchmark period CPI–U’ were defined under paragraph (3)(F) as the CPI–U for the third full calendar quarter after the date on which the drug was first marketed.

"(E) TIMELINE FOR PROVISION OF REBATES FOR SELECTED DRUGS.—In the case of a part B rebatable drug first approved or licensed by the Food and Drug Administration after July 1, 2015, paragraph (3)(C) shall be applied as if the term ‘payment amount benchmark quarter’ were defined under paragraph (3)(D) as the third full calendar quarter after the day on which the drug was first marketed, and clause (ii) of paragraph (3)(E) shall be applied as if the term ‘benchmark period CPI–U’ were defined under paragraph (3)(F) as the CPI–U for the third full calendar quarter after the date on which the drug was first marketed."
the rebate amount under paragraph (1)(B) shall be waived; and

(ii) in the case such drug is determined (pursuant to section 1192(c)) to no longer be a selected drug, for each applicable year beginning after the price applicability period with respect to such drug, clause (i) of paragraph (3)(C) shall be applied as if the term ‘payment amount’ were defined under paragraph (3)(D) as the calendar quarter beginning January 1 of the last year beginning during such price applicability period with respect to such drug; and the term ‘benchmark’ period CPI–U' were defined under paragraph (3)(C) shall be applied as if the term ‘benchmark period’ were defined under paragraph (3)(C) (as defined in section 1847A(c)(6)(C)), including, for purposes of calculation of coinsurance and the amount of payment otherwise applicable under this subsection, the provisions of section 1834(x)(5), paragraph (1)(DD) of subsection (a), and the flush left matter following paragraph (9) of subsection (a), shall, as determined appropriate by the Secretary, apply under this subsection in lieu of calculation of coinsurance and the amount of payment otherwise applicable under this subsection, the provisions of section 1834(x)(5), paragraph (1)(DD) of subsection (a), and the flush left matter following paragraph (9) of subsection (a), shall, as determined appropriate by the Secretary, apply under this subsection in the same manner as such provisions of section 1834(x)(5) and the flush left matter following paragraph (9) of subsection (a) apply under such section and subsection.

(b) AVERAGE SALES PRICES.—In the case of a part B rebatable drug, as defined in paragraph (2) of section 1834(c) for which payment under this part is not packaged into a payment for a service furnished on or after July 1, 2021, under the system under this subsection, in lieu of calculation of coinsurance and the amount of payment otherwise applicable under this subsection, the provisions of section 1834(x)(5), paragraph (1)(DD) of subsection (a), and the flush left matter following paragraph (9) of subsection (a), shall, as determined appropriate by the Secretary, apply under this subsection in the same manner as such provisions of section 1834(x)(5) and the flush left matter following paragraph (9) of subsection (a) apply under such section and subsection.

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 1847A(c)(3) of the Social Security Act (42 U.S.C. 1395w–114a) is amended by inserting ‘or section 1834(c)(2)’ after ‘section 1927’.

(2) EXCLUDES PART B DRUG INFLATION REBATES FROM BEST PRICE.—Section 1927(c)(1)(C)(ii)(I) of the Social Security Act (42 U.S.C. 1395d–8(c)(1)(C)(ii)(I)) is amended by inserting ‘or section 1834(c)(2)’ after ‘section 1927’.

(3) COORDINATION WITH MEDICAID REBATE INFORMATION DISCLOSURE.—Section 1927(b)(3)(D)(ii) of the Social Security Act (42 U.S.C. 1395d–8(b)(3)(D)(ii)) is amended by striking ‘or to carry out section 1847B and inserting ‘or to carry out section 1847B or section 1843(c)’.

SEC. 1860D–14B. MANUFACTURER REBATE FOR COVERED DRUGS WITH PRICES IN INCREASING FASTER THAN INFLATION.

(a) IN GENERAL.—Subject to the provisions of this section, in order for coverage to be available under this part for a part D rebatable drug (as defined in section 1834(x)(5)) dispensed during an applicable year, the manufacturer must have entered into and have in effect an agreement described in subsection (b).

(b) AGREEMENTS.—An agreement described in this subsection, with respect to a manufacturer of a part D rebatable drug, is an agreement under which the following shall apply:

(A) SECRETARIAL PROVISION OF INFORMATION.—Not later than 9 months after the end of each applicable year with respect to which the agreement is in effect, the manufacturer of each part D rebatable drug of the manufacturer, shall report to the manufacturer the following for such year:

(1) Information on the total number of units of such drug (as defined in section (k)(2)) for each dosage form and strength with respect to such part D rebatable drug and year.

(2) Information on the amount (if any) of the excess average manufacturer price increase described in subsection (c)(1)(B) for each dosage form and strength with respect to such drug and year.

(3) The rebate amount specified under subsection (c) for each dosage form and strength with respect to such drug and year.

(4) A list of the applicable reference drug prices determined under section 1834(x)(5), the Secretary shall make such estimates as use such data as the Secretary determines that in the period beginning on January 1, 2022, and ending on December 31, 2022, there were extenuating circumstances.

(1) PRICE APPROPRIATE YEAR.—For purposes of this section the term ‘applicable year’ means a year beginning with 2022.

(2) TERMS OF AGREEMENT.—An agreement described in this subsection, with respect to a manufacturer of a part D rebatable drug, is an agreement under which the following shall apply:

(A) SECRETARIAL PROVISION OF INFORMATION.—Not later than 9 months after the end of each applicable year with respect to which the agreement is in effect, the manufacturer of each part D rebatable drug of the manufacturer, shall report to the manufacturer the following for such year:

(1) Information on the total number of units of such drug (as defined in section (k)(2)) for each dosage form and strength with respect to such part D rebatable drug and year.

(2) Information on the amount (if any) of the excess average manufacturer price increase described in subsection (c)(1)(B) for each dosage form and strength with respect to such drug and year.

(3) The rebate amount specified under subsection (c) for each dosage form and strength with respect to such drug and year.

(B) MANUFACTURER REQUIREMENTS.—For each applicable year with respect to which the agreement is in effect, the manufacturer of the part D rebatable drug, for each dosage form and strength with respect to such drug, not later than 30 days after the date of receipt from the Secretary of the information described in subparagraph (A) for a drug, provide to the Secretary a rebate that is equal to the amount specified in subsection (c) for such dosage form and strength with respect to such drug and year.

(2) LENGTH OF AGREEMENT.—

(A) IN GENERAL.—An agreement under this section, with respect to a part D rebatable drug, shall be effective for an initial period of not less than 1 year and shall be automatically renewed for a period of not less than 1 year unless terminated under subparagraph (B).

(B) TERMINATION.—

(i) BY SECRETARY.—The Secretary may provide for termination of an agreement under this section for violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 30 days after the date of notice of such termination. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, but such hearing shall not delay the effective date of the termination.

(ii) BY MANUFACTURER.—A manufacturer may terminate an agreement under this section for any reason. Any such termination shall be effective, with respect to the part D rebatable drug, as follows:

(1) if the termination occurs before January 30 of the plan year, as of the day after the end of the plan year; and

(2) if the termination occurs on or after January 30 of the plan year, as of the day after the end of the succeeding plan year.
"(C) EFFECTIVENESS OF TERMINATION.—Any termination under this paragraph shall not affect rebates due under the agreement under this section before the effective date of its termination.

"(D) DELAY BEFORE REENTRY.—In the case of any agreement under this section with a manufacturer that is terminated in a plan year, the Secretary shall enter into another agreement with the manufacturer (or a successor manufacturer) before the subsequent plan year, unless the Secretary finds good cause for an earlier reinstatement of such an agreement.

"(C) REBATE AMOUNT.—

"(1) IN GENERAL.—For purposes of this subsection, in determining the amount specified in this subsection with respect to such part D rebatable drug and year, there shall be determined—

(A) the amount (if any) by which—

(i) the annual manufacturer price (as determined in paragraph (2)) paid for such dosage form and strength with respect to such part D rebatable drug and year; and

(ii) the inflation-adjusted payment amount determined under paragraph (3) for such dosage form and strength with respect to such part D rebatable drug and year; and

(B) the amount (if any) by which—

(i) the total number of units of such dosage form and strength dispensed during each such calendar quarter of such part D rebatable drug and year; and

(ii) the total number of units of such dosage form and strength dispensed during such year.

"(2) DETERMINATION OF ANNUAL MANUFACTURER PRICE.—The annual manufacturer price determined under this paragraph for a dosage form and strength with respect to a part D rebatable drug and applicable year, is the sum of the products of—

(A) the average manufacturer price (as defined in subsection (h)(5)) of such dosage form and strength, as calculated for a unit of such drug, with respect to each of the calendar quarters of such year; and

(B) the ratio of—

(i) the total number of units of such dosage form and strength dispensed during each such calendar quarter of such part D rebatable drug and year; to

(ii) the total number of units of such dosage form and strength dispensed during such year.

"(3) DETERMINATION OF INFLATION-ADJUSTED PAYMENT AMOUNT.—The inflation-adjusted payment amount determined under this paragraph for a dosage form and strength with respect to a part D rebatable drug and applicable year, is—

(A) the average manufacturer price (as defined in subsection (h)(5)) of such dosage form and strength, as calculated for a unit of such drug, with respect to each of the calendar quarters of such year; and

(B) the ratio of—

(i) the total number of units of such dosage form and strength dispensed during such year; to

(ii) the total number of units of such dosage form and strength dispensed during such year.

"(4) DETERMINATION OF BENCHMARK YEAR MANUFACTURER PRICE.—The benchmark year manufacturer price determined under this paragraph for a dosage form and strength, with respect to a part D rebatable drug and applicable year, is the sum of the products of—

(A) the benchmark year manufacturer price determined under paragraph (4) for such dosage form and strength with respect to such drug and an applicable year; increased by

(B) the percentage by which the applicable year CPI-U (as defined in subsection (h)(5)) for the applicable year exceeds the benchmark period CPI-U (as defined in subsection (h)(4)); and

(C) the ratio of—

(i) the number of units of such dosage form and strength dispensed during each such calendar quarter of such part D rebatable drug and year; to

(ii) the number of units of such dosage form and strength dispensed during such payment amount benchmark year.

"(5) SPECIAL TREATMENT OF CERTAIN DRUGS AND EXCLUSION OF CERTAIN PAYMENTS.—

(A) SUBSEQUENTLY APPROVED DRUGS.—In the case of a part D rebatable drug first approved or licensed by the Food and Drug Administration after January 1, 2016, subparagraphs (A) and (B) of paragraph (4) shall be applied as if the term ‘payment amount benchmark year’ were the first calendar year beginning after the date on which the drug was first marketed by any manufacturer and subparagraph (B) of paragraph (3) shall be applied as if the term ‘benchmark period CPI–U’ were defined under subsection (h)(4) as if the reference to ‘January 2016’ under such subsection were a reference to the first year beginning after the date on which the drug was first marketed by any manufacturer.

(B) EXEMPTION FOR SHORTAGES.—The Secretary may waive or reduce the rebate under paragraph (1) with respect to a part D rebatable drug that is described as currently in shortage on the shortage list in effect under section 5906 of the Federal Food, Drug, and Cosmetic Act or in the case of other exigent circumstances, as determined by the Secretary.

"(C) TREATMENT OF NEW FORMULATIONS.—

"(1) IN GENERAL.—In the case of a part D rebatable drug that is a line extension of a part D rebatable drug that is an oral solid dosage form and strength with respect to such part D rebatable drug and year; and

"(2) THE BENCHMARK YEAR MANUFACTURER PRICE.—The annual manufacturer price determined under this paragraph for a dosage form and strength with respect to such part D rebatable drug and applicable year, is—

(A) the benchmark year manufacturer price determined under paragraph (4) for such dosage form and strength with respect to such drug and applicable year, increased by

(B) the amount (if any) by which—

(i) the total number of units of such dosage form and strength dispensed during such year; to

(ii) the total number of units of such dosage form and strength dispensed during each such calendar quarter of such part D rebatable drug and year.

"(d) REBATE DEPOSITS.—Amounts paid as rebates under subsection (c) shall be deposited into the Medicare Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

"(e) INFORMATION.—For purposes of carrying out this section, the Secretary shall use information submitted by manufacturers under section 1927(c)(4).

"(f) CIVIL MONEY PENALTY.—In the case of a manufacturer of a part D rebatable drug with an agreement in effect under this section with respect to such drug and such manu facturer, with respect to such drug for an applicable year, the Secretary may impose a civil money penalty on such manufacturer in an amount equal to 125 percent of the amount specified in subsection (c) for such drug for such year. The provisions of section 1128A (other than subsections (a) (with respect to amounts of penalties or additional assessments) and (b) shall apply to a civil money penalty under this subsection in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a)."

"(g) JUDICIAL REVIEW.—There shall be no judicial review of the following:—

"(1) The determination of units under this section.

"(2) The determination of whether a drug is a part D rebatable drug under this section.

"(3) The calculation of the rebate amount under this section.

"(4) The calculation of the rebate amount under this section.

"(5) DEFINITIONS.—In this section:

"(A) PART D REBATABLE DRUG.—

"(1) IN GENERAL.—The term ‘part D rebatable drug’ means a drug or biological that would (without application of this section) be covered under part D, except any drug, with respect to an applicable year, not including such a drug or biological if the average annual total cost under this part for such year per individual who uses such a drug or biological, as determined by the Secretary, is less than, subject to subparagraph (B), $100, as determined by the Secretary using the most recent data available before the date of enactment.

"(B) INCREASE.—The dollar amount applied under subparagraph (A) for 2023 shall be the dollar amount specified under such subparagraph for 2022, increased by the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period beginning with January of the previous year.

"(2) UNIT DEFINED.—The term ‘unit’ means, with respect to a part D rebatable drug, the lowest identifiable quantity (such as a capsule or tablet, milligram of molecules, or grams) of the part D rebatable drug that is dispensed to individuals under this part.

"(3) PAYMENT AMOUNT BENCHMARK YEAR.—The term ‘payment amount benchmark year’ means the year January 1, 2016.

"(4) BENCHMARK PERIOD CPI–U.—The term ‘benchmark period CPI–U’ means the consumer price index for all urban consumers (United States city average) for January 2016.

"(5) APPLICABLE YEAR CPI–U.—The term ‘applicable year CPI–U’, with respect to an applicable year, the consumer price index for all urban consumers (United States city average) for January of such year.

"(6) AVERAGE MANUFACTURER PRICE.—The term ‘average manufacturer price’ has the meaning, with respect to a part D rebatable drug of a manufacturer, given such term in section 1834(x), or section 1860D–14B.

"(7) EXCLUSION OF CERTAIN PAYMENTS.—With respect to a civil money penalty under section 1927(c)(4), the provisions of section 1927(c)(4) shall apply to such civil money penalty under section 1927(c) as if such penalty were a civil money penalty imposed under this section.

"(8) CONFORMING AMENDMENTS.—The provisions of sections 1829(a)(1), 1829(k)(1), with respect to a covered outpatient drug of a manufacturer, given such term in section 1834(x), or section 1860D–14B, shall apply to a covered outpatient drug of a manufacturer for a rebate period under section 1927.

"(9) EXCLUDING PART D DRUG INFLATION REBATE FROM BEST RATES.—The provisions of section 1927(g)(1)(C)(i)(B), with respect to a covered outpatient drug of a manufacturer, given such term in section 1834(x) or section 1860D–14B, shall apply to such drug as if such drug were not a covered outpatient drug of such manufacturer for the rebate period under this section.

"(10) COORDINATION WITH MEDICARE RETIREMENT DISCLOSURE.—Section...
that ensure that such inflation rebates are pro-
cration 1860D–14B of such Act, as added by section 201, and sec-
manner similar to how manufacturers provide
nicians of group health plans and health insur-

that manufacturers of prescription drugs provide for

be feasible.

with manufacturers of prescription drugs under

in subsection (a), reflecting, in part, new price and cost infor-
mation and data for the 12-month period after

that necessary for the Secretaries to obtain informa-

was based.

SECTION 205. COLLECTION OF DATA.

(a) MANUFACTURERS OF PRESCRIPTION

(b) REGULATIONS.—Not later than December 31,

(b) ANNUAL REPORT.—Not later than Decem-

for a subsequent year'' and inserting “for 2021’’; and

(b) by striking the period at the end and in-

in subsection (a)(2), if the Secretary
determined by the Secretary to

(1) potential models for an agreement process with

that can lead to inflation rebates

currently included in the report required under subsection

(b) A NNUAL REPORT.—Not later than Decem-


(b) GROUP HEALTH PLANS AND HEALTH INSUR-

in subsection (a), as added by section 201, and sec-
section 1860D–14B of such Act, as added by section 202, with respect to prescription drugs that are

covered under part B of title XVIII of such Act and part D of such title, re-

and beneficiaries of such manufacturers under section 1834(x) of the

such Act and part D of such title, re-

the Secretary shall enter into

and beneficiaries of group health plans and health insurance

(TITLE III—PART D IMPROVEMENTS AND

MAXIMUM OUT-OF-POCKET CAP FOR

MEDICARE BENEFICIARIES

SECTION 301. MEDICARE PART D BENEFIT REDESIGN.

(a) INITIAL REPORT.—Not later than December 31,

the Secretary shall, in con-

in consultation with the Secretary of Health and Human Services and the Secretary of the Treas-

ury, submit to Congress a report, with respect to a period

(time as determined by the Secretary) at a per-

centage that exceeds the percentage by which the

of applicable drugs of the manu-

ator with an agreement in effect under

and beneficiaries of group health plans and health insurance

September 11, 2014, 02:59 Dec 13, 2019 Jkt 099060 PO 00000 Frm 00025 Fmt 7634 Sfmt 6333 E:\CR\FM\A12DE7.001 H12DEPT1SSpencer on DSKBBXCHB2PROD with HOUSE
this section shall collect and have available appropriate data, as determined by the Secretary, to ensure that it can demonstrate to the Secretary compliance with the requirements under the program.

`(3) COMPLIANCE WITH REQUIREMENTS FOR ADMINISTRATION OF PROGRAM.—Each manufacturer with an agreement in effect under this section shall comply with requirements imposed by the Secretary or a third party with a contract under subsection (d)(3), as applicable, for purposes of administering the program, including any duties established under paragraph (A) of subsection (c)(1) or procedures established under such subsection (c)(1).

`(4) AGREEMENT.—

`(A) IN GENERAL.—An agreement under this section shall be effective for an initial period of not less than 12 months and shall be automatically renewed for a period of not less than 1 year unless terminated under subparagraph (B).

`(B) TERMINATION.—

`(i) BY THE SECRETARY.—The Secretary may provide for termination of an agreement under this section for a knowing and willful violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 30 days after the date of notice to the manufacturer of such termination. The Secretary shall provide, upon request, a manufacturer concerning the reasons for such a termination, and such hearing shall take place prior to the effective date of the termination with sufficient time for such effective date to be repealed if the Secretary determines appropriate.

`(ii) BY A MANUFACTURER.—A manufacturer may terminate an agreement under this section for any reason. Any such termination (A) shall provide notice of such termination to a manufacturer under the program, including—

`(I) the determination of the amount of the discounted price of an applicable drug of a manufacturer that are due under the agreement before the effective date of its termination,

`(II) NOTICE TO THIRD PARTY.—The Secretary shall provide notice of such termination to a Third party under subsection (d)(3) within not less than 30 days before the effective date of such termination.

`(III) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect discounts for applicable drugs of the manufacturer that are due under the agreement before the effective date of its termination.

`(IV) NOTICE TO THIRD PARTY.—The Secretary shall provide notice of such termination to a Third party under subsection (d)(3) within not less than 30 days before the effective date of such termination.

`(C) IN GENERAL.—The duties described in this subsection are the following:—

`(1) ADMINISTRATION OF PROGRAM.—Administer the program, including—

`(I) the determination of the amount of the discounted price of an applicable drug of a manufacturer;

`(II) the establishment of procedures under which discounted prices are provided to applicable beneficiaries at pharmacies or by mail order service at the point-of-sale of an applicable drug;

`(C) the establishment of procedures to ensure that, not later than the applicable number of calendar days after the dispensing of an applicable drug by a pharmacy or mail order service, the pharmacy or mail order service is reimbursed for an amount equal to the difference between—

`(i) the negotiated price of the applicable drug; and

`(ii) the discounted price of the applicable drug;

`(D) the establishment of procedures to ensure that the discounted price for an applicable drug under this section is applied before any coverage or financial assistance under other health benefit plans or programs that provide coverage or financial assistance for the purchase or provision of prescription drug coverage on behalf of applicable beneficiaries as the Secretary may specify.

`(E) providing a reasonable dispute resolution mechanism to resolve disagreements between manufacturers, applicable beneficiaries, and the third party with a contract under subsection (d)(3).

`(2) MONITORING COMPLIANCE.—

`(A) IN GENERAL.—The Secretary shall monitor compliance by a manufacturer with the terms of an agreement under this section.

`(B) NOTIFICATION.—If a third party with a contract under subsection (d)(3) or a manufacturer that is not in compliance with such agreement, the third party shall notify the Secretary of such noncompliance for appropriate enforcement under subsection (e).

`(3) COLLECTION OF DATA FROM PRESCRIPTION DRUG PLANS AND MA–PD PLANS.—The Secretary shall require a prescription drug plan or MA-PD plan to collect from prescription drug plans and MA-PD plans in a timeframe that allows for discounted prices to be provided for applicable drugs under this section.

`(4) DETERMINATION OF AMOUNT.—

`(A) IN GENERAL.—Subject to paragraph (2), the Secretary shall provide for the implementation of this section, including the performance of the duties described in subsection (c).

`(B) LIMITATION.—In providing for the implementation of this section, the Secretary shall not receive or distribute any funds of a manufacturer under subsection (d)(3), as applicable.

`(5) CONTRACT WITH THIRD PARTIES.—The Secretary shall enter into a contract with 1 or more third parties to administer the requirements established in this section in order to carry out this section. At a minimum, the contract with a third party under the preceding sentence shall require that the third party—

`(A) receive and transmit information between the Secretary, manufacturers, and other individuals or entities the Secretary determines appropriate;

`(B) have adequate and timely information to manufacturers, consistent with the agreement with the manufacturer under this section, as necessary for the manufacturer to fulfill its obligations under this section; and

`(C) permit manufacturers to conduct periodic audits, directly or through contracts, of the data and information used by the third party to determine discounts for applicable drugs of the manufacturer under the program.

`(6) PERMISSIBLE PROVISIONS.—The Secretary shall establish performance requirements for a third party with a contract under paragraph (5) and safeguards to protect the independence and objectivity of activities carried out by the third party under the program under this section.

`(7) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement the program under this section by program instruction or otherwise.

`(8) ADMINISTRATION.—Chapter 35 of title 44, United States Code, shall apply to the program under this section.

`(9) ENFORCEMENT.—

`(A) AUDITOR REQUIREMENTS.—A manufacturer with an agreement in effect under this section shall be subject to periodic audit by the Secretary.

`(B) CIVIL MONEY PENALTY.—(i) The Secretary may impose a civil money penalty on a manufacturer that fails to provide applicable beneficiaries discounts for applicable drugs of the manufacturer in accordance with such agreement for each such failure in an amount the Secretary determines is equal to the sum of—

`(I) the amount that the manufacturer would have otherwise provided as discounts under the agreement, which will then be paid to use the discounts which the manufacturer had failed to provide; and

`(II) 25 percent of such amount.

`(ii) Application.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

`(f) CLARIFICATION REGARDING AVAILABILITY OF OTHER COVERED PART D DRUGS.—Nothing in this section shall prevent an applicable beneficiary from purchasing a covered part D drug that is not an applicable drug (including a generic drug or a drug that is not on the formulary of the prescription drug plan or MA-PD plan that the applicable beneficiary is enrolled in).

`(g) DEFINITIONS.—In this section:

`(1) APPLICABLE BENEFICIARY.—The term 'applicable beneficiary' means an individual who, on the date of dispensing a covered part D drug—

`(A) is enrolled in a prescription drug plan or an MA-PD plan;

`(B) is not enrolled in a qualified retiree prescription drug plan; and

`(C) has incurred costs, as determined in accordance with section 1860D–2(b)(4)(C), for covered part D drugs in the year that exceed the annual deductible with respect to such individual for such year, as specified in section 1860D–2(b)(1)(B), section 1860D–2(b)(2)(B), or section 1860D–14(a)(2)(B), as applicable.

`(2) APPLICABLE DRUG.—The term 'applicable drug', with respect to an applicable beneficiary, means—

`(A) a covered part D drug;

`(B) a drug approved under a new drug application under section 505(c) of the Federal Food, Drug, and Cosmetic Act, or a biologic product, licensed under section 351 of the Public Health Service Act; and

`(C)(i) if the PDP sponsor of the prescription drug plan or the MA organization offering the MA-PD plan uses a formulary, which is on the formulary of the prescription drug plan or MA-PD plan that the applicable beneficiary is enrolled in;

`(II) if the PDP sponsor of the prescription drug plan or the MA organization offering the MA-PD plan does not use a formulary, for which benefits are available under the prescription drug plan or MA-PD plan that the applicable beneficiary is enrolled in;

`(D) with respect to claims for reimbursement submitted electronically, 14 days; and

`(E) with respect to claims for reimbursement submitted otherwise, 30 days.

`(h) DISCOUNTED PRICE.—

`(A) IN GENERAL.—The term ‘discounted price’ means, with respect to an applicable drug of a manufacturer dispensed during a year to an applicable beneficiary—

`(i) the amount that the manufacturer would have otherwise provided as discounts under the agreement, which will then be paid to use the discounts which the manufacturer had failed to provide; and

`(ii) 25 percent of such amount.

`(j) APPLICABLE BENEFICIARY.—The term 'applicable beneficiary' means an individual who, on the date of dispensing a covered part D drug—

`(A) is enrolled in a prescription drug plan or an MA-PD plan;

`(B) is not enrolled in a qualified retiree prescription drug plan; and

`(C) has incurred costs, as determined in accordance with section 1860D–2(b)(4)(C), for covered part D drugs in the year that exceed the annual deductible with respect to such individual for such year, as specified in section 1860D–2(b)(1)(B), section 1860D–2(b)(2)(B), or section 1860D–14(a)(2)(B), as applicable.

`(k) APPLICABLE DRUG.—The term 'applicable drug', with respect to an applicable beneficiary, means—

`(A) a covered part D drug;

`(B) a drug approved under a new drug application under section 505(c) of the Federal Food, Drug, and Cosmetic Act, or a biologic product, licensed under section 351 of the Public Health Service Act; and

`(C)(i) if the PDP sponsor of the prescription drug plan or the MA organization offering the MA-PD plan uses a formulary, which is on the formulary of the prescription drug plan or MA-PD plan that the applicable beneficiary is enrolled in;

`(II) if the PDP sponsor of the prescription drug plan or the MA organization offering the MA-PD plan does not use a formulary, for which benefits are available under the prescription drug plan or MA-PD plan that the applicable beneficiary is enrolled in;

`(D) with respect to claims for reimbursement submitted electronically, 14 days; and

`(E) with respect to claims for reimbursement submitted otherwise, 30 days.

`(d) DISCOUNTED PRICE.—

`(A) IN GENERAL.—The term 'discounted price' means, with respect to an applicable drug of a manufacturer dispensed during a year to an applicable beneficiary—

`(i) the amount that the manufacturer would have otherwise provided as discounts under the agreement, which will then be paid to use the discounts which the manufacturer had failed to provide; and

`(ii) 25 percent of such amount.

`(B) APPLICATION.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).
does not fall above the annual deductible specified in section 1860D–2(b)(4) for the year, the manufacturer of the applicable drug shall provide the discounted price under this section on only by paying ‘‘the applicable drug that falls below such annual deductible.‘‘

(ii) CLAIMS SPANNING OUT-OF-POCKET THRESHOLD.—In the case where the entire amount of the negotiated price of an applicable drug with respect to an applicable beneficiary does not fall entirely below the annual out-of-pocket threshold specified in section 1860D–2(b)(4)(B)(i) for the year, the manufacturer of the applicable drug shall provide the discounted price—

(i) in accordance with subparagraph (A)(i) on the portion of the negotiated price of the applicable drug that falls below such threshold; and

(ii) in accordance with subparagraph (A)(ii) on the portion of such price of such drug that falls at or above such threshold.

(5) MANUFACTURER.—The term ‘‘manufacturer’’ means any entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or a combination of extraction and chemical synthesis. Such term does not include a wholesale distributor of drugs or a retail pharmacy unless such wholesale distributor or retail pharmacy is under the control of a manufacturer.

(6) NEGOTIATED PRICE.—The term ‘‘negotiated price’’ has the meaning given such term in section 423.100 of title 42, Code of Federal Regulations (or any successor regulation), except that, with respect to an applicable drug, such negotiated price shall not include any dispensing fee for the applicable drug.

(7) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN.—The term ‘‘qualified retiree prescription drug plan’’ has the meaning given such term in section 1860D–22(a)(2).

(2) SUNSET OF MEDICARE COVERAGE GAP DISCOUNT PROGRAM.—Section 1860D–14A of the Social Security Act (42 U.S.C. 1395w–114a) is amended—

(A) in subsection (a), in the first sentence, by striking ‘‘The Secretary’’ and inserting ‘‘Subject to subsection (b), the Secretary’’; and

(B) by adding at the end the following new subsection:

‘‘(b) SUNSET OF PROGRAM.—

‘‘(1) IN GENERAL.—The program shall not apply with respect to applicable drugs dispensed on or after January 1, 2022, and, subject to paragraph (2), agreements under this section shall not be in effect as of such date.

‘‘(2) CONTINUED APPLICATION FOR APPLICABLE DRUGS DISPENSED PRIOR TO SUNSET.—The provisions of this section (including all responsibilities and duties) shall continue to apply after December 31, 2021, with respect to applicable drugs dispensed prior to such date.’’.

(3) INCLUSION OF ACTUARIAL VALUE OF MANUFACTURER DISCOUNTS IN RIDE.—Section 1860D–11 of the Social Security Act (42 U.S.C. 1395w–111) is amended—

(A) in subsection (b)(2)(C)(iii), by—

(i) inserting ‘‘the provisions regarding the reinsurance’’ and inserting ‘‘assumptions regarding the reinsurance’’; and

(ii) by adding at the end the following:

‘‘(D) for 2022 and each subsequent year, any prescription drug plan or an MA–PD plan shall, to the extent the plan projects that the reimbursement payment under paragraph (2) for such plan year who is not a provider with respect to whom the plan projects that the dispensing of the first fill of a covered part D drug to such individual will result in the individual incurring costs that are equal to or above the annual out-of-pocket threshold specified in paragraph (4) for such plan year, provide such individual with the option to make the coinsurance payment required under subparagraph (A) (for the portion of such costs that are not above such annual out-of-pocket threshold) in the form of periodic installments over the remainder of such plan year.’’.

SEC. 302. ESTABLISHMENT OF PHARMACY QUALITY MEASURES UNDER MEDICARE PART D.

Section 1927 of the Social Security Act (42 U.S.C. 1395w–104(c)) is amended—

(A) by inserting ‘‘Subject to subparagraphs (C) and (D),’’ after ‘‘or’’ in clause (1), and after ‘‘in the case of a plan’’; and

(B) by adding at the end the following:

‘‘(D) for 2022 and each subsequent year, an initial’’.

(3) Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114a) is amended—

(A) in paragraph (1)—

(i) in subparagraph (C), by striking ‘‘The Secretary’’ and inserting ‘‘Subject to subparagraph (b), the Secretary’’;

(ii) in subparagraph (D), by striking ‘‘The Secretary’’ and inserting ‘‘Subject to subparagraph (b), the Secretary’’; and

(iii) by adding the following:

‘‘(E) in accordance with subparagraph (A)(ii), by striking ‘‘the initial’’ and inserting ‘‘or, for a year preceding 2022, an initial’’.

(B) by adding at the end the following:

(ii) C LAIMS SPANNING OUT-OF-POCKET THRESHOLD.—In the case where the entire amount of the negotiated price of an applicable drug that falls below such threshold; and

(iii) by adding at the end the following:

‘‘(G) for 2022 and each subsequent year, a continuation’’.

(5) Section 1860D–22(a)(2)(A) of the Social Security Act (42 U.S.C. 1395w–112a) is amended—

(A) in clause (i), by striking ‘‘the initial’’ and inserting ‘‘or, for a year preceding 2022, an initial’’.

(B) by adding at the end the following:

‘‘(B) for 2022 and each subsequent year, a continuation’’.

(6) Section 1860D–41(a)(6) of the Social Security Act (42 U.S.C. 1395w–112c) is amended—

(A) by striking ‘‘for such year’’ before the period at the end the following:

‘‘or

(B) in paragraph (2)—

(i) in subparagraph (C), by striking ‘‘The Secretary’’ and inserting ‘‘Subject to subparagraph (b), the Secretary’’;

(ii) in subparagraph (D), by striking ‘‘The Secretary’’ and inserting ‘‘Subject to subparagraph (b), the Secretary’’;

(iii) by adding the following:

‘‘(E) in accordance with subparagraph (A)(ii), by striking ‘‘the initial’’ and inserting ‘‘or, for a year preceding 2022, an initial’’;

(B) by adding at the end the following:

(2) Section 1860D–4(a)(4)(B)(i) of the Social Security Act (42 U.S.C. 1395w–104(b)(4)(B)(i)) is amended by striking ‘‘the initial’’ and inserting ‘‘For a year preceding 2022, the initial’’;

(3) Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114a) is amended—

(A) in paragraph (1)—

(i) in subparagraph (C), by striking ‘‘The Secretary’’ and inserting ‘‘Subject to subparagraph (b), the Secretary’’;

(ii) in subparagraph (D), by striking ‘‘The Secretary’’ and inserting ‘‘Subject to subparagraph (b), the Secretary’’;

(iii) by adding the following:

‘‘(E) in accordance with subparagraph (A)(ii), by striking ‘‘the initial’’ and inserting ‘‘or, for a year preceding 2022, an initial’’.

(4) Section 1860D–2(b)(7) of the Social Security Act (42 U.S.C. 1395w–111d(7)) is amended by striking ‘‘1860D–2(b)(7)’’ and inserting ‘‘1860D–2(b)(7)’’.

(5) Section 1860D–22(a)(2)(A) of the Social Security Act (42 U.S.C. 1395w–112a) is amended—

(A) by striking ‘‘the value of any discount’’ and inserting the following: ‘‘the value of—

‘‘(i) for a year before 2022, the continuation’’;

(B) in clause (i), as inserted by subparagraph (A) of this paragraph, by striking the period at the end and inserting ‘‘; and’’; and

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

‘‘(ii) for 2022 and each subsequent year, any prescription drug plan or an MA–PD plan shall, to the extent the plan projects that the dispensing of the first fill of a covered part D drug to such individual will result in the individual incurring costs that are equal to or above the annual out-of-pocket threshold specified in paragraph (4) for such plan year, provide such individual with the option to make the coinsurance payment required under subparagraph (A) (for the portion of such costs that are not above such annual out-of-pocket threshold) in the form of periodic installments over the remainder of such plan year.’’.

SEC. 303. ALLOWING CERTAIN ENROLLEES OF PRESCRIPTION DRUG PLANS AND MA–PD PLANS UNDER MEDICARE PROGRAM TO SELECT DRUGS AT INITIAL COVERAGE LIMIT; AND COST-SHARING UNDER CERTAIN CIRCUMSTANCES.

Section 1860D–2(b)(4)(B) of the Social Security Act (42 U.S.C. 1395w–104(b)(2)), as amended by section 201, is further amended—

(1) in subparagraph (A), by striking ‘‘Subject to subparagraphs (C) and (D),’’ and inserting ‘‘Subject to subparagraphs (C), (D), and (E);’’ and

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

‘‘(E) ENROLLEE OPTION REGARDING SPREADING COST-SHARING.—The Secretary shall establish by regulation a process under which, with respect to plan year 2022 and subsequent plan years, a prescription drug plan or an MA–PD plan shall, in the case of a D individual enrolled with such plan for such plan year who is not a subsidy eligible individual (as defined in section 1860D–14(a)(3)) and with respect to whom the plan projects that the dispensing of the first fill of a covered part D drug to such individual will result in the individual incurring costs that are equal to or above the annual out-of-pocket threshold specified in paragraph (4) for such plan year, provide such individual with the option to make the coinsurance payment required under subparagraph (A) (for the portion of such costs that are not above such annual out-of-pocket threshold) in the form of periodic installments over the remainder of such plan year.’’.

SEC. 304. ALLOWING CERTAIN ENROLLEES OF PRESCRIPTION DRUG PLANS AND MA–PD PLANS UNDER MEDICARE PROGRAM TO SELECT DRUGS AT INITIAL COVERAGE LIMIT; AND COST-SHARING UNDER CERTAIN CIRCUMSTANCES.

Section 1860D–4(c) of the Social Security Act (42 U.S.C. 1395w–104(c)) is amended—

(1) by adding the following after section 1860D–14C—

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

‘‘(8) APPLICATION OF PHARMACY QUALITY MEASURES.—

(A) IN GENERAL.—A PDP sponsor that implements incentive payments to a pharmacy or
H10154

CONGRESSIONAL RECORD — HOUSE

December 12, 2019

price concessions paid by a pharmacy based on quality measures shall use measures established or approved by the Secretary under subparagraph (B) with respect to payment for covered part DRX furnished by such pharmacy.

"(B) STANDARD PHARMACY QUALITY MEASURES.—The Secretary shall establish or approve standards for pharmacy measures, and evidence-based organization for payments described in subparagraph (A). Such measures shall focus on patient health outcomes and be based on proven criteria measuring pharmacy performance.

"(C) EFFECTIVE DATE.—The requirement under subparagraph (A) shall take effect for plan years beginning on or after January 1, 2021, or such earlier date specified by the Secretary if the Secretary determines there are sufficient measures established or approved under subparagraph (B) to meet the requirement under subparagraph (A).

TITLE IV—DRUG PRICE TRANSPARENCY

SEC. 401. DRUG PRICE TRANSPARENCY.

Part A of title XI of the Social Security Act is amended by adding at the end the following new sections:

"SEC. 1150C. REPORTING ON DRUG PRICES.

(a) DEFINITIONS.—In this section:

"(1) MANUFACTURER.—The term 'manufacturer' means the person—

"(A) that holds the application for a drug approved under section 505 of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of the Public Health Service Act; or

"(B) who is responsible for setting the wholesale acquisition cost of the drug.

"(2) QUALIFYING DRUG.—The term 'qualifying drug' means any drug that is approved under subsection (c) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act or licensed under subsection (a) or (k) of section 351 of the Public Health Service Act.

"(B) that holds the application for a drug approved under section 505 of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of the Public Health Service Act; or

"(C) any additional information the manufacturer chooses to provide related to drug pricing decisions, such as total expenditures on—

"(i) materials and manufacturing for such drug;

"(ii) purchasing or acquiring such drug from another manufacturer, if applicable;

"(iii) clinical trials, including on drugs that failed to receive approval by the Food and Drug Administration; and

"(iv) any other related information as the Secretary determines appropriate and as specified by the Secretary.

"(d) INFORMATION PROVIDED.—The manufacturer of a qualifying drug shall submit a report to the Secretary if, with respect to the qualifying drug—

"(i) there is an increase in the price of the qualifying drug that results in an increase in the wholesale acquisition cost of that drug that is equal to—

"(I) 10 percent or more within a 12-month period beginning on or after January 1, 2019; or

"(II) for licensure of the drug under section 351 of the Public Health Service Act.

"(E) a description of the history of the manufacturer's price increases for the drug since the approval of the application for the drug under section 505 of the Federal Food, Drug, and Cosmetic Act or the issuance of the license for the drug under section 351 of the Public Health Service Act, or since the manufacturer acquired such approved application or license, if applicable;

"(F) the current wholesale acquisition cost of the drug;

"(G) the total expenditures of the manufacturer on—

"(i) materials and manufacturing for such drug;

"(ii) acquiring patents and licensing for such drug;

"(iii) a manufacturer penalty in an amount not to exceed $100,000 for each item of false information.

"(h) THE PERIOD NONCOMPLIANCE.—Any manufacturer of a qualifying drug that fails to submit a report for the drug as required by this section, following notification from the Secretary that the manufacturer is not in compliance with this section, shall be subject to a civil monetary penalty of $5,000 for each day on which the violation continues.

"(i) FALSE INFORMATION.—Any manufacturer that submits a report for a drug as required by this section that knowingly provides false information in such report is subject to a civil monetary penalty in an amount not to exceed $100,000 for each item of false information.

"(j) PUBLIC POSTING.—(1) IN GENERAL.—Subject to paragraph (4), the Secretary shall post each report submitted under subsection (b) on the public website of the Department of Health and Human Services the day the price increase of a qualifying drug is scheduled to go into effect.

"(2) FORMAT.—In developing the format in which reports will be posted under paragraph (1), the Secretary shall consult with stakeholders, including beneficiary groups, and
shall seek feedback from consumer advocates and readability experts on the format and presentation of the content of such reports to ensure that such reports are—

(A) user-friendly to the public; and

(B) written in plain language that consumers can readily understand.

(3) In addition to the reports submitted under subsection (b), the Secretary shall also post a list of each qualifying drug with respect to which the manufacturer was required to submit such report in the preceding year and whether such manufacturer was required to submit such report based on a qualifying price increase or whether such drug meets the criteria under section 1860D–1(b) of the Social Security Act.

(4) PROTECTED INFORMATION.—In carrying out this section, the Secretary shall enforce applicable laws protecting confidential commercial information and trade secrets.

SEC. 1150D. ANNUAL REPORT TO CONGRESS.

Section 1150D—Subject to subsection (b), the Secretary shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committees on Health, Education, Labor, and Pensions and Finance of the Senate, and post on the public website of the Department of Health and Human Services in a way that is user-friendly to the public and written in plain language that consumers can readily understand, an annual report—

(1) summarizing the information reported pursuant to section 1150C—

(2) including copies of the reports and supporting detailed economic analyses submitted pursuant to such section—

(3) detailing the costs and expenditures incurred by the Department of Health and Human Services in carrying out section 1150C; and

(4) the Department of Health and Human Services is improving consumer and provider information about drug value and drug price transparency.

(2) PROTECTED INFORMATION.—In carrying out this section, the Secretary shall enforce applicable law concerning the protection of confidential commercial information and trade secrets.

TITLE V—PROGRAM IMPROVEMENTS FOR MEDICARE LOW-INCOME BENEFICIARIES

SEC. 501. DISSEMINATION TO MEXICAN PART D SUBSIDY ELIGIBLE INDIVIDUALS OF INFORMATION COMPARING PREMIUMS OF CERTAIN PRESCRIPTION DRUG PLANS.

Section 186D–1(c)(3) of the Social Security Act (42 U.S.C. 1395w–101(c)(3)) is amended by adding at the end the following new subparagraph:

“(C) INFORMATION ON PREMIUMS FOR SUBSIDY ELIGIBLE INDIVIDUALS.—

“(I) IN GENERAL.—For plan year 2022 and each subsequent plan year, the Secretary shall disseminate to each subsidy eligible individual (as defined in section 186D–1(a)(3)) information under this paragraph comparing premiums that would apply to such individual for prescription drug coverage under LIS benchmark plans, including, in the case of an individual enrolled in a prescription drug plan under this part, information that compares the premium that would apply if such individual were to remain enrolled in such plan to premiums that would apply if the individual were to enroll in another LIS benchmark plan.

“(II) LIS BENCHMARK PLAN.—For purposes of clause (i), the term ‘LIS benchmark plan’ means, with respect to an individual, a prescription drug plan under this part that is offered in the region in which the individual resides and—

“(A) a premium that is not more than the low-income benchmark premium amount (as defined in section 186D–1(b)(2)) for such region; or

“(B) with respect to which the premium would be waived as the minimum pursuant to section 186D–1(a)(4)(E) for such individual.”.

SEC. 502. PROVIDING FOR INTELLIGENT ASSIGNMENT OF CERTAIN SUBSIDY ELIGIBLE INDIVIDUALS AUTO-ENROLLED UNDER PART D PRESCRIPTION DRUG PLANS AND MA-PD PLANS.

(a) IN GENERAL.—Section 186D–1(b)(1) of the Social Security Act (42 U.S.C. 1395w–101(b)(1)) is amended—

(1) in subparagraph (C)—

“(A) by inserting after “PDP region” the following: “or through the use of an intelligent assignment process that is designed to maximize the access of such individual to necessary prescription drugs while minimizing costs to such individual and to the program under this part to the greatest extent possible.” In the case of the Secretary, and the overall quality of the prescription drug plan as measured by quality ratings established by the Secretary;” and

(B) by striking “Nothing in the previous sentence” and inserting “Nothing in this subparagraph”;

(2) in subparagraph (D)—

“(A) by inserting after “PDP region” the following: “or through the use of an intelligent assignment process that is designed to maximize the access of such individual to necessary prescription drugs while minimizing costs to such individual and to the program under this part to the greatest extent possible.” In the case of the Secretary, and the overall quality of the prescription drug plan as measured by quality ratings established by the Secretary;” and

(B) by striking “Nothing in the previous sentence” and inserting “Nothing in this subparagraph”;

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to plan years beginning with plan year 2022.

SEC. 503. EXPANDING ELIGIBILITY FOR LOW-INCOME SUBSIDIES UNDER PART D OF THE MEDICARE PROGRAM.

Section 1860D–1(a)(3) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)) is amended by adding at the end the following new paragraph:

“(B)广阔的地区; or

(iii) INCREASES IN PREMIUMS FOR SUBSIDY ELIGIBLE INDIVIDUALS AUTO-ENROLLED UNDER THE MEDICARE PROGRAM, SUNSET OF ENHANCED ALLOTMENT PROGRAM.

(a) AUTOMATIC ELIGIBILITY OF CERTAIN LOW-INCOME TERRITORIAL RESIDENTS FOR PREMIUM AND COST-SHARING SUBSIDIES UNDER THE MEDICARE PROGRAM.—

(1) IN GENERAL.—Section 1860D–14(a)(3) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)) is amended—

(A) in subparagraph (B)(e)—

(i) in subclause (I), by inserting “and” at the end;

(ii) in subclause (II), by striking the period and inserting “; and”;

(iii) by inserting after subclause (II) the following new subclause:

“(III) with respect to plan years beginning on or after January 1, 2024, shall provide that any plan D eligible individual who is enrolled for medical assistance under the State Medicaid plan of a territory (as defined in section 1935(g)(2)(D) of the Social Security Act (42 U.S.C. 1395w–114(g)(2)(D)) is amended by adding at the end the following new sentence: “The previous sentence shall not apply with respect to eligibility determinations for premium and cost-sharing subsidies under this section made on or after January 1, 2024.”;

(b) SUNSET OF ENHANCED ALLOTMENT PROGRAM.—

(1) IN GENERAL.—Section 1935(e) of the Social Security Act (42 U.S.C. 1395u–5(e)) is amended by adding at the end the following new subsection:

“(f) TERRITORY DEFINED.—In this section, the term ‘territory’ means Puerto Rico, the Virgin Islands, the Northern Marianas Islands, and American Samoa.”.

SEC. 504. AUTOMATIC QUALIFICATION OF CERTAIN MEDICARE BENEFICIARIES FOR PREMIUM AND COST-SHARING SUBSIDIES UNDER PART D OF THE MEDICARE PROGRAM.

Clause (u) of section 1860D–14(a)(3)(B) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)(B)), as amended by section 504, is further amended—

(1) in subclause (II), by striking “and” at the end;

(2) in subclause (III), by striking the period and inserting “; and”;

(3) by inserting after subclause (III) the following new subclause:

“(IV) With respect to plan years beginning on or after January 1, 2024, shall, notwithstanding the preceding clauses of this subparagraph, provide that any part D eligible individual not described in subclause (I), (II), or (III) who is enrolled, as of the day before the date on which such individual attains the age of 65, for medical assistance under a State plan under title XIX (or a waiver of such plan) pursuant to section 1902(a)(10)(A), and who has income below 200 percent of the poverty line applicable to a family of the size involved, shall be treated as a subsidy eligible individual described in paragraph (1) for a limited period of time, as specified by the Secretary.”.

December 12, 2019
CONGRESSIONAL RECORD — HOUSE
H10155
SECTION 506. PROVIDING FOR CERTAIN RULES REGARDING THE TREATMENT OF ELIGIBLE RETIREMENT PLANS IN DETERMINING THE ELIGIBILITY OF INDIVIDUALS FOR PREMIUM AND COST-SHARING UNDER PART D OF THE MEDICARE PROGRAM.

Section 1860d-14(a)(3)(C)(i) of the Social Security Act (42 U.S.C. 1395u-114(a)(3)(C)(i)) is amended, by striking “except that support and maintenance furnished in kind shall not be counted as income;” and inserting “except that—

(i) support and maintenance furnished in kind shall not be counted as income; and

(ii) for plan years beginning on or after January 1, 2024, any distribution or withdrawal from an eligible retirement plan (as defined in subparagraph (A) of section 402(c)(6) of the Internal Revenue Code of 1986, but excluding any defined benefit plan described in clause (ii) of each subparagraph and any qualified trust (as defined in subparagraph (A) of such section) which is part of such a defined benefit plan) shall be counted as income; and”—

SEC. 507. REDUCING COST-SHARING AND OTHER PROGRAM IMPROVEMENTS FOR LOW-INCOME BENEFICIARIES.

(a) INCREASE IN INCOME ELIGIBILITY TO 150 PERCENT OF FPL FOR QUALIFIED MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Section 1905(p)(2)(A) of the Social Security Act (42 U.S.C. 1396p(2)(A)) is amended—

(i) in subparagraph (B) (but not more than 100 percent) of the official poverty line and all that follows through the period at the end of such subparagraph “shall be—

“(i) before January 1, 2022, at least the percent provided under subparagraph (B) but not more than 100 percent of the official poverty line; and

(ii) or on or after January 1, 2022, equal to 150 percent of the official poverty line (as so defined and revised) applicable to a family of the size involved; and

(2) NOT COUNTING IN-KIND SUPPORT AND MAINTENANCE AS INCOME.—Section 1905(p)(2)(D) of the Social Security Act (42 U.S.C. 1396p(2)(D)) is amended by adding at the end the following new clause:

“(iii) in determining income under this subsection, support and maintenance furnished in kind, as defined in section 1861(a)(2)(A), shall not be counted as income.”.

(3) CONFORMING AMENDMENTS.—

(A) Section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) is amended—

(i) in clause (ii), by striking “for making medical” and inserting “before January 1, 2022, for making medical”;

(ii) in clause (iv), by striking “subject to sections” and inserting “before January 1, 2022, subject to sections”.

(B) Section 1933 of the Social Security Act (42 U.S.C. 1396y-3) is amended—

(i) in subsection (a), by striking “A State plan” and inserting “Subject to subsection (h), a State plan”; and

(ii) by adding at the end the following new subsection:

“(h) SUNSET.—The provisions of this section shall have no force or effect after December 31, 2022.”

(b) 100 PERCENT FMAP.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

“(gg) INCREASED FMAP FOR EXPANDED MEDICARE COST-SHARING POPULATIONS.—

(1) IN GENERAL.—Notwithstanding subsection (b), unless otherwise provided, the percentage specified in paragraph (2) the Federal medical assistance percentage shall be equal to 100 percent.

(2) EXPENDITURES DESCRIBED.—The expenditures described in this paragraph are expenditures made on or after January 1, 2022, for medical assistance for medicare cost-sharing provided to certain beneficiaries (as defined in clause (ii) of section 1902(a)(10)(E)) who would not have been eligible for medicare cost-sharing under any such clause under the income or resource eligibility standards in effect on October 1, 2018.”.

TITLE VI—PROVIDING FOR DENTAL VISION, AND HEARING COVERAGE UNDER THE MEDICARE PROGRAM

SECTION 601. DENTAL AND ORAL HEALTH CARE.

(a) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(i) in subparagraph (GG), by striking “and” and inserting “before the semicolon at the end;”

(ii) in subparagraph (HH), by striking the period at the end and adding “; and”;

(iii) by adding at the end the following new subparagraph:

“(II) dental and oral health services (as defined in subsection (kkk));”.

(b) DENTAL AND ORAL HEALTH SERVICES DEFINED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

“(kkk) DENTAL AND ORAL HEALTH SERVICES.—

(1) IN GENERAL.—The term ‘dental and oral health services’—

(A) means items and services (other than duraplasties specified in paragraph (2) of clause (ii) of section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395w-102(b)(18)(C)) is amended by adding at the end the following new subsection:

“(C) not described in subparagraph (A) or (B), payment may be made under part A as inpatient hospital services that are furnished during 2025 or a subsequent year, for which coverage was not provided under part B as of the date of the enactment of this subsection, and that are—

(A) the preventive and screening services described in paragraph (2) furnished by a doctor or professional described in paragraph (4) of section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395w-102(b)(18)(C)) is amended by adding at the end the following new subparagraph:

“(II) dental and oral health services (as defined in subsection (kkk));”.

(b) DENTAL AND ORAL HEALTH SERVICES DEFINED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

“(kkk) DENTAL AND ORAL HEALTH SERVICES.—

(1) IN GENERAL.—The term ‘dental and oral health services’—

(A) means items and services (other than duraplasties specified in paragraph (2) of clause (ii) of section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395w-102(b)(18)(C)) is amended by adding at the end the following new subparagraph:

“(II) dental and oral health services (as defined in subsection (kkk));”.

(2) APPLICABLE PERCENT.—For purposes of paragraph (1), the applicable percent specified in this paragraph is, with respect to dental and oral health services specified in section 1861(kkk) furnished in a year—

(A) that are preventive and screening services, payment may be made under part A as inpatient hospital services that are furnished during 2025 or a subsequent year, for which coverage was not provided under part B as of the date of the enactment of this subsection, and that are—

(A) the preventive and screening services described in paragraph (2) furnished by a doctor or professional described in paragraph (4) of section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395w-102(b)(18)(C)) is amended by adding at the end the following new subparagraph:

“(II) dental and oral health services (as defined in subsection (kkk));”.

(2) APPLICABLE PERCENT.—For purposes of paragraph (1), the applicable percent specified in this paragraph is, with respect to dental and oral health services specified in section 1861(kkk) furnished in a year—

(A) that are preventive and screening services, payment may be made under part A as inpatient hospital services that are furnished during 2025 or a subsequent year, for which coverage was not provided under part B as of the date of the enactment of this subsection, and that are—

(A) the preventive and screening services described in paragraph (2) furnished by a doctor or professional described in paragraph (4) of section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395w-102(b)(18)(C)) is amended by adding at the end the following new subparagraph:

“(II) dental and oral health services (as defined in subsection (kkk));”.

(3) CONFORMING AMENDMENTS.—

(A) Section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) is amended—

(i) in clause (ii), by striking “for making medical” and inserting “before January 1, 2022, for making medical”;

(ii) in clause (iv), by striking “subject to sections” and inserting “before January 1, 2022, subject to sections”.

(B) Section 1933 of the Social Security Act (42 U.S.C. 1396y-3) is amended—

(i) in subsection (a), by striking “A State plan” and inserting “Subject to subsection (h), a State plan”; and

(ii) by adding at the end the following new subsection:

“(h) SUNSET.—The provisions of this section shall have no force or effect after December 31, 2022.”

(b) 100 PERCENT FMAP.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

“(gg) INCREASED FMAP FOR EXPANDED MEDICARE COST-SHARING POPULATIONS.—

(1) IN GENERAL.—Notwithstanding subsection (b), unless otherwise provided, the percentage specified in paragraph (2) the Federal medical assistance percentage shall be equal to 100 percent.

(2) EXPENDITURES DESCRIBED.—The expenditures described in this paragraph are expenditures made on or after January 1, 2022, for medical assistance for medicare cost-sharing provided to certain beneficiaries (as defined in clause (ii) of section 1902(a)(10)(E)) who would not have been eligible for medicare cost-sharing under any such clause under the income or resource eligibility standards in effect on October 1, 2018.”.
(e) DENTURES.—
(1) IN GENERAL.—Section 1861(s)(8) of the Social Security Act (42 U.S.C. 1395s(a)(8)) is amended—
(A) by striking "(other than dental)"; and
(B) by inserting "and excluding dental, except for a full or partial set of dentures furnished on or after January 1, 2023" after "colostomy care".
(2) SPECIAL PAYMENT RULES.—
(A) LIMITATIONS.—Section 1834(h) of the Social Security Act (42 U.S.C. 1395m(h)) is amended by adding at the end the following new paragraph:
"(6) SPECIAL PAYMENT RULE FOR DENTURES.—Payment may be made under this part with respect to an individual described in section 1861(kkk)(1)(A) during any period (except in the case that a doctor or professional described in section 1861(kkk)(1)(A) determines such dentures do not fit the individual); and
(B) only to the extent that such dentures are furnished pursuant to a written order of such a doctor or professional.".
(B) APPLICATION OF COMPETITIVE ACQUISITION.—
(I) IN GENERAL.—Section 1384(h)(1)(H) of the Social Security Act (42 U.S.C. 1395m(h)(1)(H)) is amended—
(A) in the subparagraph heading, by inserting "-DENTURES" after "ORTHOTICS";
(B) by inserting ", of dentures described in paragraph (2)(D) of such section," after "2011,"; and
(C) in clause (i), by inserting "-dentures" after "orthotics".
(II) CONFORMING AMENDMENT.—Section 1847(a)(2) of the Social Security Act (42 U.S.C. 1395s(a)(2)(G)) is amended by adding at the end the following new subparagraph:
"(D) DENTURES.—Dentures described in section 1861(s)(8) may be paid for under this part with otherwise be made under section 1834(h)."
(III) EXEMPTION OF CERTAIN ITEMS FROM COMPETITIVE ACQUISITION.—Section 1847(a)(7) of the Social Security Act (42 U.S.C. 1395s(a)(7)) is amended by adding at the end the following new subparagraph:
"(B) in subparagraph (P), by striking the semicolon at the end.

(h) IMPLEMENTATION FUNDING.—
(1) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall provide for the transfer from the Medicare Trust Fund under section 1841 of the Social Security Act (42 U.S.C. 1395t) to the Centers for Medicare & Medicaid Services Program Management Account of—
(A) $20,000,000 for each of fiscal years 2020 through 2025 for purposes of implementing the amendments made by this section; and
(B) such amounts as are appropriate by the Secretary for each subsequent fiscal year for purposes of administering the provisions of such amendments.
(2) AVAILABILITY AND ADDITIONAL USE OF FUNDS.—Funds transferred pursuant to paragraph (1) shall remain available until expended and may be used, in addition to the purpose specified in paragraph (1), to implement the amendments made by sections 602 and 603.

SEC. 602. PROVIDING COVERAGE FOR HEARING AIDS UNDER THE MEDICARE PROGRAM.

(a) PROVIDION OF AURAL REHABILITATION AND TREATMENT SERVICES BY QUALIFIED AUDIOLOGISTS.—Section 1861(h)(10)(A) of the Social Security Act (42 U.S.C. 1395x(l)(10)(A)) is amended by adding at the end the following new subparagraph:
"(C) CERTAIN DENTURES.—Those items and services described in paragraph (2)(D) if furnished by a physician or other practitioner (as defined by the Secretary) to the physician’s or practitioner’s own patients as part of the physician's or practitioner’s professional service.".
(b) CONFORMING AMENDMENT.—
(1) IN GENERAL.—The last sentence of section 1861(s)(2)(II)'' of the Social Security Act (42 U.S.C. 1395s(u)(2)(II)), as amended by section 601(d)(4), is further amended by adding at the end the following new clause:
"(viii) With respect to 2023 and each subsequent year, a qualified audiologist (as defined in section 1861(s)(4)(B))."
(c) EXCLUSION MODIFICATION.—Section 1862(a)(7) of the Social Security Act (42 U.S.C. 1395w–3(a)(7)), as amended by section 601(g)(2), is amended by adding by striking "section 601 (other than subsection (g))" and inserting "sections 601 (other than subsection (g)), 602 (other than subsection (d))".

(2) PAYMENT.—(Paragraph (4) of section 1844(a) of such Act (42 U.S.C. 1395u(a)), as added by section 601(g)(2), is amended by striking "section 601 (other than subsection (g))" and inserting "sections 601 (other than subsection (g)), 602 (other than subsection (d))".

(e) REPORT; REGULATIONS.—
(1) REPORT.—Not later than the date that is 3 years after the date of the enactment of this Act, the Inspector General of the Department of Health and Human Services shall conduct a study to assess (and submit to the Secretary of Health and Human Services a report on) any program integrity or enrollment risk with respect to hearing aids and related services offered by Medicare providers or suppliers, including in other Federal programs, including in a health benefit plan under chapter 69 of title 5, United States Code or in health care benefits under the Retirement Independence and Community Empowerment Act of 2019 (42 U.S.C. 1396tt et seq.) or under part B of such title (42 U.S.C. 1395 et seq.) without such individuals being referred by a physician (as defined in section 1861(r) of such Act (42 U.S.C. 1395(r))) or practitioner (as defined in section 602(2) of Federal Regulations) to such qualified audiologists.

(2) REGULATIONS.—The Secretary of Health and Human Services is authorized to issue regulations to allow qualified audiologists (as so defined) to furnish audiology services (as so defined) without a referral from a physician or practitioner, consistent with the findings submitted with the report submitted to the Secretary pursuant to paragraph (1)(B).

(i) IN GENERAL.—Section 1847(a)(9) of the Social Security Act (42 U.S.C. 1395s(a)(9)), as amended by section 601(e)(2)(B)(ii), is further amended by adding at the end the following new subparagraph:
"(E) HEARING AIDS.—Hearing aids described in section 1861(s)(8) for which payment would otherwise be made under section 1834(h)."
(ii) EXEMPTION OF CERTAIN ITEMS FROM COMPETITIVE ACQUISITION.—Section 1847(a)(7) of the Social Security Act (42 U.S.C. 1395s(a)(7)), as amended by section 601(e)(2)(B)(ii), is further amended by adding at the end the following new subparagraph:
"(D) CERTAIN HARING AIDS.—Those items and services described in paragraph (2)(E) of such section if furnished by a physician or other practitioner (as defined by the Secretary) to the physician’s or practitioner’s own patients as part of the physician's or practitioner’s professional service.".

(4) INCLUSION OF AUDIOLOGISTS AS CERTAIN PRACTITIONERS TO RECEIVE PAYMENT ON AN ASSESSMENT-RELATED BASIS.—Section 1842(b)(43)(C) of the Social Security Act (42 U.S.C. 1395u(o)(43)(C)), as amended by section 601(d)(4), is amended by inserting after the end and inserting "; plus"; and
(5) INCLUDING PROVISIONS OF AURAL REHABILITATION AND TREATMENT SERVICES BY QUALIFIED AUDIOLOGISTS.—Section 1861(h)(10)(D) of the Social Security Act (42 U.S.C. 1395x(l)(10)(D)), as amended by section 601(e)(2)(B)(ii), is further amended by adding at the end the following new subparagraph:
"(H) IMPLEMENTATION FUNDING.—
(1) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall provide for the transfer from the Medicare Trust Fund under section 1841 of the Social Security Act (42 U.S.C. 1395t) to the Centers for Medicare & Medicaid Services Program Management Account of—
(A) $20,000,000 for each of fiscal years 2020 through 2025 for purposes of implementing the amendments made by this section; and
(B) such amounts as are appropriate by the Secretary for each subsequent fiscal year for purposes of administering the provisions of such amendments.
(2) AVAILABILITY AND ADDITIONAL USE OF FUNDS.—Funds transferred pursuant to paragraph (1) shall remain available until expended and may be used, in addition to the purpose specified in paragraph (1), to implement the amendments made by sections 602 and 603.
(f) IMPLEMENTATION FUNDING.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the “Secretary”) shall provide for the transfer from the Federal Supplementary Medical Insurance Trust Fund under section 1841 of the Social Security Act (42 U.S.C. 1395t) to the Centers for Medicare & Medicaid Services Program Management Account of—

(A) $20,000,000 for each of fiscal years 2020 through 2024 for purposes of implementing the amendments made by this section; and

(B) funds as determined appropriate by the Secretary for each subsequent fiscal year for purposes of administering the provisions of such amendments.

(2) AVAILABILITY AND ADDITIONAL USE OF FUNDS.—Funds transferred pursuant to paragraph (1) shall remain available until expended and may be used, in addition to the purpose specified in paragraph (1)(A), to implement the amendments made by sections 601 and 603.

SEC. 603. PROVIDING COVERAGE FOR VISION CARE UNDER THE MEDICARE PROGRAM.

(a) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395u(s)(2)), as amended by section 601(a), is further amended—

(1) by striking paragraph (2)(H) by striking “and”, and, after the semicolon at the end;

(2) in subparagraph (II), by striking the period at the end and adding “; and”; and

(3) by adding at the end the following new subparagraph:—

“(I) vision services (as defined in subsection (b));”.

(b) VISION SERVICES DEFINED.—Section 1861 of the Social Security Act (42 U.S.C. 1395u), as amended by section 601(b), is further amended by adding at the end the following new section:

“(III) VISION SERVICES.—The term ‘vision services’ means—

(1) routine eye examinations to determine the refractive state of the eyes, including procedures performed during the course of such examination; and

(2) contact lens fitting services furnished on or after January 1, 2023, by or under the direct supervision of an optometrist or ophthalmologist who is legally authorized to furnish such examinations, procedures, or fitting services (as defined under State laws) of the State in which the examination, procedures, or fitting services are furnished.

(c) PAYMENT LIMITATIONS.—Section 1834 of the Social Security Act (42 U.S.C. 1395w), as amended by section 602(c)(2), is further amended by adding at the end the following new subsection:

“(y) LIMITATION FOR VISION SERVICES.—With respect to vision services (as defined in section 1861(l)), and an individual, payment may be made under this part only for 1 routine eye examination described in paragraph (1) of such section and 1 contact lens fitting service described in paragraph (2) of such section during a 2-year period.”.

(d) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1440(h)(3) of the Social Security Act (42 U.S.C. 1395w(h)(3)), as amended by section 601(d)(1), is further amended by inserting “(2)(J)” before “(3)”.

(e) COVERAGE OF CONVENTIONAL EYEGlasses AND CONTACT LENSES.—Section 1810(a)(4) of the Social Security Act (42 U.S.C. 1395u(a)(4)), as amended by section 602(b)(1), is further amended by striking “and”, and including one pair of conventional eyeglasses or contact lenses furnished subsequent to each cataract surgery with insertion of an intraocular lens and inserting “, including one pair of conventional eyeglasses or contact lenses furnished subsequent to each cataract surgery with insertion of an intraocular lens, if furnished before January 1, 2023, includ-

conventional eyeglasses or contact lenses, whether or not furnished subsequent to such a surgery, if furnished on or after January 1, 2024”.

(f) SPECIAL PAYMENT RULES FOR EYEGlasses AND CONTACT LENSES.—

(1) LIMITATIONS.—Section 1834(h) of the Social Security Act (42 U.S.C. 1395m(h)), as amended by section 602(b)(2), is further amended by adding at the end the following new paragraph:

“(d) PAYMENT LIMITATIONS.—With respect to eyeglasses and contact lenses furnished to an individual on or after January 1, 2023, subject to subparagraph (B), payment may be made under this part only—

“(I) during a 2-year period, for either 1 pair of eyeglasses (including lenses and frames) or not more than a 2-year supply of contact lenses that is provided in not more than 180-day increments;

“(II) with respect to amounts attributable to the lenses and frames of such a pair of eyeglasses or amounts attributable to such a 2-year supply of contact lenses, in an amount not greater than $150 for eye glasses and $85 for the frames of such pair of eyeglasses; or

“(III) for such 2-year supply of contact lenses, and

“(I) if furnished pursuant to a written order of a physician described in section 1861(l); and

“(ii) with respect to a 2-year period described in clause (i), the individual did not already receive (as described in subparagraph (B)) one pair of conventional eyeglasses or contact lenses subsequent to a cataract surgery with insertion of an intraocular lens furnished during such period.

“(B) EXCEPTION.—With respect to a 2-year period described in subparagraph (A)(i), in the case of an individual who receives cataract surgery with insertion of an intraocular lens, notwithstanding subparagraph (A), payment may be made under this part for one pair of conventional eyeglasses or contact lenses furnished subsequent to such cataract surgery during such period.”.

(2) APPLICATION OF COMPETITIVE ACQUISITIONS.—

(A) IN GENERAL.—Section 1834(h)(1)(H) of the Social Security Act (42 U.S.C. 1395m(h)(1)(H)), as amended by section 601(c)(2)(B)(i) and section 602(c)(2)(B)(i), is further amended by—

(i) in the header by inserting “, EYEGlasses, and CONTACT LENSES’’ after “HEARING AIDS’’;

(ii) by inserting “and eyeglasses and contact lenses described in paragraph (2)(F) of such section,” after “paragraph (2)(E) of such section,” and

(iii) in clause (i), by inserting “, or such eyeglasses and contact lenses after “such hearing aids’’.

(B) CONFORMING AMENDMENT.—Section 1847(a)(2) of the Social Security Act (42 U.S.C. 1395w(a)), as amended by section 601(e)(2)(B)(ii) and section 602(b)(3)(B)(i), is further amended by adding at the end the following new subparagraph:

“(F) EYEGlasses AND CONTACT LENSES.—Eye glasses and contact lenses described in section 1861(s)(8) for which payment would otherwise be made under section 1834(h).”.

(3) EXCLUSION OF CERTAIN ITEMS FROM COMPETITIVE ACQUISITIONS.—Section 1847(a)(7) of the Social Security Act (42 U.S.C. 1395w(a)(7)), as amended by section 601(e)(2)(B)(iii) and section 602(b)(3)(B)(ii), is further amended by adding at the end the following new subparagraph:

“(F) ITEMS AND SERVICES.—Those items and services described in paragraph (2)(F) if furnished by a physician or other practitioner (as defined by the Secretary) or the physician’s or practitioner’s own patients as part of the physician’s or practitioner’s professional service.”.

(4) EXCLUSION MODIFICATIONS.—Section 1861(a) of the Social Security Act (42 U.S.C. 1395a(a)), as amended by section 601(l), is further amended—

(1) in paragraph (1)—

(A) in subparagraph (P), by striking “and” at the end;

(B) in subparagraph (Q), by striking the semicolon at the end and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(R) in the case of vision services (as defined in section 1861(l)) that are routine eye examinations and contact lens fitting services (as described in paragraph (1) or (2), respectively, of such section), which are furnished more frequently once during a 2-year period;”.

(2) in paragraph (7)—

(A) by inserting “(other than such an examination that is a vision service that is covered under section 1861(a)(2)(I))’’ after ‘‘eye examinations’’; and

(B) by inserting “(other than such a procedure that is a vision service that is covered under section 1861(a)(2)(I))’’ after ‘‘refractive state of the eyes’’.

(h) CERTAIN NON-APPLICATION.—

(1) IN GENERAL.—The amendments made by section 1861(a)(1) of the Social Security Act (42 U.S.C. 1395a(a)), as added by section 601(p)(1) and amended by section 602(d)(1), is further amended by inserting “, and 603 (other than subsection (h)) after ‘‘602 (other than subsection (d))’’.

(2) PAYMENT.—Paragraph (4) of section 1844(a) of such Act (42 U.S.C. 1395w(a)), as added by section 601(g)(2) and amended by section 602(d)(2), is further amended by adding inserted “, and 603 (other than subsection (h)) after ‘‘602 (other than subsection (d))’’.

(i) IMPLEMENTATION FUNDING.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the “Secretary”) shall transfer from the Federal Supplementary Medical Insurance Trust Fund under section 1841 of the Social Security Act (42 U.S.C. 1395t) to the Centers for Medicare & Medicaid Services Program Management Account of—

(A) $20,000,000 for each of fiscal years 2020 through 2024 for purposes of implementing the amendments made by this section; and

(B) such sums as determined appropriate by the Secretary for each subsequent fiscal year for purposes of administering the provisions of such amendments.

(2) AVAILABILITY AND ADDITIONAL USE OF FUNDS.—Funds transferred pursuant to paragraph (1) shall remain available until expended and may be used, in addition to the purpose specified in paragraph (1)(A), to implement the amendments made by sections 601 and 602.

TITLE VII—NIH, FDA, AND OPIOIDS
“(A) IN GENERAL.—In addition to the funds made available under paragraph (2), there are authorized to be appropriated, and are hereby appropriated, to the Account, out of any monies in the Treasury not otherwise appropriated, to be available until expended without further appropriation, the following:

(ii) For fiscal year 2021, $255,400,000.

(iii) For fiscal year 2022, $230,400,000.

(iv) For fiscal year 2023, $163,400,000.

(v) For fiscal year 2024, $574,000,000.

(vi) For fiscal year 2025, $449,000,000.

(vii) For fiscal year 2026, $842,400,000.

(viii) For fiscal year 2027, $1,089,600,000.

(ix) For fiscal year 2028, $350,000,000.

(x) For fiscal year 2029, $400,900,000.

(xi) For fiscal year 2030, $429,900,000.

(b) SUPPLEMENTAL FUNDING FOR CERTAIN PROGRAMS.—Amounts made available under subparagraph (A) for each of fiscal years 2021 through 2030, a total amount not to exceed the following shall be made available for the following categories of NIH Innovation Projects:

(i) For projects described in paragraph (4)(A), an amount not to exceed a total of $62,000,000.

(ii) For each of fiscal years 2021 and 2022, $5,000,000.

(iii) For fiscal year 2024, $100,000,000.

(iv) For each of fiscal years 2025 and 2026, $300,000,000.

(v) For each of fiscal years 2027 through 2029, $319,600,000.

(vi) For fiscal year 2030, $319,600,000.

(c) ANNUAL REPORTS.—Section 1001(c)(1) of the 21st Century Cures Act (Public Law 114–255) is amended by adding the following:

(1) P HASE II CLINICAL TRIAL.—The term ‘‘Phase II clinical trial’’ means an investigational new drug application or investigational new device application for a drug for a rare disease or condition, that is not a trial or trial of, or phase I clinical trials supported by phase II clinical trials and phase III clinical trials—

(ii) Eligible entities—To be eligible to receive assistance under the pilot program established under subsection (a), an entity shall—

(B) in subsection (b)(1), by striking ‘‘paragraph (4)’’ and inserting ‘‘paragraphs (4) and (5)’’; and

(C) in subsection (c)(2)(A)(ii), by inserting ‘‘or pursuant to subsection (b)(5)’’ after ‘‘subsection (b)(3)’’; and

(D) in subsection (d), by inserting ‘‘or pursuant to subsection (b)(5)’’ after ‘‘subsection (b)(3)’’.

(b) WORKPLAN.—Section 1001(c)(1) of the 21st Century Cures Act (Public Law 114–255) is amended by striking ‘‘2027’’ and inserting ‘‘2030’’.

(c) DUTIES.—The Secretary, acting through the Director of the National Institutes of Health, shall—

(i) to promote innovation in treatments and technologies supporting the advanced research and development and production of high need cures; and

(ii) to support research related to combating antimicrobial resistance and antibiotic resistant bacteria, including research into new treatments, diagnostics, and vaccines, research, in consultation with the Centers for Disease Control and Prevention, into stewardship, and the development of strategies, in coordination with the Biomedical Advanced Research and Development Board and the Tobacco Control Research and Development Board established under section 331A of the Public Health Service Act, to support commercialization of new antibiotics, not to exceed a total of $1,558,400,000 as follows:

(i) For each of fiscal years 2024 and 2025, $151,200,000.

(ii) For each of fiscal years 2026 through 2029, $251,200,000.

(iii) For projects described in paragraph (4)(D), an amount not to exceed $15,400,000 for each of fiscal years 2024 through 2029.

(2) PHASE III CLINICAL TRIALS.—The term ‘‘Phase II clinical trial’’ means an investigational new drug application or investigational new device application for a drug for a rare disease or condition, that is not a trial or trial of, or phase I clinical trials supported by phase II clinical trials and phase III clinical trials—

(i) in implementing the pilot program under subsection (a), consultation with patients and patient advocates; and

(ii) in awarding contracts under the pilot program under subsection (a), consisting of at least 3 months of the clinical trial or trials to be supported under the contract; and

(iii) the degree to which the medical product or therapy that is the subject of such clinical trial or trials is a high need cure.

(d) EXCLUSION.—A contract may not be awarded under the pilot program under subsection (a) if the drug that is the subject of the clinical trial or trials to be supported under the contract is a drug designated under section 262 of the Food and Drug Administration Act as a drug for a rare disease or condition.

(e) NIH CLINICAL TRIAL ACCELERATOR ACCOUNT.—

(i) ESTABLISHMENT.—There is established in the Treasury an account, to be known as the ‘‘NIH Clinical Trial Accelerator Account’’ (referred to in this section as the ‘‘Account’’), for purposes of carrying out this section.

(ii) TRANSFER OF DIRECT SPENDING SAVINGS.—

There shall be transferred to the Account from the general fund of the Treasury, $500,000,000 for each of fiscal years 2021 through 2025, to be available until expended without further appropriation.

(iii) WORK PLAN.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a work plan that includes the proposed implementation of this section and the proposed allocation of funds in the Account.

(iv) REPORTS TO CONGRESS.—Not later than October 1 of each fiscal year, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report on—

(1) the implementation of this section; and

(2) the extent to which Federal funds are obligated to support such clinical trials, including the specific amount of such support and awards pursuant to an allocation from the Account under subsection (e).

(v) DEFINITIONS.—In this section:

(A) PHASE II CLINICAL TRIAL.—The term ‘‘phase II clinical trial’’ means a phase II clinical investigation, as described in section 312.21 of title 21, Code of Federal Regulations (or any successor regulations).

(B) PHASE III CLINICAL TRIALS.—The term ‘‘phase III clinical trial’’ means a phase III clinical investigation, as described in section 312.21 of title 21, Code of Federal Regulations (or any successor regulations).

(C) HIGH NEED CURE.—The term ‘‘high need cure’’ has the meaning given such term in section 2003 of the Higher Education Act of 1965 (20 U.S.C. 1091).

Subtitle B—Investing in Safety and Innovation

SECTION 711. FOOD AND DRUG ADMINISTRATION.

(a) INNOVATION ACCOUNT.—

(1) IN GENERAL.—There is established a food and drug administration innovation account (referred to in this section as the ‘‘Innovation Account’’).
(B) by adding at the end the following new paragraph:

“(5) SUPPLEMENTAL FUNDING AND ADDITIONAL ACTIVITIES.—

(A) IN GENERAL.—In addition to the funds made available under paragraph (2), there are authorized to be appropriated, and are hereby appropriated, to the Account, out of any moneys in the Treasury not otherwise appropriated, to be available until expended without further appropriation, the following:

“(I) For fiscal year 2020, $417,500,000.

“(II) For each of fiscal years 2021 and 2022, $157,500,000.

“(III) For each of fiscal years 2023 through 2025, $202,500,000.

“(IV) For each of fiscal years 2026 through 2029, $202,500,000.

(B) SUPPLEMENTAL FUNDING FOR CERTAIN ACTIVITIES.—The total amounts made available under subparagraph (A) for each of fiscal years 2026 through 2029, a total amount not to exceed 50,000,000, for each such fiscal year, shall be made available for the activities under subtitles A through F (including the amendments made by such subtitles) of title III of this Act and section 1014 of the Federal Food, Drug, and Cosmetic Act as added by section 3073 of this Act.

(C) ADDITIONAL FDA ACTIVITIES.—In addition to funding activities pursuant to subparagraph (B), of the total amounts made available under paragraph (2), a total amount not to exceed the following shall be made available for the following activities:

(i) For modernization of the technical infrastructure and operations of drug administrations, including enhancements such as interoperability across the agency, and additional capabilities to develop an advanced information technology infrastructure to support the agency’s regulatory mission.

(ii) For support for continuous manufacturing of drugs and biological products, including complex biological products such as regenerative medicine therapies, through grants to institutions of higher education and nonprofit organizations and other appropriate mechanisms, for each of fiscal years 2020 through 2029, $20,000,000.

(iii) For support for the Commissioner of Food and Drugs to engage experts, such as organizations and other appropriate mechanisms, for each of fiscal years 2020 through 2029, $20,000,000.

(iv) For support for inspections, enforcement, and quality assurance activities across the Food and Drug Administration, including foreign and domestic inspections across products, for each of fiscal years 2020 through 2029, $20,000,000.

(v) For support for activities of the Food and Drug Administration related to customs and border enforcement, including inspection and operation of public-private partnerships or other appropriate collaborative efforts, to advance the development and delivery of individualized human gene therapy products.

(I) For fiscal year 2020, $180,000,000.

(II) For each of fiscal years 2021 through 2029, $60,000,000.

(vi) For support for continuous manufacturing of drugs and biological products, including complex biological products such as regenerative medicine therapies, through grants to institutions of higher education and nonprofit organizations and other appropriate mechanisms, for each of fiscal years 2020 through 2029, $20,000,000.

(vii) For support for the Commissioner of Food and Drugs to engage experts, such as organizations and other appropriate mechanisms, for each of fiscal years 2020 through 2029, $20,000,000.

(viii) For support for inspections, enforcement, and quality assurance activities across the Food and Drug Administration, including foreign and domestic inspections across products, for each of fiscal years 2020 through 2029, $20,000,000.

(ix) For support for activities of the Food and Drug Administration related to customs and border enforcement, including inspection and operation of public-private partnerships or other appropriate collaborative efforts, to advance the development and delivery of individualized human gene therapy products.

(Sec. 721. OPIOID EPIDEMIC RESPONSE FUND.

(A) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall use any funds made available pursuant to section 724 to carry out the activities described in paragraphs (B) and (C) of such section.

(B) FUNDING.—(i) In general.—The Secretary shall use any funds made available pursuant to subsection (B) to carry out the activities described in paragraphs (B) and (C) of such section.

(ii) Distribution.—The Secretary shall distribute the amounts described in paragraph (I) shall be for the Assistant Secretary for Mental Health and Prevention to carry out programs and activities pursuant to section 722, $10,000,000 for each of fiscal years 2021 through 2025.

(C) ACCOUNTABILITY AND OVERSIGHT.—

(1) WORK PLAN.—(A) IN GENERAL.—The Secretary shall, in accordance with section 724, establish and maintain a work plan including the proposed allocation of funds made available pursuant to subsection (B) for each of fiscal years 2021 through 2025 and the contents described in subparagraph (B) of such section.

(B) CONTENTS.—The work plan under paragraph (A) shall include—

(i) the amount of money to be obligated or expended out of the Fund for each program and activity described in subsection (c); and

(ii) a description and justification of each such program and activity.

(2) ANNUAL REPORTS.—Not later than October 1 of each of fiscal years 2022 through 2026, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce, the Committee on Appropriations, and the Committee on Education and Labor of the House of Representatives, a report including—

(i) the amount of money obligated or expended out of the Fund in the prior fiscal year for each program and activity described in subsection (c); and

(ii) a description of all programs and activities using funds made available pursuant to subsection (b); and

(C) how the programs and activities are responding to the opioid and substance use disorder epidemic.

(D) LIMITATIONS.—Notwithstanding any authority granted pursuant to subsection (a), no funds made available pursuant to subsection (b) may not be used for any purpose other than the programs and activities described in subsection (c).

(3) PRECISION MEDICINE INITIATIVE.—

(A) IN GENERAL.—The Secretary shall use any funds made available pursuant to subsection (B) to carry out activities of the Food and Drug Administration to support improvements to the technical infrastructure for reporting and analysis of adverse events associated with drugs and biological products, for each of fiscal years 2020 through 2029, $12,500,000.

(B) SUBORDINATING AMENDMENTS.—Section 1002 of the 21st Century Cures Act (Public Law 114–255) is amended by striking "(v) For support for activities of the Food and Drug Administration to support improvements to the technical infrastructure for reporting and analysis of adverse events associated with drugs and biological products, for each of fiscal years 2020 through 2029, $12,500,000.".

(Sec. 722. SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.

(A) IN GENERAL.—The entirety of the funds made available pursuant to section 724(c)(1) shall be for the Assistant Secretary for Mental Health and Substance Use to continue to award grants under section 725 of the 21st Century Cures Act (Division A, title II of the Departments of Labor, Health, and Human Services, and Education and Related Agencies Appropriations Act, 2018 (Public Law 115–141). Subject to subsection (d) and (e), such grants shall be awarded in the same manner and subject to the same conditions as were applicable to such grants for fiscal year 2018.

(B) REQUIREMENT THAT TREATMENT BE EVIDENCE-BASED.—As a condition on receipt of a grant pursuant to subsection (a), a grantee shall agree that—

(i) the treatments, practices, or interventions funded through the grant will be evidence-based; and

(ii) the treatments, practices, or interventions funded through the grant will be evidence-based; and...
(2) such treatments, practices, and interventions will include medication-assisted treatment for individuals diagnosed with opioid use disorder, using drugs only if the drugs have been approved or licensed by the Food and Drug Administration under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or section 351 of the Public Health Service Act (42 U.S.C. 265).

(c) RESERVATIONS.—Of the amount made available pursuant to section 721(c)(1) for a fiscal year—
(1) not less than $30,000,000 shall be reserved to make grants under subsection (a) to Indian Tribes or Tribal organizations; and
(2) not less than $50,000,000 shall be reserved to make grants under subsection (a) to political subdivisions of States, such as counties, cities, or towns.

SEC. 723. CENTERS FOR DISEASE CONTROL AND PREVENTION

(a) ADDRESSING OPIOID USE DISORDER.—The entirety of the funds made available pursuant to section 721(c)(2) shall be for the Director of the Centers for Disease Control and Prevention, pursuant to applicable authorities in the Public Health Service Act (42 U.S.C. 201 et seq.), to continue and expand programs of the Centers for Disease Control and Prevention to address opioid and substance use disorder, including by—
(1) improving the timeliness and quality of data on the opioid epidemic, including improvement of—
(A) data on fatal and nonfatal overdoses;
(B) syndromic surveillance;
(C) data on long-term sequelae (including neonatal abstinence syndrome); and
(D) cause of death reporting related to substance abuse or opioid overdose;
(2) expanding, strengthening, and disseminating evidence-based prevention and education strategies;
(3) supporting responsible prescribing practices, including through development and dissemination of guidelines;
(4) improving access to and use of effective prevention, treatment, and recovery support, including through grants and the provision of technical assistance to States and localities;
(5) strengthening partnerships with first responders, including to protect their safety;
(6) considering the needs of vulnerable populations; and
(7) addressing infectious diseases linked to the opioid crisis;
(8) strengthening prescription drug monitoring programs; and
(9) providing financial and technical assistance to State and local health department efforts to treat and prevent substance use disorder.

(b) LIMITATION.—Of the funds made available pursuant to section 721(c)(2) for carrying out this section, not more than 20 percent may be used for intramural purposes.

SEC. 724. FOOD AND DRUG ADMINISTRATION

The entirety of the funds made available pursuant to section 721(c)(3) shall be for the Commissioner of Food and Drugs, pursuant to applicable authorities in the Public Health Service Act (42 U.S.C. 201 et seq.), or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and other applicable law, to support widespread innovation in non-opioid and non-addictive medical products for pain treatment, access to opioid addiction treatments, appropriate use of approved opioids, and efforts to reduce illicit importation of opioids. Such support may include the following:
(1) Facilitating the development of non-opioid and non-addictive treatments;
(2) Advancing guidance documents for sponsors of non-opioid pain products;
(3) Developing evidence to inform the potential for non-opioid addiction therapies; and
(4) Examining expanded labeling indications for medication-assisted treatment.

(5) Conducting public education and outreach, including public workshops or public meetings, regarding the benefits of medication-assisted treatment, including all drugs approved pursuant to section 721(c), and developing non-opioid treatment options approved or cleared by the Food and Drug Administration.

(6) Exploring the expansion and possible mandates for treatment, including pain management and appropriate opioid prescibing through authorities under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355).

(7) Examining options to limit the duration of opioid prescriptions for acute pain, including through packaging options.

(8) Increasing infrastructure capacity to inspect and analyze packages at international mail facilities and pursue criminal investigations.

SEC. 725. NATIONAL INSTITUTES OF HEALTH

The entirety of the funds made available pursuant to section 721(c)(4) shall be for the Director of the National Institutes of Health, pursuant to applicable authorities in the Public Health Service Act (42 U.S.C. 201 et seq.), to carry out activities related to—
(1) accelerating research for addressing the opioid crisis, including developing non-opioid medications and interventions, including non-addictive medications, to manage pain, as well as developing medications and interventions to treat and to prevent substance use disorders;
(2) conducting and supporting research on which treatments (in terms of pain management as well as treatment and preventing substance use disorders) are optimal for which patients; and
(3) conducting and supporting research on creating longer-lasting or faster-acting antidotes for opioid overdose, particularly in response to the prevalence of fentanyl and carfentanil overdoses.

SEC. 726. HEALTH RESOURCES AND SERVICES ADMINISTRATION

The entirety of the funds made available pursuant to section 721(c)(5) shall be for the Administrator of the Health Resources and Services Administration, pursuant to applicable authorities in titles III, VII, and VIII of the Public Health Service Act (42 U.S.C. 241 et seq.), to—
(1) improving the timeliness and quality of data on the opioid epidemic; and
(2) conducting, supporting, and disseminating research on which interventions are optimal for which patients; and
(3) improving access to and use of effective prevention, treatment, and recovery support, including through grants and the provision of technical assistance to States and localities.

SEC. 727. ADMINISTRATION FOR CHILDREN AND FAMILIES.

Of the funds made available pursuant to section 721(c)(6) for each of fiscal years 2021 through 2025, not less than $50,000,000 for each such fiscal year shall be for the Secretary of Health and Human Services to carry out title I of the Child Abuse Prevention and Treatment Act (42 U.S.C. 510 et seq.).

TITLE VIII—MISCELLANEOUS
SEC. 801. GUARANTEED ISSUE OF CERTAIN MEDIGAP POLICIES.

(a) GUARANTEED ISSUE OF MEDIGAP POLICIES TO ALL MEDICARE-ELIGIBLE MEDICARE BENEFICIARIES.—
(1) IN GENERAL.—Section 1882(s) of the Social Security Act (42 U.S.C. 1395ss(s)) is amended—
(A) in paragraph (2)(A), by striking “65 years of age or older” and inserting “65 years of age or older and”; and
(B) in paragraph (2)(D), by striking “65 years of age or older as of the date of issuance and inserting “entitled to, or enrolled for benefits under part B and enrolled for benefits under part B”;
(2) in paragraph (3)(B)(ii), by striking “is 65 years of age or older and”; and
(3) in paragraph (3)(B)(iii), by striking “at age 65”.

(b) ADDITIONAL ENROLLMENT PERIOD FOR CERTAIN INDIVIDUALS.—
(A) ONE-TIME ENROLLMENT PERIOD.—
(i) IN GENERAL.—In the case of a specified individual, the Secretary shall establish a one-time enrollment period described in clause (ii) as references in such part may provide in any Medicare supplemental policy of the individual’s choosing.

(ii) APPLICATION.—The provisions of—
(1) paragraph (2) of section 1882(s) of the Social Security Act (42 U.S.C. 1395ss(s)) shall apply with respect to a specified individual who is described in subclause (I) of subparagraph (B)(iii) as references in such part may provide in any Medicare supplemental policy of the individual’s choosing.

(3) Effective date.—The amendments made by paragraph (1) shall apply to Medicare supplemental policies effective on or after January 1, 2024.

SEC. 802. GUARANTEED ISSUE OF MEDIGAP POLICIES FOR MEDICARE ADVANTAGE ELIGIBLE INDIVIDUALS.

(a) GUARANTEED ISSUE OF MEDIGAP POLICIES FOR MEDICARE ADVANTAGE ELIGIBLE INDIVIDUALS.—
(1) IN GENERAL.—Section 1882(s) of the Social Security Act (42 U.S.C. 1395ss(s)(3)), as amended by paragraph (a), is amended by inserting the following:
(2) in paragraph (2)(A), by striking “65 years of age or older” and inserting “65 years of age or older and”; and
(3) in paragraph (3)(B)(iii), by striking “at age 65”.

(b) ADDITIONAL ENROLLMENT PERIOD FOR CERTAIN INDIVIDUALS.—
(A) ONE-TIME ENROLLMENT PERIOD.—
(i) IN GENERAL.—In the case of a specified individual, the Secretary shall establish a one-time enrollment period described in clause (ii) as references in such part may provide in any Medicare supplemental policy of the individual’s choosing.

(iii) APPLICATION.—The provisions of—
(1) paragraph (2) of section 1882(s) of the Social Security Act (42 U.S.C. 1395ss(s)) shall apply with respect to a specified individual who is des cribed in subclause (I) of subparagraph (B)(iii) as references in such part may provide in any Medicare supplemental policy of the individual’s choosing.

(3) Effective date.—The amendments made by paragraph (1) shall apply to Medicare supplemental policies effective on or after January 1, 2024.

SEC. 803. GUARANTEED ISSUE OF MEDIGAP POLICIES FOR MEDICARE ADVANTAGE ELIGIBLE INDIVIDUALS.

(a) GUARANTEED ISSUE OF MEDIGAP POLICIES FOR MEDICARE ADVANTAGE ELIGIBLE INDIVIDUALS.—
(1) IN GENERAL.—In the case of a specified individual, the Secretary shall establish a one-time enrollment period described in clause (ii) as references in such part may provide in any Medicare supplemental policy of the individual’s choosing.

(iii) APPLICATION.—The provisions of—
(1) paragraph (2) of section 1882(s) of the Social Security Act (42 U.S.C. 1395ss(s)) shall apply with respect to a specified individual who is described in subclause (I) of subparagraph (B)(iii) as references in such part may provide in any Medicare supplemental policy of the individual’s choosing.

(3) Effective date.—The amendments made by paragraph (1) shall apply to Medicare supplemental policies effective on or after January 1, 2024.
“(iii) Subject to subsection (v)(1), for purposes of an individual described in clause (vii) of (D) or (vii) of subparagraph (B), a Medicare supplemental policy described in this subparagraph shall include an end of year supplemental policy.”; (C) in subparagraph (E)—

(i) in clause (iv), by striking “and” at the end; and

(ii) in clause (v), by striking the period at the end and inserting “; and”; and

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

“(v) in the case of an individual described in subparagraph (B)(vii), the annual, coordinated election period (as defined in section 1831(e)(2)(E) for continuous open enrollment period (as defined in section 1851(e)(2)) during which the individual disenrolls from a Medicare Advantage plan under part C.”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to Medicare supplemental policies effective on or after January 1, 2024.

SEC. 802. REPORTING REQUIREMENTS FOR PDP SPONSORS REGARDING POINT-OF-SALE REJECTIONS UNDER MEDICARE PART D.

Section 1860D-4(g)(9) of the Social Security Act (42 U.S.C. 1395w–104(g)) is amended by adding at the end the following new clause:

“(D) REPORTING REQUIREMENTS REGARDING POINT-OF-SALE REJECTIONS.—

(A) IN GENERAL.—With respect to a plan year beginning after January 1, 2020, a PDP sponsor offering a prescription drug plan shall submit to the Secretary, in a form and manner specified by the Secretary, information on point-of-sale rejections during a period of time occurring in such plan year (as specified by the Secretary), including each of the following:

(i) The reason for each point-of-sale rejection.

(ii) Identifying information for each drug with respect to which a point-of-sale rejection was not made.

(iii) With respect to applicable types of point-of-sale rejections (as specified by the Secretary), each of the following:

(I) Whether such a rejection was consistent with the formulary of the plan (as approved by the Secretary).

(II) Whether a coverage determination or appeal of a coverage determination was requested for the drug with respect to which such a rejection was made.

(III) The outcome of any such coverage determination or appeal of a coverage determination was made.

(IV) The length of time between when such a rejection was made in the same plan and when the drug with respect to which such a rejection was made is dispensed, as applicable.

(B) PUBLIC AVAILABILITY OF INFORMATION.—The Secretary shall make publicly available on the public website of the Centers for Medicare & Medicaid Services information submitted under subparagraph (A).

(C) USE OF INFORMATION.—The Secretary may use information submitted under subparagraph (A), as determined appropriate, in developing measures for the 5-star rating system under section 1851(e)(2).”.

(D) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement this paragraph through program instruction or otherwise.

(E) FUNDING.—The Secretary shall establish.

SEC. 803. PROVIDING ACCESS TO ANNUAL MEDICARE BENEFICIARIES INFORMATION IN MULTIPLE LANGUAGES.

(a) IN GENERAL.—Section 1841 of the Social Security Act (42 U.S.C. 1365b–2) is amended by adding after subsection (b) the following subsection:

“(e) The notice provided under subsection (a) shall be translated into languages in addition to English and Spanish. In carrying out the previous sentence, the Secretary shall prioritize translation of the notice into languages in which documents provided by the Commissioner of Social Security are translated and languaged that are the most frequently requested for translation for purposes of applying for old-age insurance benefits under title II.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to notices distributed prior to each Medicare open enrollment period beginning after January 1, 2023.

SEC. 804. TEMPORARY INCREASE IN MEDICARE PART B PAYMENT FOR CERTAIN BIO-SIMILAR BIOLOGICAL PRODUCTS.

Section 1841(b)(4) of the Social Security Act (42 U.S.C. 1395w–104(b)(4)) is amended by adding at the end the following new clause:

“(A) IN GENERAL.—Subject to subparagraph (B), the amount;” and

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

“(B) TEMPORARY PAYMENT INCREASE.—

(I) IN GENERAL.—In the case of a qualifying biosimilar biological product that is furnished during the applicable 5-year period for such product, the amount specified in this paragraph for such product with respect to such period is the sum determined under subparagraph (B), except that clause (ii) of such subparagraph shall be applied by substituting ‘8 percent’ for ‘6 percent’.

(II) APPLICABLE 5-YEAR PERIOD.—For purposes of clause (i), the applicable 5-year period for a biosimilar biological product is—

(I) in the case of a product for which payment is made under this paragraph as of December 31, 2019, the 5-year period beginning on January 1, 2020; and

(II) in the case of such a product for which payment is first made under this paragraph during a calendar quarter during the period beginning January 1, 2020, and ending December 31, 2024, the 5-year period beginning on the first day of such calendar quarter during which such payment is first made.

(III) QUALIFYING BIOSIMILAR BIOLOGICAL PRODUCT DEFINED.—For purposes of this subparagraph, the term ‘qualifying biosimilar biological product’ means a biosimilar biological product described in paragraph (1)(C) with respect to which—

(I) in the case of a product described in clause (i)(I), the average sales price is not more than the average sales price for the reference biological product.

(II) in the case of a product described in clause (i)(II), the wholesale acquisition cost is not more than the wholesale acquisition cost for the reference biological product.

(IV) QUALIFYING BIOLOGICAL PRODUCT DEFINED.—For purposes of clause (i), the applicable 5-year period for such a product is the 5-year period beginning after January 1, 2020, and ending December 31, 2024, for such product with respect to such period is the sum determined under subparagraph (B), except that clause (ii) of such subparagraph shall be applied by substituting ‘8 percent’ for ‘6 percent’.

SEC. 805. WAIVING MEDICARE COINSURANCE FOR COLORECTAL CANCER SCREENING TESTS.

Section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) is amended by adding at the end the following new subsection:

“(z) PAYMENT FOR LYMPHEDEMA COMPRESSION TREATMENT ITEMS.—

(A) IN GENERAL.—With respect to a plan year beginning after January 1, 2020, and ending December 31, 2022, the 5-year period beginning after January 1, 2020, and ending December 31, 2024, the 5-year period beginning on the first day of such calendar quarter during which such payment is first made.

(B) PAYMENT BASIS AND LIMITATIONS.—Section 1834 of the Social Security Act (42 U.S.C. 1395m), as amended by sections 601(c)(2) and 603(c), is further amended by adding at the end the following new subsection:

“(c) PAYMENT FOR LYPHEDEMA COMPRESSION TREATMENT ITEMS.—

(1) IN GENERAL.—The Secretary shall determine an appropriate payment basis for lymphedema compression treatment items (as defined in section 1834(m)) and, in making such determination, the Secretary may take into account payment rates for such items under State plans (or waivers of such plans) under title XIX, the Veterans Health Administration, and group health plans and health insurance coverage (as such terms are defined in section 2791 of the Public Health Service Act), and such other information as the Secretary determines appropriate.

(2) FREQUENCY LIMITATION.—No payment may be made under this part for lymphedema compression treatment items other than at such frequency as the Secretary may establish.

(3) APPLICATION OF COMPETITIVE ACQUISITION.—In the case of lymphedema compression treatment items that are included in a competitive acquisition program in a competitive acquisition area under section 1847, the Veterans Health Administration, and group health plans and health insurance coverage (as such terms are defined in section 2791 of the Public Health Service Act), and such other information as the Secretary determines appropriate.

(4) THE SECRETARY MAY USE INFORMATION ON THE PAYMENT DETERMINED UNDER THIS SUBSECTION FOR THE PURPOSES OF THE COMPETITIVE ACQUISITION PROGRAM.
SEC. 807. PHYSICIAN FEE UPDATE.

(1) In general.—Section 1847(a)(2) of the Social Security Act (42 U.S.C. 1395w–2(a)(2)), as amended by section 601(e)(2)(B)(ii) and 603(c)(B)(ii), is further amended—

(i) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively;

(ii) by striking subsection (c) and inserting the following new subparagraph:

“(E) lymphedema compression treatment items (as defined in section 1861(mmm)) are covered under such section; and

(iii) by inserting after subsection (d) the following new subsection:

“(F) lymphedema compression treatment items (as defined in section 1861(mmm)) are covered under such section; and

(b) in section 1847(a)(3)(H) of the Social Security Act (42 U.S.C. 1395w–2(a)(3)(H)), as added by section 602(e)(3)(B)(i) and 605(c)(3)(B)(ii), is further amended by adding at the end the following new paragraph:

“(2) In general.—Section 1847(a)(2) of the Social Security Act (42 U.S.C. 1395w–2(a)(2)), as amended by section 601(e)(2)(B)(ii) and 603(c)(B)(ii), is further amended—

(i) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively;

(ii) by striking subsection (c) and inserting the following:

“(c) ADDITIONAL ENHANCED FUNDING: CAPITAL PROJECTS.—There is authorized to be appropriated, out of any unappropriated, funds in the Treasury not otherwise appropriated, to the extent provided in this Act, to provide technical assistance to school systems and mental health agencies.

(2) To evaluate the effectiveness of the program carried out under this section in increasing access to evidence-based trauma support services and mental health care.

(3) To establish partnerships with or provide support to Head Start (including Early Head Start agencies), public and private preschool programs, child care programs (including home-based providers), or other entities described in subsection (a) to improve prevention, screening, referral, and treatment services to young children and their families.

(c) To be eligible to receive a grant, contract, or cooperative agreement under this section, an entity described in subsection (a) shall submit an application to the Secretary, in such manner, and with such information as the Secretary may reasonably require, which shall include the following:

(1) A description of the innovative initiatives, activities, or programs funded under the grant, contract, or cooperative agreement, including how such program will increase access to evidence-based trauma support services and mental health care for students, and, as applicable, the families of such students.

(2) A description of how the program will provide linguistically appropriate and culturally competent services.

(3) A description of how the program will support students and the school in improving the school climate in order to support an environment conducive to learning.

(4) An assurance that the persons providing services under the grant, contract, or cooperative agreement are adequately trained to provide such services; and

(b) teachers, school leaders, administrators, specialists, instructional support personnel, representatives of local Indian Tribes or tribal organizations as appropriate, other school personnel, and parents or guardians of students who are served under the grant.

(e) Interagency Agreements.—

(1) Local Interagency Agreements.—To ensure the provision of services described in subsection (c), a recipient of a grant, contract, or cooperative agreement under this section, or its designee, shall establish a local interagency agreement among local education agencies, agencies responsible for early childhood education programs, Head Start agencies (including Early Head Start agencies), juvenile justice entities, mental health and substance use systems and mental health agencies.

(2) Contents.—In ensuring the provision of the services described in subsection (c), the local interagency agreement shall specify with respect to each agency, authority, or entity that is a party to such agreement—

(A) the financial responsibility for the services; and

(B) the conditions and terms of responsibility for the services, including quality, accountability, and coordination of the services; and

(C) conditions and terms of reimbursement among such agencies, authorities, or entities, including procedures for dispute resolution.
(f) Evaluation.—The Secretary shall reserve not more than 3 percent of the funds made available under subsection (l) for each fiscal year to—

(1) conduct a rigorous, independent evaluation of the activities funded under this section; and

(2) disseminate and promote the utilization of evidence-based practices regarding trauma support services and mental health care.

(g) Distribution of Awards.—The Secretary shall ensure that contracts, and cooperative agreements awarded or entered into under this section are equitably distributed among the geographical regions of the United States and among tribal, urban, suburban, and rural populations.

(h) Rule of Construction.—Nothing in this section shall be construed to preclude any tribal entity involved with a program carried out under this section from reporting a crime that is committed by a student to appropriate authorities; or

(i) Authorization of Appropriations.—There is authorized to be appropriated, and

there is appropriated, out of any money in the Treasury not otherwise appropriated, to carry out this section, $20,000,000 for each of fiscal years 2021 through 2025.

SEC. 140. PATHWAY TO HEALTH CAREERS ACT.

(a) Short Title.—This section may be cited as the “Pathways to Health Careers Act”.

(b) Extension Through Fiscal Year 2020 of Fundingライフ for Projects to Address Health Professions Workforce Needs.—

(1) In General.—Section 8108(1)(I) of the Social Security Act (42 U.S.C. 1370f(1)) is amended by striking “2019,” and inserting “2020, and to provide technical assistance and cover administrative costs associated with implementing the successor to this section $15,000,000 for fiscal year 2020.’’.

(2) Availability of Other Funds.—Upon the date of enactment of this section—

(A) amounts expended pursuant to section 1501 of division B of Public Law 116-59, or any other prior law making amounts available for fiscal year 2020 for activities authorized by section 2006 of the Social Security Act, shall be charged to the appropriation made by subsection (c)(1) of such section for fiscal year 2020 (not including grants, technical assistance and administrative costs); and

(B) if such enactment occurs on or before November 21, 2019, the availability of funds appropriated in, or otherwise provided under, such section 1501 shall terminate.

(c) Career Pathways Through Health Profession Opportunity Grants.—Effective October 1, 2019, section 21(2)(A)(i) of the Social Security Act (42 U.S.C. 1370g) is amended to read as follows:

“SEC. 2008. CAREER PATHWAYS THROUGH HEALTH PROFESSION OPPORTUNITY GRANTS.

(a) Application Requirements.—An eligible entity desiring to receive an award under this section for a project shall submit to the Secretary an application for the grant, that includes the following:

(1) A description of how the applicant will use a career pathways approach to train eligible individuals for health professions that pay well or will put eligible individuals on a career path to an occupation that pays well, under the project.

(2) A description of the adult basic education and literacy activities, work readiness activities, training activities, and case management and career coaching; and an applicant will use to assist eligible individuals to gain work experience, connection to employers, and job placement, and a description of the plan for recruitment, hiring, and training that will support the case management, mentoring, and career coaching services, under the project directly or through local governmental, apprenticeship, educational, or charitable institutions.

(3) In the case of an application for a grant under this section for a demonstration project described in subsection (d)(4),—

(A) a demonstration that the State in which the demonstration project is to be conducted has in effect policies or laws that permit certain eligible individuals to receive certain training, or is otherwise designed to support a career pathway in health professions for eligible individuals;

(B) a demonstration that the State in which the demonstration project is to be conducted has the experience and expertise of the project in working with people with arrest or conviction records; and

(C) an identification of promising innovations or best practices that can be used to provide the training;

(D) a review of the plan for recruitment, hiring, and training; and

(E) a review of the plan for transitioning individuals in a timely manner, meaningfully consult with enforcement and judicial authorities from exercising their responsibilities with regard to the application for the funding under this section.

(b) Elements.—In carrying out this section—

(1) the application shall include—

(A) a description of how the applicant will provide the Secretary with any information that the Secretary determines to be needed to determine eligibility under this section;

(B) a description of how the applicant will ensure that grants, contracts, and cooperative agreements awarded or entered into under this section are equitably distributed among the States; and

(C) a description of how the applicant will ensure that grants, contracts, and cooperative agreements awarded or entered into under this section are equitably distributed among the States.

(c) Authorization of Appropriations.—There is authorized to be appropriated, and

(c) amounts expended pursuant to section 1501 of division B of Public Law 116-59, or any other prior law making amounts available for fiscal year 2020 for activities authorized by section 2006 of the Social Security Act, shall be charged to the appropriation made by subsection (c)(1) of such section for fiscal year 2020 (not including grants, technical assistance and administrative costs); and

(d) if such enactment occurs on or before November 21, 2019, the availability of funds appropriated in, or otherwise provided under, such section 1501 shall terminate.

(d) Career Pathways Through Health Profession Opportunity Grants.—Effective October 1, 2019, section 21(2)(A)(i) of the Social Security Act (42 U.S.C. 1370g) is amended to read as follows:

(1) ELEMENTARY SCHOOL.—The term “elementary school” has the meaning given such term in section 6207 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) LOCAL EDUCATIONAL AGENCY.—The term “local educational agency” has the meaning given such term in section 8101(2)(A)(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) NATIVE HAWAIIAN EDUCATIONAL ORGANIZATION.—The term “Native Hawaiian educational organization” has the meaning given such term in section 6207 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7517).

(4) REGIONAL CORPORATION.—The term “Regional Corporation” has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1623).

(5) SCHOOLS.—The term “school” means a public elementary school or public secondary school.

(6) SCHOOL LEADER.—The term “school leader” has the meaning given such term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7517).

(7) SCHOOLS.—The term “school” has the meaning given such term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7517).

(8) SECONDARY SCHOOL.—The term “secondary school” has the meaning given such term in section 8101(21)(A)(i).

(9) SECRETARY.—The term “Secretary” means the Secretary of Education.

(10) SPECIALIZED INSTRUCTIONAL SUPPORT PERSONNEL.—The term “specialized instructional support personnel” has the meaning given such term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7517).

(11) SOCIAL SECURITY ACT.—The term “Social Security Act” has the meaning given such term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1623).

(12) VETERANS.—The term “Veterans” means the term “Veterans” as defined in title 38, United States Code, and the local veterans’ employment representatives under section 4104 of such title, of the grantee’s outreach plan.
(b) PREFERENCES IN CONSIDERING APPLICATIONS.—In considering applications for a grant under this section, the Secretary shall give preference to—

(1) applications submitted by applicants to whom a grant was made under this section or any predecessor section of this title;

(2) applications submitted by applicants who have business and community partners in each of the following categories:

(A) Federal, state, local, and tribal government agencies and social service providers, including a State or local entity that administers a State program funded under this title;

(B) institutions of higher education, apprenticeship programs, and local workforce development boards established under section 107 of the Workforce Innovation and Opportunity Act; and

(C) health care employers, health care industry or sector partnerships, labor unions, and labor-management partnerships;

(3) applications that include opportunities for mentoring or peer support, and make career coaching available, as part of the case management process;

(4) applications which describe a project that will serve a rural area in which—

(A) the community in which the individuals to be served under the project reside is located;

(B) the project will be conducted; or

(C) an employer partnership that has committed to hiring individuals who successfully complete all activities under the project is located;

(5) applications that include a commitment to providing project participants with a cash stipend or wage supplement; and

(6) applications which have an emergency cash fund to assist project participants financially during emergency situations.

(c) GRANTS.—

(1) COMPETITIVE GRANTS.—

(A) GRANT AUTHORITY.—In general.—The Secretary, in consultation with the Secretary of Labor and the Secretary of Education, may make a grant in accordance with this paragraph to an eligible entity whose application for the grant is approved by the Secretary, to conduct a project designed to train low-income individuals for allied health professions, health information technology, or health care coaching available, as part of the case management process;

(B) GUARANTEE OF GRANTEES IN EACH STATE AND THE DISTRICT OF COLUMBIA.—For each grant cycle, the Secretary shall award a grant under paragraph (A) to at least 2 eligible entities in each State that is not a territory, to the extent there are a sufficient number of applications submitted by the entities that meet the requirements applicable with respect to such a grant.

(C) GUARANTEE OF GRANTS FOR INDIAN POPULATIONS.—From the amount reserved under subsection (i)(2)(B) for each fiscal year, the Secretary shall award a grant under this paragraph to at least 10 eligible entities that are an Indian tribe, a tribal organization, or a tribal college or university, to the extent there are a sufficient number of applications submitted by the entities that meet the requirements applicable with respect to such a grant.

(D) GUARANTEE OF GRANTS FOR INDIVIDUALS WITH ARREST OR CONVICTION RECORDS.—From the amount reserved under subsection (i)(2)(C), the Secretary shall award a grant under this paragraph to at least 2 eligible entities that are located in a territory, to the extent there are a sufficient number of applications submitted by the entities that meet the requirements applicable with respect to such a grant.

(2) GRANTS FOR DEMONSTRATION PROJECTS.—

(A) GRANT AUTHORITY.—The Secretary, in consultation with the Secretary of Labor and the Secretary of Education (and, with respect to demonstration projects of the type described in subparagraph (B)(i)(II), the Attorney General), shall award a grant under this subparagraph to a grantee for each fiscal year, the Secretary shall award a grant under this subparagraph to an eligible entity who is an eligible entity that—

(i) an employer partnership that has committed to hiring individuals under this section or any predecessor section of this title;

(ii) a reserve fund for financial assistance to project participants in emergency situations.

(3) GRANT CYCLE.—The grant cycle under this section shall be not less than 5 years.

(b) MINIMUM ALLOCATION OF FUNDS FOR EACH TYPE OF DEMONSTRATION PROJECT.—

(i) INDIVIDUALS WITH ARREST OR CONVICTION RECORDS DEMONSTRATION.—Not less than 25 percent of the amount made available for grants under this paragraph shall be used to make grants for demonstration projects of the type described in subparagraph (B)(i)(II).

(ii) PREGNANCY AND CHILDBIRTH CAREER PATHWAY DEMONSTRATIONS.—Not less than 25 percent of the amount made available for grants under this paragraph shall be used to make grants for demonstration projects of the type described in subparagraph (B)(ii).

(iii) GRANT CYCLE.—The grant cycle under this section shall be not less than 5 years, with a planning period of not more than the 1st 12 months of the grant cycle. During the planning period, the amount of the grant shall be in such lesser amount as the Secretary determines appropriate.

(c) USE OF GRANT.—

(1) IN GENERAL.—An entity to which a grant is made under this section shall use the grant in accordance with the approved application for the grant.

(2) SUPPORT TO BE PROVIDED.—

(A) REQUIRED SUPPORT.—A project for which a grant is made under this section shall include the following:

(i) An assessment for adult basic skill competency, and provision of adult basic skills education if necessary for lower-skilled eligible individuals enrolled in postsecondary training, and go on to enter and complete post-secondary training, through means including the following:

(I) Establishing a network of partners that offer pre-enrollment services for project participants who need to improve basic academic skills or English language proficiency before entering a health occupational training career pathway program.

(II) Offering resources to enable project participants to continue advancing adult basic skill proficiency while enrolled in a career pathway program.

(III) Embedding adult basic skill maintenance as part of ongoing post-secondary career coaching and mentoring.

(ii) A guarantee that child care is an available and affordable support service for project participants through means such as the following:

(I) Referral to, and assistance with, enrollment in a subsidized child care program.

(II) Payment of co-payments or associated fees for child care.

(iii) Case management plans that include career coaching (with the option to offer appropriate peer support and mentoring opportunities to work with child care providers and other stakeholders, which may be offered on an ongoing basis before, during, and after initial training as part of a career pathway model.

(iv) A plan to provide project participants with transportation through means such as the following:

(I) Referral to, and assistance with enrollment in, a subsidized transportation program.

(II) If a subsidized transportation program is not reasonably available, direct payments to subsidize transportation costs.

For purposes of this clause, the term ‘transportation’ includes public transit, or gasoline for a personal vehicle if public transit is not reasonably accessible or available.

(iv) In the case of a demonstration project of the type described in subsection (c)(2)(B)(i)(II), access to legal assistance for project participants to receive assistance in the case of a legal dispute or conviction records and associated workforce barriers.

(B) ALLOWED SUPPORT.—The goods and services provided under a project for which a grant is made under this section may include the following:

(i) A cash stipend that is at least monthly.

(ii) A reserve fund for financial assistance to project participants in emergency situations.

(iii) Tuition, and training materials such as books, software, uniforms, shoes, and hair nets.

(iv) In-kind resource donations, such as interview clothing and conference attendance fees.

(c) Assistance with accessing and completing high school equivalency or adult basic education courses as necessary to achieve success in the project and make progress toward career goals.

(d) Assistance with programs and activities, including legal assistance, deemed necessary to address arrest or conviction records as an employment barrier.

(e) Other support services as deemed necessary for family well-being, success in the project, and progress toward career goals.

(f) Treatment of any厮

(1) REQUIRED SUPPLEMENTAL SUPPORT.—

(A) IN GENERAL.—An entity to which a grant is made under this section shall use the grant in accordance with the approved application for the grant.

(2) SUPPORT TO BE PROVIDED.—

(A) REQUIRED SUPPORT.—A project for which a grant is made under this section shall include the following:

(i) An assessment for adult basic skill competency, and provision of adult basic skills education if necessary for lower-skilled eligible individuals enrolled in postsecondary training, and go on to enter and complete post-secondary training, through means including the following:

(I) Establishing a network of partners that offer pre-enrollment services for project participants who need to improve basic academic skills or English language proficiency before entering a health occupational training career pathway program.

(II) Offering resources to enable project participants to continue advancing adult basic skill proficiency while enrolled in a career pathway program.

(III) Embedding adult basic skill maintenance as part of ongoing post-secondary career coaching and mentoring.

(ii) A guarantee that child care is an available and affordable support service for project participants through means such as the following:

(I) Referral to, and assistance with, enrollment in a subsidized child care program.

(II) Payment of co-payments or associated fees for child care.

(iii) Case management plans that include career coaching (with the option to offer appropriate peer support and mentoring opportunities to work with child care providers and other stakeholders, which may be offered on an ongoing basis before, during, and after initial training as part of a career pathway model.

(iv) A plan to provide project participants with transportation through means such as the following:

(I) Referral to, and assistance with enrollment in, a subsidized transportation program.

(II) If a subsidized transportation program is not reasonably available, direct payments to subsidize transportation costs.

For purposes of this clause, the term ‘transportation’ includes public transit, or gasoline for a personal vehicle if public transit is not reasonably accessible or available.

(iv) In the case of a demonstration project of the type described in subsection (c)(2)(B)(i)(II), access to legal assistance for project participants to receive assistance in the case of a legal dispute or conviction records and associated workforce barriers.

(B) ALLOWED SUPPORT.—The goods and services provided under a project for which a grant is made under this section may include the following:

(i) A cash stipend that is at least monthly.

(ii) A reserve fund for financial assistance to project participants in emergency situations.

(iii) Tuition, and training materials such as books, software, uniforms, shoes, and hair nets.

(iv) In-kind resource donations, such as interview clothing and conference attendance fees.

(e) Assistance with accessing and completing high school equivalency or adult basic education courses as necessary to achieve success in the project and make progress toward career goals.

(f) Assistance with programs and activities, including legal assistance, deemed necessary to address arrest or conviction records as an employment barrier.

(g) Other support services as deemed necessary for family well-being, success in the project, and progress toward career goals.

(h) Treatment of any厮
that case management and career coaching serv-

whether the individuals receive benefits or serv-

under that State program, without regard to

IV, at least 10 percent of the eligible individuals

of Indian tribes, tribal organizations, and tribal

projects for which grants are made under this

subsection shall not be interpreted to require an

project for which a grant is made under

that case is responsive to the needs of the workforce.

fits, including health care coverage, that are re-

developing and sustaining, particularly with re-

successful activities for creating opportunities for

type described in subsection (c)(2)(B)(i)(I), the

pathway' has the meaning given that term in

an eligible individual.

non-medical advice, information, emotional sup-

that requires the completion of continuing edu-

for the purpose of supporting the rigorous eval-

a State, Indian tribe, or tribal organi-

(1) In the case of a demonstration project of

that case may be, are permitted to practice in the State involved.

An opioid treatment program (as defined in section 1861(t)(2)), and other high quality comprehensive addiction care programs.

The term 'eligible individual' means an individual whose family income does not exceed 200 percent of the Fed-

tal poverty level.

The term 'poverty level'—The term 'Federal poverty level' means the poverty line (as defined in section 673(2) of the Omnibus Budget Reconciliation Act of 1981, including the section required by section applicable to a family of the size involved).

The term 'Indian tribe; tribal organization.—

The terms 'Indian tribe' and 'tribal organization' have the meanings given in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

The term 'tribal college or university' has the meaning given in section 316(b) of the Higher Education Act of 1965.

(1) In general.—Out of any funds in the Treasury of the United States not otherwise ap-

propriated, there are appropriated to the Sec-

retary to carry out this section $425,000,000 for

each of fiscal years 2021 through 2025.

appropriated, there are appropriated to the Sec-

Treasury of the United States not otherwise ap-

appropriated, for the purpose of supporting the rigorous eval-

on determination of the rates of which project participants

for the purpose of supporting the rigorous eval-

on determination of the rates of which project participants

on the conclusion of the project, a final report on the activities. Each such report shall include data on participant outcomes re-

related to earnings, employment in health profes-

sionals, graduation rate, graduation timelines, credential attainment, participant demo-

on the demographics of the participants in the projects for which a grant is made under this section;

on the rate of which project participants completed all activities under the projects;

on the employment credentials acquired by project participants;

on the employment of project partici-

ants at entry into employment;

on best practices and promising practices used in the projects.

(2) CONTINUATION OF PEER TECHNICAL ASSIST-

ANCE CONFERENCES.—The Secretary shall con-

inue to hold peer technical assistance con-

ferences for entities to which a grant is made under this section or was made under the im-

mediate predecessor of this section.

(3) EVALUATION OF DEMONSTRATION PROJECTS.—

(1) In general.—The Secretary shall, by grant, contract, or interagency agreement, con-

duct rigorous and well-designed evaluations of the demonstration projects for which a grant is made under this section;

(2) REQUIREMENT APPLICABLE TO INDIVIDUALS

who are arrest or conviction records demon-

stration.—In the case of a project of the type described in subsection (c)(2)(B)(i), the evaluation shall include identification of suc-

cessful activities for creating opportunities for developing and sustaining, particularly with re-

spect to low-income individuals with arrest or conviction records, a health professions work-

force that has accessible entry points, that meets high standards for education, training, certi-

fication, and professional development, and that provides increased wages and affor-

dable benefits, including health care coverage, that are re-

sponsive to the needs of the workforce.

(3) REQUIREMENT APPLICABLE TO PREGNANCY-

AND CHILD BIRTH CAREER PATHWAY DEMON-

STRATION.—In the case of a project of the type de-

scribed in subsection (c)(2)(B)(i)(I), the evaluation shall include identification of successful ac-

tivities for creating opportunities for developing and sustaining, particularly with respect to low-

income individuals and other entry-level work-

ers, a career pathway that has accessible entry points, that meets high standards for education, training, certification, and professional development, and that provides increased wages and af-

fordable benefits, including health care cov-

erage, to the newborn of a pregnancy, including birth, pregnancy, and post-partum workforce.

(4) RULE OF INTERPRETATION.—Evaluations conducted pursuant to this subsection may in-
clude a randomly controlled trial, but this subsection shall not be interpreted to require an evaluation to include such a trial.
"(2) EXCEPTION FOR CERTAIN LIMITATIONS ON USE OF GRANTS.—Section 2005(a) (other than paragraphs (2), (3), (5), (6), and (8)) shall apply to a grant awarded under this section to the same extent and in the same manner as such section applies to payments to States under this subtitle."

SEC. 811. HOME VISITING TO REDUCE MATERNAL MORTALITY AND MORBIDITY ACT.

(a) Short Title.—This section may be cited as the ‘‘Home Visiting to Reduce Maternal Mortality and Morbidity Act’’.

(b) Increase in Tribal Set-Aside Percentage.—

(1) In General.—Section 511(h)(2)(A) of the Social Security Act (42 U.S.C. 711(h)(2)(A)) is amended by striking ‘‘5’’ and inserting ‘‘6’’.

(2) Effective Date.—The amendment made by paragraph (1) shall take effect on October 1, 2020.

(c) Increase in Funding.—Section 511(h)(1) of such Act (42 U.S.C. 711(h)(1)) is amended—

(1) by striking ‘‘and’’ at the end of subparagraph (G); and

(2) by striking subparagraph (H) and inserting the following:

‘‘(H) $800,000,000 for each of fiscal years 2017 through 2020;’’.

(d) Use of Additional Funds.—Section 511(c) of such Act (42 U.S.C. 711(c)) is amended by adding at the end the following:

‘‘(6) Use of certain funds to provide additional resources to address high rates of maternal mortality and morbidity, support unmet needs identified by the needs assessment, or increase allocations to States and territories based on relative population or poverty.—The Secretary shall ensure that any amounts exceeding $400,000,000 that are used for grants under this subsection for a fiscal year are used to—

(A) provide additional funding priority to States, tribes, and territories to address high rates of maternal mortality and morbidity;'

‘‘(B) address unmet needs identified by a needs assessment conducted under subsection (b); or

(C) increase the amounts allocated under this section to States and to Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa, based on the proportion of children who have not attained 5 years of age and are living in poverty.’’.

The Acting CHAIR. No further amendment to the bill, as amended, shall be in order except those printed in part B of House Report 116–334. Each such further amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. WALDEN

The Acting CHAIR. It is now in order to consider amendment No. 1 printed in part B of House Report 116–634.

Mr. WALDEN. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Lower Costs, More Cures Act of 2019’’.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—MEDICARE PARTS B AND D


Sec. 101. Improvements to Medicare site-of-service transparency.

Sec. 102. Requiring manufacturers of certain single-dose container or single-use package drugs payable under part B of the Medicare program to provide refunds with respect to discarded amounts of such drugs.

Sec. 103. Providing for variation in payment for certain drugs covered under part B of the Medicare program.

Sec. 104. Establishment of maximum add-on payment for drugs and biologics.

Sec. 105. Treatment of drug administration services furnished by certain off-campus outpatient departments of a provider.

Subtitle B—Drug Price Transparency

Sec. 111. Reporting on explanation for drug price increases.

Sec. 112. Public disclosure of drug discounts.

Sec. 113. Study of pharmaceutical supply chain intermediaries and mergers.

Sec. 114. Requiring certain manufacturers to report drug pricing information with respect to drugs under the Medicare program.

Sec. 115. Making prescription drug marketing sample information reported by manufacturers available to certain individuals and entities.

Sec. 116. Requiring prescription drug plan sponsors to include real-time benefit information as part of such sponsor’s electronic prescription program under the Medicare program.

Sec. 117. Sense of Congress regarding the need to expand commercially available drug pricing comparison platforms.

Sec. 118. Technical corrections.

Subtitle C—Medicare Part D Benefit Redesign

Sec. 121. Medicare Part D Benefit Redesign.

Subtitle D—Other Medicare Part D Provisions

Sec. 131. Transitional coverage and retroactive Medicare Part D coverage for certain low-income beneficiary amounts.

Sec. 132. Allowing the offering of additional prescription drug plans under Medicare part D.

Sec. 133. Allowing certain enrollees of prescription drugs plans and MA-PD plans under Medicare program to spread out cost-sharing under certain circumstances.

Sec. 134. Establishing a monthly cap on beneficiary incurred costs for insulin products and supplies under a prescription drug plan or MA-PD plan.

Sec. 135. Growth rate of Medicare part D out-of-pocket cost threshold.

Subtitle E—MedPAC

Sec. 141. Providing the Medicare Payment Advisory Commission and Medicaid and CHIP Payment and Access Commission with access to certain drug payment information, including certain rebate information.

TITLE II—MEDICAID

Sec. 201. Sunset of limit on maximum rebate amount for single source drugs and innovator multiple source drugs.


Sec. 203. GAO report on conflicts of interest in State Medicaid program drug review boards.

Sec. 204. Ensuring the accuracy of manufacturer price and drug product information under the Medicaid drug rebate program.

Sec. 205. Improving transparency and preventing the use of abusive spread pricing and related practices in Medicaid.

Sec. 206. T-MSIS drug data analytics reports.

Sec. 207. Risk-sharing value-based payment agreements for covered outpatient drugs under Medicaid.

Sec. 208. Applying Medicaid drug rebate requirement to drugs provided as part of outpatient hospital services.

TITLE III—FOOD AND DRUG ADMINISTRATION

Subtitle A—CREATEES Act

Sec. 301. Actions for delays of generic drugs and biosimilar biological products.

Sec. 302. Rems approval process for subsequent filers.

Sec. 303. Rule of construction.

Subtitle B—Pay-for-Delay

Sec. 311. Unlawful agreements.

Sec. 312. Notice and certification of agreements.

Sec. 313. Forfeiture of 180-day exclusivity period.

Sec. 314. Commission litigation authority.

Sec. 315. Statute of limitations.

Subtitle C—BLOCKING Act

Sec. 321. Change conditions of first generic exclusivity to spur access and competition.

Subtitle D—Purple Book

Sec. 331. Public Listing.

Sec. 332. Review and report on types of Information To be listed.

Subtitle E—Orange Book

Sec. 341. Orange Book.

Sec. 342. GAO report to Congress.

Subtitle F—Advancing Education on Biosimilars

Sec. 351. Education on biological products.

Subtitle G—Streamlining Transition of Biological Products

Sec. 361. Streamlining the transition of biological products.

Subtitle H—Over-the-Counter Monograph Safety, Innovation, and Reform

Sec. 376. Short title; references in subtitle.

PART I—OTC DRUG REVIEW

Sec. 371. Regulation of certain nonprescription drugs that are marketed without an approved drug application.

Sec. 372. Misbranding.

Sec. 373. Drugs excluded from the over-the-counter drug review.

Sec. 374. Treatment of Sunscreen Innovation Act.

Sec. 375. Annual update to Congress on appropriate pediatric indication for certain OTC cough and cold drugs.

Sec. 376. Technical corrections.
Sec. 501. Payment for biosimilar biological products during initial period.

Sec. 502. GAO study and report on average sales price.

Sec. 503. Requirements for prescription drug plans and MA–PD plans to report potential fraud, waste, and abuse to the Secretary of HHS.

Sec. 504. Establishment of pharmaceutical quality measures under Medicare part D.

Sec. 505. Improving coordination between Medicare and Medicaid services.

Sec. 506. Patient enrollment in Medicare national and local coverage determinations in order to mitigate barrier to inclusion of specialty drugs.

Sec. 507. MedPAC report on shifting payment amounts.

Sec. 508. Requirement that direct-to-consumer advertisements for prescription drugs and biological products include truthful and non-misleading pricing information.

Sec. 509. Chief Pharmaceutical Negotiator at the Office of the United States Trade Representative.

Sec. 510. Waiving Medicare coinsurance for colorectal cancer screening tests.

TITLE I—MEDICARE PARTS B AND D


SEC. 101. IMPROVEMENTS TO MEDICARE SITE-OF-SERVICE TRANSPARENCY.

Section 1834(b) of the Social Security Act (42 U.S.C. 1395w–19(b)) is amended—

(1) in paragraph (1)—

(A) in the heading, by striking "IN GENERAL" and inserting "SITE PAYMENT";

(B) in the matter preceding subparagraph (A)—

(i) by striking "or" and inserting ", or to a physician for services furnished in a physician’s office (if any) and "or a surgical center"; and

(ii) by inserting "2021" after "July 1, 2021"; and

(C) in subparagraph (A)—

(i) by striking "and" and inserting "or"; and

(ii) by inserting ", or to a physician for services furnished in a physician’s office (if any) and "or a surgical center"; and

(D) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) PHYSICIAN PAYMENT.—Beginning in 2021, the Secretary shall expand the information on the payment amount for a single-source drug or biological, the average sales price determined under subsection (b)(2), and the amount determined for such drug under subsection (b)(4) or (b)(5).

(3) REFUND DEPOSITS.—Amounts paid as refunds pursuant to paragraph (2) shall be deposited into the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

(4) ENFORCEMENT.—

(A) AUDITS.—Each manufacturer of a refundable single-dose container or single-use package drug that is required to provide a refund under this subsection shall be subject to periodic audit with respect to such drug and such refunds by the Secretary.

(B) PROVIDER AUDITS.—The Secretary shall impose a civil money penalty on a manufacturer of a refundable single-dose container or single-use package drug who fails to comply with the requirements under paragraph (2) for such drug for a calendar quarter in an amount equal to 25 percent of such amount.

(5) REFUND AMOUNT.—In the case of a refundable single-dose container or single-use package drug that is a single-source drug or biological, the average sales price determined under subsection (b)(2) shall be applied to the estimated total allowed charges for such drug during the quarter.

(6) IMPLEMENTATION.—The Secretary shall implement this subsection through notice and comment rulemaking.

SEC. 102. REQUIREMENTS OF MANUFACTURERS OF CERTAIN REFUNDABLE SINGLE-DOSE CONTAINER OR SINGLE-USE PACKAGE DRUGS PAYABLE UNDER PART B OF THE MEDICARE PROGRAM PROVIDE FUNDS WITH RESPECT TO DISCARDED AMOUNTS OF SUCH DRUGS.

Section 1834(t) of the Social Security Act (42 U.S.C. 1395w–19(t)) is amended by adding at the end the following new subsection:

"(i) IN GENERAL.—For each calendar quarter beginning on or after July 1, 2021, the Secretary shall, with respect to a refundable single-dose container or single-use package drug (as defined in subsection (d)(1)(A) or (B)) for which the Secretary determines appropriate by the Secretary), each manufacturer (as defined in subsection (e)(6)(A)) of such refundable single-dose container or single-use package drug the following for the calendar quarter:

"(I) Subject to subparagraph (C), information on the total number of units of the billing and payment code for such drug, if any, that were discarded during such quarter, as determined using a mechanism such as the JJ modifier used as of the date of enactment.

"(II) The refund amount that the manufacturer is liable for pursuant to paragraph (3) 

"(A) subject to subclause (II), 10 percent; and

"(II) if applicable, in the case of a refundable single-dose container or single-use package drug described in clause (i), a percentage specified by the Secretary pursuant to such clause.

"(C) ENCLUSION OF UNITS OF PACKAGED DRUGS.—The total number of units of the billing and payment code for a refundable single-dose container or single-use package drug of a manufacturer furnished during a calendar quarter for purposes of subparagraph (A) shall, for such drug, be the sum of the estimated total allowed charges for the drug in the quarter for purposes of paragraph (3)(A)(ii), shall not include units that are not used or discarded for such drug on the date of service.

"(D) REFUND AMOUNT.—For purposes of subparagraph (A)(i), the refund amount for each drug on the date of service.

"(E) EXCLUSION OF UNITS OF PACKAGED DRUGS.—The total number of units of the billing and payment code for a refundable single-dose container or single-use package drug of a manufacturer furnished during a calendar quarter for purposes of subparagraph (A) shall, for such drug, be the sum of the estimated total allowed charges for the drug in the quarter for purposes of paragraph (3)(A)(ii), shall not include units that are not used or discarded for such drug on the date of service.

"(F) DETERMINATION OF DISCARDED AMOUNTS.—For purposes of subparagraph (A)(i), with respect to a refundable single-dose container or single-use package drug furnished during a quarter, the amount of such drug that was discarded shall be determined based on the amount of such drug that was unused or discarded for each drug on the date of service.

"(G) DETERMINATION OF DISCARDED AMOUNTS.—For purposes of subparagraph (A)(ii), the manufacturer is liable for the amount specified in paragraph (3) for such drug for such quarter.

"(H) REFUND AMOUNT.—The amount of the refund specified in this paragraph is, with respect to a refundable single-dose container or single-use package drug of a manufacturer furnished during a calendar quarter beginning on or after July 1, 2021, an amount equal to the estimated amount if any by which—

"(I) the total number of units of the billing and payment code for such drug that were discarded during such quarter as determined under paragraph (1); and

"(II)(a) in the case of a refundable single-dose container or single-use package drug that is a single-source drug or biological, the amount determined for such drug under subsection (b)(4); or

"(b)(5)(A)) of such refundable single-dose container or single-use package drug that is a biosimilar biological product, the average sales price determined under subsection (b)(8)(A); exceeds

"(2) MANUFACTURER REQUIREMENT.—For each calendar quarter beginning on or after July 1, 2021, the manufacturer of a refundable single-dose container or single-use package drug shall, for such drug, provide to the Secretary a refund that is equal to the amount specified in paragraph (3) for such drug for such quarter.

"(3) REFUND AMOUNT.—The amount of the refund specified in this paragraph is, with respect to a refundable single-dose container or single-use package drug of a manufacturer assigned to the payment code for a calendar quarter beginning on or after July 1, 2021, an amount equal to the estimated amount if any by which—

"(A) in general.—For purposes of subparagraph (A)(i), with respect to a refundable single-dose container or single-use package drug of a manufacturer furnished during a calendar quarter for purposes of subparagraph (A) shall, for such drug, be the sum of the estimated total allowed charges for the drug in the quarter for purposes of paragraph (3)(A)(ii), shall not include units that are not used or discarded for such drug on the date of service.

"(B) PROVIDER AUDITS.—The Secretary shall impose a civil penalty on a manufacturer of a refundable single-dose container or single-use package drug who fails to comply with the requirements under paragraph (2) for such drug for a calendar quarter in an amount equal to 25 percent of such amount.

"(C) APPLICATION.—The provisions of subsection (a) shall apply to a civil penalty under paragraph (2) for such drug for a calendar quarter in an amount equal to 25 percent of such amount.
(A) IN GENERAL.—Except as provided in subparagraph (B), in this subsection, the term ‘refundable single-dose container or single-use package drug’ means a single source drug or biological (as defined in section 1847A(c)(6)(D)) or a biosimilar biological product (as defined in section 1847A(c)(6)(H)) for which payment is established under this part as a refundable single-dose container or single-use package.

(B) EXCLUSIONS.—The term ‘refundable single-dose container or single-use package drug’ does not include—

(i) a drug or biological that is either a radiopharmaceutical or an imaging agent;

(ii) a drug or biological for which dosage and administration instructions approved by the Commissioner of Food and Drugs require filtration during the drug preparation process, provided such instructions require that any unused portion of such drug after the filtration process be discarded after the completion of such filtration process; or

(iii) a drug or biological that is either a radiopharmaceutical or an imaging agent; 'drug' does not include—

(A) in subparagraph (A), by inserting after "104 percent" the following:

"(i) the applicable percent is 104 percent"

(B) in subparagraph (B), by inserting after "104 percent" the following:

"(i) the applicable percent is 104 percent"

(C) PER BENEFICIARY ALLOWED CHARGES DEFINED.—In this paragraph, the term ‘per beneficiary allowed charges’ means, with respect to a drug or biological for which the data necessary for making the computations are available, as determined by the Secretary.

(D) ADJUSTMENT TO REFLECT CHANGES IN AVERAGE SALES PRICE.—In applying this paragraph for a particular calendar quarter, the Secretary shall adjust the per beneficiary allowed charges for a drug or biological for which the amount of payment is determined under subparagraph (A) or (B) of paragraph (1)—

(i) the average sales price for the drug or biological for which payment has been made under this part for calendar quarters during a period in which data is not sufficiently available, the Secretary shall

(ii) adjust such per beneficiary allowed charges for the quarter, to the extent provided under subparagraph (D); and

(iii) the amount that would otherwise be per beneficiary allowed charges for all such drugs or biologicals from high to low rank such drugs or biologicals by percentile of such arrayed per beneficiary allowed charges.

(E) FREQUENCY.—The Secretary shall make the computations under clause (i)(I) every 6 months (or, if necessary, as determined by the Secretary), and such computations shall apply to succeeding calendar quarters until a new computation has been made.

(F) APPLICABLE DATA PERIOD.—For purposes of this paragraph, the term ‘applicable data period’ means the most recent period for which the data necessary for making the computations are available, as determined by the Secretary.

(G) AVERAGE SALES PRICE.—In applying this paragraph for a particular calendar quarter, the Secretary shall adjust the per beneficiary allowed charges for a drug or biological for which the amount of payment is determined under subparagraph (A) or (B) of paragraph (1)—

(i) the average sales price for the drug or biological for which payment is established under this subsection and

(ii) the completion of such filtration process; or

(iii) a drug or biological furnished on or after January 1, 2021, if the applicable add-on payment (as defined in subparagraph (B)) for each drug or biological on a claim for a date of service exceeds the maximum add-on payment amount specified under subparagraph (C) for the drug or biological, then the payment amount otherwise determined for the drug or biological under those provisions, as applicable, shall be reduced by the amount of such excess.

(H) AVERAGE SALES PRICE.—In applying this paragraph, the term ‘applicable add-on payment’ means the following amounts, determined without regard to the application of subparagraph (A), (B), or (C), (D), (E), (F), (G), (I), or (J), (K), (L), (M), (N), (O), or (P)

(1) the amount that would otherwise be applied under paragraph (1)(A); and

(2) the amount that would otherwise be applied under paragraph (1)(B); and

(3) the amount that would otherwise be applied under paragraph (1)(C), an amount equal to the difference between—

(I) the amount that would otherwise be applied under subsection (c)(4)(A) or (B) applied under such subsection if ‘100 percent’ were substituted for the applicable percent (as defined in paragraph (9)(A) for such drug or biological)

(II) the amount that would otherwise be applied under such subsection if ‘100 percent’ were substituted for the applicable percent (as defined in paragraph (9)(A) for such drug or biological)

(3) by adding at the end the following new paragraph (J):

"(J) ADJUSTMENT TO REFLECT CHANGES IN AVERAGE SALES PRICE.—In applying this paragraph for a particular calendar quarter, the Secretary shall adjust the per beneficiary allowed charges for a drug or biological for which the amount of payment is determined under subparagraph (A) or (B) of paragraph (1)—

(i) the average sales price for the drug or biological for which payment is established under subsection (c)(4)(A); and

(ii) the average sales price for the drug or biological for the calendar quarter (or the weighted average for the quarters involved) included in the applicable data period."
city average) for the 12-month period ending with June of the previous year; or

(ii) with respect to a drug or biological containing a bioactive material (as defined in paragraph (21)(B)),

(i) for each of 2021 through 2028, $2,000; and

(ii) for a subsequent year, the amount specified in this subparagraph for the preceding year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) for the 12-month period ending with June of the previous year.

Any amount determined under this subparagraph that is not a multiple of $10 shall be rounded to the nearest multiple of $10.

(2) in subsection (c)(4)(A)(ii), by striking "in the case" and inserting "subject to subsection (b)(10), in the case"

(b) CONFORMING AMENDMENTS RELATING TO SEPARATELY PAYABLE DRUGS.—

(1) OPPS.—Section 1833(t)(14) of the Social Security Act (42 U.S.C. 1395l(t)(14)) is amended—

(A) in subparagraph (A)(i)(II), by inserting "subject to subparagraph (i)" after "are not available"; and

(B) by adding at the end the following new subparagraph:

"(i) APPLICATION OF MAXIMUM ADD-ON PAYMENT FOR SEPARATELY PAYABLE DRUGS AND BIOLOGICS.—The amount of payment under subparagraph (A) for a specified covered outpatient drug that is furnished as part of a covered OPPD service (or group of services) on or after January 1, 2021, if such payment is determined based on the average price for the year established under section 1847A pursuant to clause (iii)(II) of such subparagraph, the provisions of subsection (b)(10) of section 1847A shall apply to the amount of payment so established in the same manner as such provisions apply to the amount of payment under section 1847A.

(2) ASC.—Section 1833(t)(2)(D) of the Social Security Act (42 U.S.C. 1395l(t)(2)(D)) is amended—

(A) by moving clause (v) 6 ems to the left; (B) by redesignating clause (vi) as clause (vii); and

(C) by inserting after clause (v) the following new clause:

"(vi) If there is a separate payment under the system described in clause (i) for a drug or biological furnished on or after January 1, 2021, the provisions of subsection (b)(14)(i) shall apply to the establishment of the amount of payment for the drug or biological under such system in the same manner in which such provisions apply to the establishment of the amount of payment under subsection (c)(14)(A)."

SEC. 105. TREATMENT OF DRUG ADMINISTRATION SERVICES Furnished by Certain Excluded Off-Campus Out-Patient Departments of a Provider.

Section 1833(t)(16) of the Social Security Act (42 U.S.C. 1395l(t)(16)) is amended by adding at the end of the section the following new paragraph:

"(G) SPECIAL PAYMENT RULE FOR DRUG ADMINISTRATION SERVICES Furnished by an Excluded Department of a Provider.—

(i) In GENERAL.—In the case of a covered OPPD service that is a drug administration service (as defined by the Secretary) furnished by a department of a provider described in clause (ii) or (iv) of paragraph (21)(B), the payment amount for such service furnished on or after January 1, 2021, shall be the same payment amount (as determined in paragraph (21)(C)) that would apply if the drug administration service was furnished by an off-campus outpatient department of a provider (as defined in paragraph (21)(B)).

(ii) Application without regard to budget neutrality.—The reductions made under this subparagraph—

(I) shall not be considered an adjustment under paragraph (1); and

(II) shall not be implemented in a budget neutral manner.

Subtitle B—Drug Price Transparency

SEC. 111. REPORTING ON EXPLANATION FOR DRUG PRICE INCREASES.

(a) IN GENERAL.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

"PART W—DRUG PRICE REPORTING;

DRUG VALUE FUND

SEC. 3990O. REPORTING ON EXPLANATION FOR DRUG PRICE INCREASES.

(a) DEFINITIONS.—In this section:

(1) MANUFACTURER.—The term ‘manufacturer’ means the person—

(A) that holds the application for a drug approved under section 505 of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of this Act; or

(B) who is responsible for setting the wholesale acquisition cost for the drug.

(2) QUALIFYING DRUG.—The term ‘qualifying drug’ means any drug that is approved under subsection (c) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act or licensed under subsection (a) or (k) of section 351 of this Act—

(A) that has a wholesale acquisition cost of $100 or more for inflationation occurring after the date of enactment of this section, for a month’s supply or a typical course of treatment that lasts less than a month, and is—

(I) subject to section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act;

(II) approved for the treatment of a disease or condition affecting more than 200,000 persons in the United States; and

(III) not a vaccine; and

(B) for which, during the previous calendar year, at least 1 dollar of the total amount of sales was for individuals enrolled under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) or under a State Medicaid plan under title XIX of such Act (42 U.S.C. 1396 et seq.) or under a waiver of such plan.

(3) WHOLESALE ACQUISITION COST.—The term ‘wholesale acquisition cost’ has the meaning given that term in section 1847A(a) of the Social Security Act (42 U.S.C. 1395w–3a(c)(1)(B)).

(b) REPORT.—

(1) REPORT REQUIRED.—The manufacturer of a qualifying drug shall submit a report to the Secretary—

(A) for each increase in the price of a qualifying drug that results in an increase in the wholesale acquisition cost of that drug that is equal to—

(i) 10 percent or more within a single calendar year beginning on or after January 1, 2019; or

(ii) 25 percent or more within three consecutive calendar years for which the first such calendar year begins on or after January 1, 2019; and

(B) in the case that the qualifying drug is first covered under title XVIII with respect to an applicable year, if the estimated cost of the drug paid by individual or per user of such drug (as estimated by the Secretary) for such applicable year (or per course of treatment in such applicable year, as defined by the Secretary) is at least $25,000.

(2) REPORT DEADLINE.—Each report described in paragraph (1) shall be submitted to the Secretary—

(A) in the case of a report with respect to an increase in the price of a qualifying drug that occurs during the period beginning on January 1, 2019, and ending on the day that is 60 days after the date of enactment of this section, not later than 60 days after such date of enactment;

(B) in the case of a report with respect to an increase in the price of a qualifying drug that occurs after the period described in subsection (a)(1), not later than 60 days after the planned effective date of such price increase for such qualifying drug; and

(C) in the case of a report with respect to a qualifying drug that meets the criteria described in paragraph (1)(B), not later than 30 days after such drug meets such criteria.

(c) CONTENTS.—A report under subsection (b), consistent with the standard for disclosures described in section 213.3(d) of title 12, Code of Federal Regulations (as in effect on the date of enactment of this section), shall, at a minimum, include—

(1) with respect to the qualifying drug—

(A) the percentage by which the manufacturer will raise the wholesale acquisition cost of the drug within the calendar year or three consecutive calendar years as described in subsection (b)(1)(A) or (b)(1)(B), if applicable, and the effective date of such price increase;

(B) an explanation for, and description of, each price increase for such drug that will occur during the calendar year period described in subsection (b)(1)(A) or the three consecutive calendar year period described in subsection (b)(1)(B), as applicable;

(2) if known and different from the manufacturer of the qualifying drug, the identity of—

(i) the sponsor or sponsors of any investigations for new drug applications under section 505(i) of the Federal Food, Drug, and Cosmetic Act for clinical investigations with respect to such drug, for which the full reports are submitted as part of the application;

(ii) for approval of the drug under section 505 of such Act; or

(iii) for licensure of the drug under section 351 of this Act; and

(3) the current wholesale acquisition cost of the drug;

(4) the total expenditures of the manufacturer—

(i) materials and manufacturing for such drug; and

(ii) acquiring patents and licensing for such drug;

(5) the percentage of total expenditures of the manufacturer on research and development for such drug that was derived from Federal funds;

(6) the total expenditures of the manufacturer on research and development for such drug that is necessary to demonstrate that it meets applicable statutory standards for approval under section 505 of the Federal Food, Drug, and Cosmetic Act or licensure under section 351 of this Act, as applicable;

(7) the total expenditures of the manufacturer on pursuing new or expanded indications for such drug approved under section 505 of the Federal Food, Drug, and Cosmetic Act or section 351 of this Act; and
from disclosure by applicable laws concerning the protection of trade secrets, commercial information, and other information covered under such laws.

SEC. 399O–1. REPORT TO CONGRESS.

(a) Scope. — Subject to subsection (b), the Secretary shall submit to Congress, and post on the public website of the Department of Health and Human Services in a way that is made available in a plain and written in plain language that consumers can readily understand, an annual report—

(1) summarizing the information reported pursuant to section 399O–1(b) and (c), (d), (e), (f), (g), and (h);

(2) including copies of the reports and supporting detailed economic analyses submitted pursuant to such subsection;

(3) detailing the costs and expenditures incurred by the Department of Health and Human Services in carrying out section 399O–1(c); and

(4) explaining how the Department of Health and Human Services is improving consumer and provider information about drug value and drug price transparency.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the date of enactment of this Act.

SEC. 112. PUBLIC DISCLOSURE OF DRUG DISCOUNTS.

Section 1150A of the Social Security Act (42 U.S.C. 1320b–23) is amended—

(1) in subsection (b)(1)(A) or the 3-year period described in subsection (b)(1)(A) or the 3-year period described in subsection (b)(1)(B), as applicable; and

(2) in subsection (c)(2), by inserting ''(other than as permitted under subsection (e))'' preceding paragraph (1), by inserting ''(other than as permitted under subsection (e))'' after ''disclosed by the Secretary''; and

(3) by adding at the end the following new subsection:

''(e) PUBLIC AVAILABILITY OF CERTAIN INFORMATION.—

(1) IN GENERAL.—In order to allow the comparison of PBMs' ability to negotiate rebates, discounts, direct and indirect remuneration fees, administrative fees, and price concessions that are passed through to plan sponsors, beginning January 1, 2020, the Secretary shall make available on the Internet website of the Department of Health and Human Services the information with respect to the second preceding calendar year provided to the Secretary on generic dispensing rates (as described in paragraph (1) of section 399O–2) as follows:

(A) the prices, rebates, discounts, direct and indirect remuneration fees, administrative fees, and price concessions that are passed through to plan sponsors;

(B) the type of drug and the dispensing rate that was used to calculate the discount; and

(C) the generic drug name.

(2) AVAILABILITY OF DATA.—In carrying out paragraph (1), the Secretary shall ensure the following:

(A) CONFIDENTIALITY.—The information described in such paragraph is made available by the Secretary in a manner that prevents the disclosure of information, with respect to an individual drug or an individual plan, on rebates, discounts, direct and indirect remuneration fees, administrative fees, and price concessions.

(B) CLASS OF DRUG.—The information described in such paragraph is made available by the Secretary in a manner that prevents the disclosure of information, with respect to an individual drug or an individual plan, of such class of drugs, as specified by the Secretary (but not fewer than three drugs), to ensure confidentiality of proprietary information.

(c) Definitions. —In this section—

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ‘‘appropriate committees of Congress’’ means—

(A) the Committee on Energy and Commerce of the House of Representatives;

(B) the Committee on the Judiciary of the Senate; and

(C) the Committee on the Judiciary of the House of Representatives.

(2) COMMISSION.—The term ‘‘Commission’’ means the Federal Trade Commission.
SEC. 114. REQUIRING CERTAIN MANUFACTURERS TO REPORT DRUG PRICING INFORMATION WITH RESPECT TO DRUGS COVERED UNDER MEDICARE PROGRAMS.

(a) In general.—Section 1847A of the Social Security Act (42 U.S.C. 1395w–3a) is amended—

(1) in subsection (b)—

(A) In paragraph (2)(A), by inserting “or subsection (f)(2), as applicable,” before “determined”;

(B) in paragraph (3), in the matter preceding subparagraph (A), by inserting “or subsection (f)(2), as applicable,” before “determined”;

(C) in paragraph (6)(A), by inserting “false information. The provisions of section 1881(b)(14)(B)”.

(b) Enforcement.—Section 1847A of such Act (42 U.S.C. 1395w–3a) is further amended—

(1) in subsection (d)—

(A) in subparagraph (A), by striking “IN GENERAL” and inserting “DISROBEMENT”;

(B) in subparagraph (B), by striking “subparagraph (A), (B), or (C)”;

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

(D) by inserting after subparagraph (A) the following new subparagraphs:

“(B) FAILURE TO PROVIDE TIMELY INFORMATION.—If the Secretary determines that a manufacturer described in subsection (a) that fails to provide information required in accordance with section 1847A(b)(3)(A)(i) with respect to a drug or biological in accordance with such subparagraph or knowingly provides false information, such information shall be subject to a civil money penalty in an amount not to exceed $1,000,000 for each item of false information. Such civil money penalties are in addition to other penalties as may be prescribed by law.”;

(2) in subsection (e), by striking the period at the end and inserting “, or knowingly provides false information. The provisions of section 1881(b)(14)(B)”.

(c) Enforcement.—Section 1847A of such Act (42 U.S.C. 1395w–3a) is amended—

(1) in subsection (d)(4)—

(A) by redesignating subsection (d) as subsection (c);

(B) by adding at the end the following new subparagraph:

“(1) DATA SHARING AGREEMENTS .—Subject to paragraph (3), any specified data sharing individual or entity described in subsection (b)(3)(A)(ii) is excluded from subparagraph (B) if it agrees to not disclose the information submitted to such individual or entity any information that identifies a particular practitioner or health care facility.

(d) Enforcement.—Section 1847A of such Act (42 U.S.C. 1395w–3a) is amended—

(1) by inserting after paragraph (3) the following new subparagraphs:

“(B) DATA SHARING AGREEMENTS.—Subject to paragraph (3), any specified data sharing individual or entity described in subsection (b)(3)(A)(ii) is excluded from subparagraph (B) if it agrees to not disclose the information submitted to such individual or entity any information that identifies a particular practitioner or health care facility.

“(2) FAILURE TO REPORT.—Subject to paragraph (3), any manufacturer or authorized distributor of record of an applicable drug that fails to submit information required under such subsection in a timely manner in accordance with such subparagraph or paragraph (3) is subject to a civil money penalty of not more than $10,000,000 for each such failure. Such penalty shall be imposed and collected in the same manner as civil money penalties under such section (a) of this Act. (c) PAYERS.—Private and public health care payers, including group health plans, health insurance coverage offered by health insurance issuers, federal health programs, and State health programs.

“(3) EXEMPTION FROM FREEDOM FROM INFORMATION ACT.—Except as described in paragraph (1), the Secretary may not be compelled to disclose the information submitted by a manufacturer described in paragraph (b)(3)(B) of such section.

“(d) Enforcement.—Section 1847A of such Act (42 U.S.C. 1395w–3a) is further amended—

(1) by redesignating subsection (b) as subsection (a);

(2) by inserting after paragraph (3) and before paragraph (4) the following new subparagraph:

“(B) DATA SHARING AGREEMENTS.—Subject to paragraph (3), any specified data sharing individual or entity described in subsection (b)(3)(A)(ii) is excluded from subparagraph (B) if it agrees to not disclose the information submitted to such individual or entity any information that identifies a particular practitioner or health care facility.

“(c) Enforcement.—Section 1847A of such Act (42 U.S.C. 1395w–3a) is further amended—

(1) by inserting after paragraph (3) the following new subparagraphs:

“(B) DATA SHARING AGREEMENTS.—Subject to paragraph (3), any specified data sharing individual or entity described in subsection (b)(3)(A)(ii) is excluded from subparagraph (B) if it agrees to not disclose the information submitted to such individual or entity any information that identifies a particular practitioner or health care facility.

“(d) Enforcement.—Section 1847A of such Act (42 U.S.C. 1395w–3a) is amended—

(1) by redesignating subsection (b) as subsection (a); and

(2) by inserting after paragraph (3) the following new subparagraphs:

“(B) DATA SHARING AGREEMENTS.—Subject to paragraph (3), any specified data sharing individual or entity described in subsection (b)(3)(A)(ii) is excluded from subparagraph (B) if it agrees to not disclose the information submitted to such individual or entity any information that identifies a particular practitioner or health care facility.

“(c) Enforcement.—Section 1847A of such Act (42 U.S.C. 1395w–3a) is further amended—

(1) by inserting after paragraph (3) the following new subparagraphs:

“(B) DATA SHARING AGREEMENTS.—Subject to paragraph (3), any specified data sharing individual or entity described in subsection (b)(3)(A)(ii) is excluded from subparagraph (B) if it agrees to not disclose the information submitted to such individual or entity any information that identifies a particular practitioner or health care facility.

“(d) Enforcement.—Section 1847A of such Act (42 U.S.C. 1395w–3a) is amended—

(1) by inserting after paragraph (3) and before paragraph (4) the following new subparagraph:

“(B) DATA SHARING AGREEMENTS.—Subject to paragraph (3), any specified data sharing individual or entity described in subsection (b)(3)(A)(ii) is excluded from subparagraph (B) if it agrees to not disclose the information submitted to such individual or entity any information that identifies a particular practitioner or health care facility.

“(c) Enforcement.—Section 1847A of such Act (42 U.S.C. 1395w–3a) is further amended—

(1) by inserting after paragraph (3) the following new subparagraphs:

“(B) DATA SHARING AGREEMENTS.—Subject to paragraph (3), any specified data sharing individual or entity described in subsection (b)(3)(A)(ii) is excluded from subparagraph (B) if it agrees to not disclose the information submitted to such individual or entity any information that identifies a particular practitioner or health care facility.

“(d) Enforcement.—Section 1847A of such Act (42 U.S.C. 1395w–3a) is amended—

(1) by inserting after paragraph (3) the following new subparagraphs:

“(B) DATA SHARING AGREEMENTS.—Subject to paragraph (3), any specified data sharing individual or entity described in subsection (b)(3)(A)(ii) is excluded from subparagraph (B) if it agrees to not disclose the information submitted to such individual or entity any information that identifies a particular practitioner or health care facility.

“(c) Enforcement.—Section 1847A of such Act (42 U.S.C. 1395w–3a) is further amended—

(1) by inserting after paragraph (3) and before paragraph (4) the following new subparagraph:

“(B) DATA SHARING AGREEMENTS.—Subject to paragraph (3), any specified data sharing individual or entity described in subsection (b)(3)(A)(ii) is excluded from subparagraph (B) if it agrees to not disclose the information submitted to such individual or entity any information that identifies a particular practitioner or health care facility.

“(d) Enforcement.—Section 1847A of such Act (42 U.S.C. 1395w–3a) is amended—

(1) by inserting after paragraph (3) and before paragraph (4) the following new subparagraph:

“(B) DATA SHARING AGREEMENTS.—Subject to paragraph (3), any specified data sharing individual or entity described in subsection (b)(3)(A)(ii) is excluded from subparagraph (B) if it agrees to not disclose the information submitted to such individual or entity any information that identifies a particular practitioner or health care facility.
the following information with respect to the preceding year:

"(A) The name of the manufacturer or authorized distributor of record of an applicable drug for which samples were requested or distributed under this section.

"(B) The quantity and class of drug samples requested.

"(C) The quantity and class of drug samples distributed.

"(2) PUBLIC AVAILABILITY.—The Secretary shall make the information in such list available on the Internet website of the Food and Drug Administration.

"(b) FDA MAINTENANCE OF INFORMATION.—The Food and Drug Administration shall maintain information available to affected reporting companies to ensure their ability to fully comply with the requirements of section 1128H of the Social Security Act.

"(c) PROHIBITION ON DISTRIBUTION OF SAMPLES OF OPTIONS.—Section 508(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(d)) is amended—

(1) by moving the margin of paragraph (4) 2 ems to the left; and

(2) by adding at the end the following:

"(5) No person may distribute a drug sample of a drug that is—

"(A) an applicable drug (as defined in section 1128H of the Social Security Act).

"(B) a controlled substance (as defined in section 102 of the Controlled Substances Act) for which the findings required under section 202(b)(2) have been made; and

"(C) approved under section 505 for use in the management or treatment of pain (other than for the management or treatment of a substance use disorder).

"(d) MedPAC REPORT.—Not later than 3 years after the date of the enactment of this Act, the Medicare Payment Advisory Commission shall study on the impact of drug samples on provider prescribing practices and health care costs and may, as the Commission deems appropriate, make recommendations on such study.

SEC. 116. REQUIRING PRESCRIPTION DRUG PLAN SPONSORS TO INCLUDE REAL-TIME BENEFIT INFORMATION AS PART OF SUCH SPONSOR’S ELECTRONIC PRESCRIPTION PROGRAM UNDER THE MEDICARE PROGRAM.

Section 1860d-4(e)(2) of the Social Security Act (42 U.S.C. 1395w–104(e)(2)) is amended—

(1) in subparagraph (D), by striking “To the extent” and inserting “Except as provided in subparagraph (F), to the extent”;

and

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

"(F) REAL-TIME BENEFIT INFORMATION.—

"(i) In general.—Not later than January 1, 2021, the plan shall implement real-time benefit tools that are capable of integrating with a prescribing health care professional’s electronic prescribing or electronic health record system for the transmission of formulary status and information about the real-time to prescribing health care professionals. With respect to a covered part D drug, such tools shall be capable of transmitting such information to an individual enrolled in a prescription drug plan. Such information shall include the following:

"(I) A list of any clinically-appropriate alternative drugs included in the formulary of such plan.

"(II) Cost-sharing information for such drug and such alternatives, including a description of any step therapy in cost-sharing that is based on the pharmacy dispensing such drug or such alternatives.

"(III) Information relating to whether such drug is approved under the formulary plan and any prior authorization or other utilization management requirements applicable to such drug and such alternatives so included.

"(II) ELECTRONIC TRANSMISSION.—The provisions of subsections (I) and (II) of clause (ii) of such subparagraph (E) shall apply to an electronic transmission described in clause (i) in the same manner as such provisions apply with respect to an electronic transmission described in section 1128H(e) of the Social Security Act.

"(III) SPECIAL RULE FOR 2021.—The program shall be deemed to be in compliance with clause (i) for 2021 if the program complies with the provisions of section 222(b)(7) of title 42, Code of Federal Regulations (or a successor regulation), for such year.

"(IV) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as allowing a real-time benefits tool to steer an individual, without the consent of the individual, to a particular pharmacy or pharmacy setting other than their preferred pharmacy setting or prohibit the designation of a preferred pharmacy under such tool.”.

SEC. 117. SENSE OF CONGRESS REGARDING THE NEED FOR REAL-TIME BENEFIT INFORMATION.

It is the sense of Congress that—

"(1) commercial plan and any prior authorization or other limitations that are included in the enactment of the 21st Century Cures Act (42 U.S.C. 1395w–115(b)(1)) is amended—

(a) in section 102(b)(2)(B) of such Act (42 U.S.C. 1395w–104(b)(2)) is amended—

(1) in the matter preceding clause (I), by inserting “for a year preceding 2022,” after paragraph (4); and

(ii) in clause (i)(bb), by striking “a year following 2021” and inserting “each of years 2021 through 2022”;

and

(ii) in clause (i)(V), by striking “2019 and each subsequent year” and inserting “each of years 2019 through 2021”;

and

(2) in paragraph (3)(A)—

(A) in the matter preceding clause (i), by inserting “for a year preceding 2022,” after paragraph (4); and

(B) in clause (ii), by striking “for a subsequent year” and inserting “for each of years 2021 through 2022”;

(3) in paragraph (4)—

(A) in subparagraph (A)—

(i) in clause (i), by redesigning subclauses (I) and (II) as items (aa) and (bb), respectively, and inden-
costs that exceed the annual out-of-pocket threshold specified in section 1860D-2(b)(4)(B) with respect to applicable drugs (as defined in section 1860D-14B(b)(2)); and

(‘‘iii’’) shall be at least 30 percent of the allowable reinsurance costs (as specified in paragraph (2)) attributable to that portion of gross covered prescription drug costs as specified in section 1860D-2(b)(4)(B) with respect to covered part D drugs that are not applicable drugs (as so defined).’’.

(c) MANUFACTURER DISCOUNT PROGRAM.—

(1) SEC. 1860D–14A. MANUFACTURER DISCOUNT PROGRAM.

(‘‘a’’) Establishment.—The Secretary shall establish a manufacturer discount program (in this section referred to as the ‘‘program’’).

Under the program, the Secretary shall enter into agreements described in subsection (b) with manufacturers and provide for the performance of the duties described in subsection (c).

The Secretary shall establish a model agreement for use under the program by not later than January 1, 2021, in consultation with manufacturers, and allow for comment on such model agreement.

(b) TERMS OF AGREEMENT.—

(1) IN GENERAL.—

‘‘(A) AGREEMENT.—An agreement under this section shall require the manufacturer to provide applicable beneficiaries access to discounts for applicable drugs of the manufacturer that are dispensed on or after January 1, 2022.

‘‘(B) PROVISION OF DISCOUNTED PRICES AT THE POINT-OF-SALE.—The discounted prices described in subparagraph (A) shall be provided to the applicable beneficiary at the pharmacy or other retail outlet where such prescription drugs are dispensed.

‘‘(2) PROVISION OF APPROPRIATE DATA.—

Each manufacturer with an agreement in effect under this section shall collect and have available appropriate data, as determined by the Secretary, to ensure that it can demonstrate to the Secretary compliance with the requirements of the program.

(3) COMPLIANCE WITH REQUIREMENTS FOR ADMINISTRATION OF PROGRAM.—Each manufacturer with an agreement in effect under this section shall comply with the requirements imposed by the Secretary or a third party with a contract under subsection (d)(3), as applicable, for purposes of administering the program, and shall provide such data, reports, and information as the Secretary may require.

(4) DISCLOSURE.—The Secretary may require that the manufacturer provide the Secretary with such additional information as the Secretary determines is necessary to carry out the requirements of this section.

(c) DUTIES DESCRIBED.—The duties described in paragraph (3) are as follows:

(1) ADMINISTRATION.—Administering the program, including:

(A) the determination of the amount of the discounted price of an applicable drug of a manufacturer;

(B) the establishment of procedures under which discounted prices are provided to applicable beneficiaries at pharmacies or other retail outlets where such prescription drugs are dispensed; and

(C) the establishment of procedures to ensure that the discounted price for an applicable drug does not exceed the applicable drug’s point-of-sale price.

(2) MONITORING COMPLIANCE.—

(A) IN GENERAL.—The Secretary shall monitor compliance by a manufacturer with the terms of an agreement under this section.

(B) NOTIFICATION.—If a third party with a contract under subsection (d)(3) determines that the manufacturer is not in compliance with such agreement, the third party shall notify the Secretary of such noncompliance for appropriate enforcement under subsection (g).

(3) COLLECTION OF DATA FROM PRESCRIPTION DRUG PLANS AND MA-PD PLANS.—The Secretary may collect appropriate data from prescription drug plans and MA-PD plans in order to determine whether a manufacturer is complying with the requirements of the program.

(4) PERFORMANCE REQUIREMENTS.—

(5) ADMINISTRATION.—Chapter 35 of title 44, United States Code, shall not apply to the program under this section.

(e) ENFORCEMENT.—

(1) AUDITS.—Each manufacturer with an agreement in effect under this section shall be subject to periodic audit by the Secretary.

(2) CIVIL MONEY PENALTY.—

(A) IN GENERAL.—The Secretary shall impose a civil money penalty on a manufacturer that fails to provide applicable beneficiaries access to discounts for applicable drugs of the manufacturer in accordance with such agreement for each such failure in an amount the Secretary determines is commensurate with the nature of such failure.

(i) the amount that the manufacturer would have paid with respect to such discounts under the agreement, which will then be used to pay the discounts which the manufacturer failed to provide; and

(ii) 25 percent of such amount.

(B) APPLICATION.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or other collection under section 1128A.

(f) CLARIFICATION REGARDING AVAILABILITY OF OTHER COVERED PART D DRUGS.—Nothing in this section shall prevent an applicable beneficiary from purchasing a covered part D drug that is not on the formulary of the prescription drug plan or MA–PD plan that the applicable beneficiary is enrolled in.

(g) DEFINITIONS.—In this section:

(1) APPLICABLE BENEFICIARY.—The term ‘‘applicable beneficiary’’ means an individual who, on the date of dispensing a covered part D drug, is

(A) enrolled in a prescription drug plan or an MA–PD plan;

(B) is not enrolled in a qualified retiree prescription drug plan under section 1128B(c); and

(C) has incurred costs for covered part D drugs in the year that are equal to or exceed the

December 12, 2019
the annual deductible specified in section 1860D–2(b)(1) for such year.

(2) APPLICABLE DRUG.—The term ‘‘applicable drug’’ means, with respect to a applicable part D drug, a covered part D drug—

(A) approved under a new drug application under section 505(c) of the Federal Food, Drug, and Cosmetic Act or, in the case of a biological product, licensed under section 351 of the Public Health Service Act (including a product licensed under subsection (k) of such section).

(B)(i) if the PDP sponsor of the prescription drug plan or the MA organization offering the MA–PD plan does not use a formulary, for which benefits are available under the prescription drug plan or MA–PD plan that the applicable beneficiary is enrolled in; or

(ii) if the PDP sponsor of the prescription drug plan or the MA organization offering the MA–PD plan does not use a formulary, which is on the formulary the prescription drug plan or MA–PD plan that the applicable beneficiary is enrolled in; or

(iii) is provided through an exception or appeal.

(3) APPLICABLE NUMBER OF CALENDAR DAYS.—The term ‘‘applicable number of calendar days’’ means—

(A) with respect to claims for reimbursement submitted electronically, 14 days; and

(B) with respect to claims for reimbursement submitted otherwise, 30 days.

(4) DISCOUNTED PRICE.—The term ‘‘discounted price’’ means, with respect to a applicable drug of a manufacturer furnished during a year to an applicable beneficiary, 90 percent of the negotiated price of such drug.

(5) MANUFACTURER.—The term ‘‘manufacturer’’ means any entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from natural origin, or independently of means of chemical synthesis, or by a combination of extraction and chemical synthesis. Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

(6) NEGOTIATED PRICE.—The term ‘‘negotiated price’’ means, with respect to any given such term in section 1860D–2(d)(1)(B), except that such negotiated price shall not include any dispensing fee for an applicable drug.

(7) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN.—The term ‘‘qualified retiree prescription drug plan’’ has the meaning given such term in section 11861D–22(a)(2).

(2) SUNDAY MEDICARE COVERAGE GAP DISCOUNT PROGRAM.—Section 1860D–14A of the Social Security Act (42 U.S.C. 1395w–114(a)) is amended—

(A) in subsection (a), in the first sentence, by striking ‘‘The Secretary’’ and inserting ‘‘Subject to subsection (h), the Secretary’’; and

(B) by adding at the end the following new subsection:

‘‘(h) SUNSET OF PROGRAM.—’’

(1) IN GENERAL.—The program shall not apply to applicable drugs dispensed on or before January 1, 2022, and, subject to paragraph (2), agreements under this section shall be terminated as of such date.

(2) CONTINUED APPLICATION FOR APPLICABLE DRUGS DISPENSED PRIOR TO SUNSET.—The provisions of this section (including all rules, regulations, and any agreement entered into to apply under January 1, 2022, with respect to applicable drugs dispensed prior to such date).

(3) INCLUSION OF ACTUARIAL VALUE OF MANUFACTURER DISCOUNTS IN REDS.—Section 1860D–11 of the Social Security Act (42 U.S.C. 1395w–111) is amended—

(A) in subsection (2)(C)(ii)—

(i) by striking ‘‘assumptions regarding the reinsurance’’ and inserting ‘‘assumptions regarding—’’;

(ii) by striking ‘‘the reinsurance’’; and

(iii) by adding at the end the following:

‘‘(II) for 2022 and each subsequent year, the manufacturer discounts provided under section 1860D–14B;’’;

(4) DISCOUNTED PRICE.—

(A) IN GENERAL.—The term ‘‘discounted price’’ has the meaning given such term in section 1860D–2(b)(4)(B)(i) and inserting ‘‘as defined in section 1860D–2(b)(4)(B)(i)’’.

(B) INCLUSION OF MANUFACTURER DISCOUNTS ON APPLICABLE DRUGS.—For purposes of applying subparagraph (A), the term ‘‘manufacturer discounts’’ shall include the portion of the negotiated price (as defined in section 1860D–14B(g)(6)) of an applicable drug that was paid by the manufacturer discounts provided under section 1860D–14B;’’;

(5) have entered into and have in effect an agreement with the Secretary, a contract with a third party that the Secretary has entered into a contract with the applicable beneficiary, a covered part D drug—

(A) in paragraph (2), by striking ‘‘and’’ at the end; and

(B) in subsection (d)(3) of such section, the applicable beneficiary, the negotiated price of such drug.

(3) INCLUSION OF ACTUARIAL VALUE OF MANUFACTURER DISCOUNTS IN REDS.—Section 1860D–14B of the Social Security Act (42 U.S.C. 1395w–114(a)) is amended—

(A) in paragraph (2), by striking ‘‘and’’ at the end; and

(B) in paragraph (3), by striking the period at the end and inserting ‘‘; and’’.

(a) by striking “the value of any discount” and inserting the following: “the value of—

(i) for years prior to 2022, any discount; and

(ii) for 2022 and each subsequent year, any discount provided pursuant to section 1860D–14b.”;

(b) Section 1860D–41(a)(6) of the Social Security Act (42 U.S.C. 1395w–151(a)(6)) is amended—

(A) by inserting “for a year before 2022” after “1860D–2(b)(3)” and

(B) by inserting “for such year” before the period.

(h) Effective Date.—The amendments made by this section shall apply to plan year 2022 and subsequent plan years.

Subtitle D—Other Medicare Part D Provisions

SEC. 131. TRANSITIONAL COVERAGE AND RETRO-ACTIVE MEDICARE PART D COVERAGE FOR CERTAIN LOW-INCOME BENEFICIARIES.

Section 1860D–14 of the Social Security Act (42 U.S.C. 1395w–114) is amended—

(1) redesignating subsection (e) as subsection (f); and

(2) by adding after subsection (d) the following new subsection:

“(e) LIMITATION ON TRANSITION FROM MA–PD PLAN TO SPREAD OUT COST-SHARING.—For purposes of this subsection, the term ‘LI NET eligible individual’ means a Part D eligible individual who—

(A) meets the requirements of clauses (ii) and (iii) of subsection (a)(3)(A); and

(B) has not yet enrolled in a prescription drug plan or an MA–PD plan, or who has so enrolled, but who was subject to whom such benefit could be paid under such plan has not yet been effective.

(3) TRANSITIONAL COVERAGE.—For purposes of this subsection, the term ‘transitional coverage’ means coverage with respect to an LI NET eligible individual—

(A) immediate access to covered Part D drugs at the point-of-sale during the period that begins on the day of the month in which such individual is determined to meet the requirements of clauses (ii) and (iii) of subsection (a)(3)(A) and ends on the date that coverage under a prescription drug plan or MA–PD plan takes effect with respect to such individual; and

(B) in the case of an LI NET eligible individual who is a full-benefit dual eligible individual (as defined in section 1935(c)(6)) or a LI NET eligible individual—

(i) for plan year 2022 and each subsequent year, a PDP sponsor may offer up to 2 additional plans in a PDP region pursuant to the regulation established by the Secretary pursuant to such regulation; and

(ii) in the case of an MA–PD plan, the plan sponsor may offer up to 2 additional plans in a PDP region pursuant to such regulation.

(4) OFFERING OF ADDITIONAL PLANS.—

(A) IN GENERAL.—For plan year 2022 and each subsequent plan year, a PDP sponsor or an MA–PD plan sponsor may offer up to 2 additional plans in a PDP region (in addition to any limit established by the Secretary under section 1860D–11(d)(9) of the Social Security Act (42 U.S.C. 1395w–111(d)(4)), as added by subsection (b), (C) DEFINITION OF REDUCTIONS IN PRICE.—For purposes of subparagraph (B), any reduction in the prices of prescription drugs for the program to be offered by a PDP sponsor under part D of title XVIII of the Social Security Act (42 U.S.C. 1395w–102(b)(2)), as amended by section 121, is further amended—

(4) OFFERING OF ADDITIONAL PLANS.—

(A) IN GENERAL.—For plan year 2022 and each subsequent plan year, a PDP sponsor or an MA–PD plan sponsor may offer up to 2 additional plans in a PDP region pursuant to the regulation established by the Secretary pursuant to such regulation.

(B) REQUIREMENTS.—In order to be eligible to offer up to 2 additional plans in a PDP region pursuant to paragraph (A), a PDP sponsor must ensure that, with respect to at least one such prescription drug plan, the sponsor or any entity that provides pharmacy benefits under a contract with any such sponsor or plan does not receive direct or indirect remuneration, as defined in section 423.308 of title 42, Code of Federal Regulations (or any successor regulation), unless at least 25 percent of the aggregate reductions in price or other remuneration received by the PDP sponsor or entity from drug manufacturers with respect to the plan and plan year—

(i) are reflected at the point-of-sale to the enrollee; and

(ii) are used to reduce total beneficiary cost-sharing estimated by the PDP sponsor for prescription drug coverage under the plan and the annual bid submitted by the PDP sponsor under section 1860D–11(b).

(C) DEFINITION OF REDUCTIONS IN PRICE.—For purposes of subparagraph (B), the term ‘reductions in price’ refers only to collectible amounts, as determined by the Secretary, which excludes amounts which after adjudication and reconciliation with pharmacies and manufacturers are duplicate in nature, contrary to other contractual clauses, or otherwise ineligible (such as due to beneficiary disenrollment or coordination of benefits).

(d) RULE OF CONSTRUCTION.—Nothing in the provisions of, or amendments made by, this section shall be construed as limiting the ability of the Secretary to increase any limit otherwise applicable on the number of prescription drug plans that may offer, at the discretion of the PDP sponsor, in a PDP region under part D of title XVIII of the Social Security Act (42 U.S.C. 1395w–102) in any year.

SEC. 132. ALLOWING CERTAIN ENROLLERS OF PRESCRIPTION DRUG PLANS AND MA–PD PLANS TO SHARE IN COST-SHARING UNDER CERTAIN CIRCUMSTANCES.

(a) STANDARD PRESCRIPTION DRUG COVERAGE.—Section 1860D–2(b)(2) of the Social Security Act (42 U.S.C. 1395w–102(b)(2)), as amended by section 121, is further amended—

(1) in subparagraph (A), by striking “Subject to subparagraphs (C), (D), and (E)” and inserting “Subject to subparagraphs (C), (D), and (E)”;

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

“(E) ENROLLEE OPTION REGARDING SPREADING COST-SHARING.—

“(1) IN GENERAL.—The Secretary shall establish by regulation a process under which, with respect to any plan year, an enrollee may—

(i) select between a standard prescription drug plan and an MA–PD plan for such plan year; and

(ii) select between a standard prescription drug plan and an MA–PD plan for such plan year.

(2) ALTERNATIVE PRESCRIPTION DRUG COVERAGE.—Section 1860D–41(a)(6) of the Social Security Act (42 U.S.C. 1395w–151(a)(6)) is amended—

(A) in the case of such year, a PDP plan that is in a prescription drug plan or an MA–PD plan, which plan projects that the dispensing of a covered part D drug to such individual will result in the individual incurring costs within a 30-day period that are equal to a significant percentage (as specified by the Secretary pursuant to such regulation) of the annual out-of-pocket threshold specified in paragraph (1)(B) for such plan year, provide such individual with the option to make the coinsurance payment required under subparagraph (A) for such costs in the form of each monthly instrument, over the remainder of such plan year.

(B) ALTERNATIVE PRESCRIPTION DRUG COVERAGE.—Section 1860D–2(c) of the Social Security Act (42 U.S.C. 1395w–102(c)) is amended by adding at the end the following new paragraph:

“(4) SAME ENROLLEE OPTION REGARDING SPREADING COST-SHARING.—For plan year 2022 and each subsequent plan year, the coverage provides the enrollee option regarding spreading direct or indirect remuneration.
(a) Access to certain Part D payment data.—Section 1860D–15(f) of the Social Security Act (42 U.S.C. 1395w–115(f)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking ‘‘and’’ at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ‘‘; and’’; and

(C) by inserting at the end the following new subparagraph:

‘‘(C) by the Executive Director of the Medicare Payment Advisory Commission for purposes of monitoring, making recommendations, and analysis of the program under this title and by the Executive Director of the Medicaid and CHIP Payment and Access Commission for purposes of monitoring, making recommendations, and analysis of the Medicaid program established under title XIX and the Children’s Health Insurance Program under title XXI of this Act.’’;

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

‘‘(B) Access to certain rebate and payment data under Medicare and Medicaid.—Section 1927(b)(3)(D) of the Social Security Act (42 U.S.C. 1395w–110(b)(3)(D)) is amended—

(1) in the matter before clause (i), by striking ‘‘subsection (a)(6)(A)’’ and inserting ‘‘subsection (a)(6)(A)(i)’’;

(2) in clause (v), by striking ‘‘and’’ at the end;

(3) in clause (vi), by striking the period at the end and inserting ‘‘; and’’;

(4) by inserting after clause (vi) the following new clause:

‘‘(vi) to permit the Executive Director of the Medicare Payment Advisory Commission and the Executive Director of the Medicaid and CHIP Payment and Access Commission to review the information provided.’’;

(5) in the matter at the end, by striking ‘‘1860D–4(c)(2)(E)’’ and inserting ‘‘1860D–4(c)(2)(G)’’; and


(1) in the matter before clause (i), by striking ‘‘subsection (a)(6)(A)(i)’’ and inserting ‘‘subsection (a)(6)(A)’’;

(2) in clause (v), by striking ‘‘and’’ at the end;
SEC. 201. SUNSET OF LIMIT ON MAXIMUM REBATE AMOUNT FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.

Section 1927(c)(2)(D) of the Social Security Act (42 U.S.C. 1396d(c)(2)(D)) is amended by inserting after December 31, 2009, the following: "and before January 1, 2023.".

SEC. 202. MEDICAID PHARMACY AND THERAPEUTICS COMMITTEE IMPROVEMENTS.

(a) In General.—Subparagraph (A) of section 1927(d)(4) of the Social Security Act (42 U.S.C. 1396d(c)(4)) is amended to read as follows:

"(A)(i) the formulary is developed and reviewed by a pharmacy and therapeutics committee—

"(I) is publicly accessible;

"(II) requires all committee members to complete, on at least an annual basis, a disclosure of relationships, associations, and financial dealings that may affect their independence or judgment in committee matters;

"(III) contains clear processes, such as recusal from voting or discussion, for those members who report a conflict of interest, along with appropriate processes to address any instance where a member fails to report a conflict of interest;

"(iv) the membership of the pharmacy and therapeutics committee—

"(I) includes at least 1 actively practicing physician and at least 1 actively practicing pharmacist, each of whom—

"(aa) is independent of free and conflict of interest with respect to manufacturers and Medicaid participating plans or subcontracts, including pharmacy benefit managers; and

"(bb) has expertise in the care of 1 or more Medicaid-specific populations such as elderly or disabled individuals, children with complex medical needs, or low-income individuals with chronic illnesses; and

"(II) is made publicly available.

"(ii) The membership of State Medicaid managed care organizations or other Medicaid managed care arrangements (collectively referred to in this section as "Medicaid MCOs"); and

"(iii) is publicly accessible;

"(B) States that operate separate P&T Committees for their fee-for-service Medicaid programs, and their Medicaid managed care organizations or other Medicaid managed care arrangements (collectively referred to in this section as "Medicaid MCOs"); and

"(C) States that meet the requirements of clauses (II) and (III).

(b) Application to Medicaid Managed Care Organizations.—Clause (xxii) of section 1903(m)(2)(A) of the Social Security Act (42 U.S.C. 1396m(2)(A)) is amended—

"(I) by striking "and (III)" and inserting "(III)";

"(II) by striking the period at the end and inserting "; and

"(IV) any formulary used by the entity, outpatient drug dispensed to individuals eligible for medical assistance who are enrolled with the entity is developed and reviewed by a pharmacy and therapeutics committee that meets the requirements of clauses (I) and (III) of section 1927(d)(4)(A); and

"(v) by moving the last margin 2 ems to the left.

(c) Effective Date.—The amendments made by this section shall take effect on the date that is 1 year after the date of enactment of this Act.

SEC. 203. GAO REPORT ON CONFLICTS OF INTEREST IN THE MEDICAID DRUG REBATE PROGRAM.

(a) Investigation.—The Comptroller General of the United States shall conduct an investigation of potential or existing conflicts of interest among members of State Medicaid program drug use review boards (in this section referred to as "DUR Boards") and pharmacy and therapeutics committees (in this section referred to as "P&T Committees").

(b) Report.—Not later than 24 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the investigation conducted under subsection (a) that includes the following:

"(I) A description outlining how DUR Boards and P&T Committees operate in States, including details with respect to—

"(A) the process for selection of DUR Boards and statewide P&T Committees;

"(B) States that operate separate P&T Committees for their fee-for-service Medicaid programs, and their Medicaid managed care arrangements (collectively referred to in this section as "Medicaid MCOs"); and

"(C) States that meet the requirements of clauses (II) and (III).

"(ii) The difference between DUR Boards established in accordance with section 1927(g)(3) of the Social Security Act (42 U.S.C. 1396g(3)) and P&T Committees.

"(2) A description outlining the differences between DUR Boards and P&T Committees.

"(3) A description detailing the extent to which P&T Committees address conflicts of interest.

"(4) A description of whether and how States or P&T Committees establish participation requirements and financial penalty in case of violation of the State’s drug use review boards established in accordance with the requirements of clause (i), the Secretary may survey wholesalers and manufacturers (including manufacturer’s agents or direct sellers) that are covered outpatient drug manufacturers for violations of section 1128A(a) (other than subsections (a) with respect to amounts of penalties or additional assessments) and (b) shall apply to the Secretary’s ability to conduct an audit or survey under section 1128A(a) only if the audit or survey is conducted in accordance with section 1927(b)(3) of the Social Security Act (42 U.S.C. 1396b(b)(3)) and the Secretary shall, on at least an annual basis, submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate summarizing the results of the audits and surveys conducted under this subparagraph.
during the period that is the subject of the report.

"(III) CONTENT.—Each report submitted under subclause (II) shall, with respect to the period to which such subject of the report, include summaries of—

(aa) rate errors in the price, drug product, and other relevant information supplied by manufacturers under subparagraph (a) or (b) of this subclause; and

(bb) the timeliness with which manufacturers, wholesalers, and direct sellers provide information required under subparagraph (a) or (b) of this subclause;

(cc) the number of manufacturers, wholesalers, and direct sellers and drug products audited under this subparagraph;

(dd) the types of price and drug product information reviewed under the audits conducted pursuant to subparagraph (a) or (b) of this subclause; and

(ee) the tools and methodologies employed in such audits;

(ff) the findings of such audits, including which manufacturers, if any, were penalized under this subparagraph; and

(gg) such other relevant information as the Secretary shall deem appropriate.

"(IV) PROHIBITION OF INFORMATION.—In preparing a report required under subclause (II), the Secretary shall redact such proprietary information as the Secretary determines appropriate to prevent disclosure of, and to safeguard, such information.

"(V) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this subparagraph, the Secretary shall have the authority to accept payment for such information has not been provided and such amount shall be paid to the Treasury and inserting ‘‘for each covered outpatient drug with respect to which such information is not provided for the first time that such information is not provided on a timely basis and $19,000 for each subsequent day that such information is not provided’’.

(2) INCREASED PENALTIES FOR NONCOMPLIANCE WITH REPORTING REQUIREMENTS.—

(1) INCREASED PENALTY FOR LATE REPORTING —

(A) USE OF VENDOR.—The Secretary may require that payment for such drugs and rebates is available), the average reim-

(b) by striking ‘‘and (IV)’’ and inserting ‘‘and (V)’’; and

(C) inserting before the period at the end the following: ‘‘, and (V) pharmacy benefit management services provided by the entity, or provided by a pharmacy benefit manager on behalf of the entity under a contract or other arrangement between the entity and the pharmacy benefit manager, shall comply with the requirements of section 1927(e)(6).’’

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the first fiscal quarter that begins after the date of enactment of this Act.

SEC. 205. IMPROVING TRANSPARENCY AND PREVENTING THE USE OF ABUSIVE PASSTHROUGH PRICING AND RELATED PRACTICES IN MEDICAID.

(a) PASS-THROUGH PRICING REQUIRED.—

(1) IN GENERAL.—Section 1927(e) of the Social Security Act (42 U.S.C. 1396r-8(b)(3)(C)(i)) of the Social Security Act (42 U.S.C. 1396r-8(b)(3)(C)(i)) is amended by striking ‘‘$10,000’’ and inserting ‘‘$500,000’’.

(2) DEMAND FOR KNOWLEDGY REPORTING FALSE INFORMATION.—Section 1927(b)(3)(C)(ii) of the Social Security Act (42 U.S.C. 1396r-8(b)(3)(C)(ii)) is amended by striking ‘‘$10,000’’ and inserting ‘‘$500,000’’.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the first fiscal quarter that begins after the date of enactment of this Act.

(1) IN GENERAL.—The Secretary shall redact such proprietary information as the Secretary determines appropriate to prevent disclosure of, and to safeguard, such information.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the first fiscal quarter that begins after the date of enactment of this Act.

(b) INCREASED PENALTIES FOR NONCOMPLIANCE WITH REPORTING REQUIREMENTS.—

(1) INCREASED PENALTY FOR LATE REPORTING —

(A) USE OF VENDOR.—The Secretary may require that payment for such drugs and rebates is available), the average reim-

(b) by striking ‘‘and (IV)’’ and inserting ‘‘and (V)’’; and

(C) inserting before the period at the end the following: ‘‘, and (V) pharmacy benefit management services provided by the entity, or provided by a pharmacy benefit manager on behalf of the entity under a contract or other arrangement between the entity and the pharmacy benefit manager, shall comply with the requirements of section 1927(e)(6).’’

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the first fiscal quarter that begins after the date of enactment of this Act.
the settings in which specialty drugs are dispensed (such as retail community pharmacies or specialty pharmacies), whether acquisition costs for specialty drugs are captured in national average drug acquisition cost survey, and recommendations as to whether specialty pharmacies should be included in the survey of retail prices to ensure that drug acquisition and capture drugs sold at specialty pharmacies and how such specialty pharmacies should be defined.”;

(b) in paragraph (2)—
(i) in subparagraph (A), by inserting “, including payments rates under Medicaid managed care plans,” after “under this title”;
(ii) in subparagraph (B), by inserting “and the basis for such dispensing fees” before the semicolon; and

(3) A DDITIONAL ANALYSIS.—To the extent practicable, the Secretary shall include in the data reported to the Secretary by the manufacturer under the agreement such information about prescription utilization management tools applicable to each State Medicaid plan or waiver of such plan (including for all such drugs that are sold under a new drug application approved under section 565(c) of the Federal Food, Drug, and Cosmetic Act); and

(2) in subparagraph (D)—
(A) in the matter preceding clause (i), by inserting “, and” after “the semi-colon”;
(B) in clause (ii), by striking “and” after the comma;

(AB) IN GENERAL.—Not later than May 1 of each calendar year beginning with calendar year 2015, the Secretary shall publish on a website of the Secretary of Health and Human Services (in this section referred to as the “Secretary”) a report of the most recently reported wholesale acquisition cost (as defined in section 1847A(c)(6)(B)) for covered outpatient drugs for the rebate period under the agreement (including for all such drugs that are sold under a new drug application approved under section 565(c) of the Federal Food, Drug, and Cosmetic Act); and

(2) ADDITIONAL CONTENT.—A report required under subsection (a) for a calendar year may include State-specific information about prescription utilization management tools under State Medicaid plans or waivers of such plans, including—

(A) a description of prescription utilization management tools under State programs to provide rebates under a State Medicaid plan or a waiver of such plan;
(B) a comparison of prescription utilization management tools employed by different Medicaid managed care organizations, pharmacy benefit managers, and related entities within the State;

(D) in paragraph (3), by striking “such plan” and inserting “the State Medicaid plan or waiver”;

(E) in paragraph (4), by striking “such plan” and inserting “the State Medicaid plan or waiver”;

SEC. 206. T-MSIS OUTPATIENT DRUG REPORTS.

(a) IN GENERAL.—Not later than May 1 of each calendar year beginning with calendar year 2015, the Secretary shall publish on a website of the Secretary of Health and Human Services (in this section referred to as the “Secretary”) a report of the most recently reported wholesale acquisition cost (as defined in section 1847A(c)(6)(B)) for each covered outpatient drug (including for all such drugs that are sold under a new drug application approved under section 565(c) of the Federal Food, Drug, and Cosmetic Act), as reported under subparagraph (A)(1)(III).; and

(b) CONTENT OF REPORT.—(1) REQUIRED CONTENT.—Each report required under subsection (a) for a calendar year shall include the following information with respect to each State and, to the extent available, with respect to Puerto Rico, the United States Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa:

(1) R EQUIRED CONTENT .—Each report required under subsection (a) shall—
(1) be prepared using data and definitions from the transformed Medicaid Statistical Information System (T-MSIS) data set (or a successor data set) that is not more than 24 months old on the date that the report is published; and

(2) in subparagraph (A), by inserting “, and $5,000,000 for fiscal year 2020 and each fiscal year thereafter,” after “2010”.

(2) EFFECTIVE DATE.—The amendments made by this subsection take effect on the 1st day of the 1st quarter that begins on or after the date that is 18 months after the date of enactment of such Act.

(c) MANUFACTURER REPORTING OF WHOLESALE ACQUISITION COST.—Section 1927(b)(3) of such Act (42 U.S.C. 1396r–8(b)(3)), as amended by section 202 is further amended—

(1) in subparagraph (A)—
(A) in subclause (I), by striking “and” after the comma;
(B) in subclause (II), by adding “and” after the semicolon;
(C) by inserting “, including payments rates under Medicaid managed care plans,” after “under this title”;
(D) in subparagraph (B), by inserting “, and” after the comma;

(5) by inserting “, and clause (vii) of this subpara-

SEC. 207. RISK-SHARING VALUE-BASED PAYMENT AGREEMENTS FOR COVERED OUTPATIENT DRUGS UNDER MEDICAID.

(a) IN GENERAL.—Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended by adding at the end the following new subsection:

(2) ADDITIONAL CONTENT.—A report required under subsection (a) for a calendar year may include State-specific information about prescription utilization management tools under State Medicaid plans or waivers of such plans, including—

(ii) a comparison of covered outpatient drugs (as so defined) provided under a State Medicaid plan or waiver of such plan in a managed care setting, an analysis of the differences in managed care prescribing patterns when a covered outpatient drug is prescribed in a managed care setting as compared to when the drug is prescribed in a fee-for-service setting;

(iv) by patient demographic characteristics, including race (to the extent that the Secretary determines that there is sufficient data available with respect to such characteristic in a majority of States), gender, and age;

(v) by patient high-utilizer or risk status; and

(vi) by high and low resource settings by facility and place of service categories, as determined by the Secretary.

(b) IN GENERAL.—Beginning January 1, 2022, a State shall have the option to pay (whether on a fee-for-service or managed care basis) for covered outpatient drugs that are potentially curative treatments intended for one-time use that are administered to individuals under this title by entering into a risk-sharing value-based payment agreement with the manufacturer of the drug in accordance with the requirements of this subsection.

(c) USE OF T-MSIS DATA.—Each report required under subsection (a) shall—

1st day of the 1st quarter that begins on or after the date that is 24 months after the date of enactment of such Act; and

(1) R EQUIRED CONTENT .—Each report required under subsection (a) shall—

(c) by moving the left margins of subclause (vii), by striking the period at the end of clause (vii), and inserting “,” after “sharing value-based payment agreement,” in clause (vii), by striking “and” after “share-based payment agreement,” and inserting “,” after “share-based payment agreement,” and

(2) EFFECTIVE DATE.—The amendments made by this subsection take effect on the 1st day of the 1st quarter that begins on or after the date that is 24 months after the date of enactment of such Act.

(2) in subparagraph (D)—
(A) in the matter preceding clause (i), by inserting “, and” after the comma;
(B) in clause (ii), by striking “and” after the comma;

(3) A DDITIONAL ANALYSIS.—To the extent practicable, the Secretary shall include—

(C) a comparison of the prescription utilization management tools employed by different Medicaid managed care organizations, pharmacy benefit managers, and related entities within the State;

(D) a comparison of the prescription utilization management tools applicable to each State Medicaid plan or waiver under section 1115 of the Social Security Act (42 U.S.C. 1315) and the models applicable to populations that are not covered under the waiver.

(E) a comparison of the prescription utilization management tools under a State Medicaid plan or waiver with the net Federal spending that would result in the absence of the agreement.

(F) IN GENERAL.—Beginning January 1, 2022, a State shall have the option to pay (whether on a fee-for-service or managed care basis) for covered outpatient drugs that are potentially curative treatments intended for one-time use that are administered to individuals under this title by entering into a risk-sharing value-based payment agreement with the manufacturer of the drug in accordance with the requirements of this subsection.

(G) IN GENERAL.—The Chief Actuary certifies that the projected payments for each covered outpatient drug under such proposed agreement would not result in greater estimated Federal spending than the net Federal spending that would result in the absence of the agreement.

(H) IN GENERAL.—The Chief Actuary certifies that the projected payments for each covered outpatient drug under such proposed agreement would not result in greater estimated Federal spending than the net Federal spending that would result in the absence of the agreement.

(3) ADDITIONAL ANALYSIS.—To the extent practicable, the Secretary shall include in each report published under subsection (a)—

(A) analyses of national, State, and local patterns of Medicaid population-based prescribing behavior;

(b) in paragraph (4), by inserting “, and” after “the semi-colon”;

(c) by moving the left margins of subclause (vi), by striking “and” after “sharing value-based payment agreement,” and inserting “,” after “share-based payment agreement,” and

(d) in paragraph (3), by striking “such plan” and inserting “the State Medicaid plan or waiver”;

(e) a comparison of the prescription utilization management tools applicable to each State Medicaid plan or waiver under section 1115 of the Social Security Act (42 U.S.C. 1315) and the models applicable to populations that are not covered under the waiver.

(f) by inserting “, and” after “the semi-colon”;

(3) A DDITIONAL ANALYSIS.—To the extent practicable, the Secretary shall include in each report published under subsection (a)—

(A) analyses of national, State, and local patterns of Medicaid population-based prescribing behavior;

(B) recommendations for administrative or legislative action to improve the effectiveness of, and reduce costs for, covered outpatient drugs under such an agreement while ensuring timely beneficiary access to medically necessary covered outpatient drugs.

(3) INFORMATION.—The Chief Actuary shall make the certifications required under
this clause based on the most recently available and reliable drug pricing and product information. The State and manufacturer shall provide the Secretary and the Chief Actuary with a request for approval that makes the estimated needs for such certifications.

(iii) LAUNCH AND LIST PRICE JUSTIFICATIONS.—The manufacturer submits to the Secretary all relevant information and supporting documentation necessary for pricing decisions as deemed appropriate by the Secretary, which shall, to the extent practicable, include, among others, manufacturing information and supporting documentation for launch price or list price increases, and any applicable justifications under section 1123I.

(iv) CONFIDENTIALITY OF INFORMATION; PENALTIES.—The provisions of subparagraphs (C) and (D) of subsection (b)(3) shall apply to a manufacturer that fails to submit the information and documentation required under clauses (ii) and (iii) on a timely basis, or that knowingly provides false or misleading information, in the same manner as such provisions apply to a manufacturer with a rebate agreement under this section.

(B) CONSIDERATION OF STATE REQUEST FOR APPROVAL.—

(i) IN GENERAL.—The Secretary shall treat a State request for approval of a risk-sharing value-based payment agreement in the same manner that the Secretary treats a State request for approval of a risk-sharing value-based payment agreement under section 430.16 of such title (as in effect on the date of enactment of this subsection), and subparagraph (B) of part 430 of title 42, Code of Federal Regulations, including, subject to clause (ii), the timing requirements of section 380.16 of such title (as in effect on the date of enactment of this subsection), apply to a request for approval of a risk-sharing value-based payment agreement in the same manner as such subparagraph applies to a State plan amendment.

(ii) TIMING.—The Secretary shall consult with the Commissioner of Food and Drugs as required under subparagraph (C) and make a determination on whether to approve a request from a State for approval of a proposed risk-sharing value-based payment agreement (or request additional information necessary to allow the Secretary to make a determination with respect to such request for approval) within the time period, to the extent practicable, specified in section 380.16 of such title (as in effect on the date of enactment of this subsection), but in no case shall the Secretary take more than 180 days after the receipt of such request to make a determination on whether to approve such a request. If no determination is made, the Secretary shall notify the State of the Secretary’s determination and the date of such determination.

(C) CONSULTATION WITH THE COMMISSIONER OF FOOD AND DRUGS.—In considering whether to approve a risk-sharing value-based payment agreement, the Secretary, to the extent necessary, shall consult with the Commissioner of Food and Drugs to determine whether the relevant clinical parameters specified in the agreement are appropriate.

(D) INSTALLMENT-BASED PAYMENT STRUCTURE.—

(A) IN GENERAL.—A risk-sharing value-based payment agreement shall provide for a payment structure under which, for every installment year of the agreement (subject to subparagraph (B)), the State shall pay the total installment year amount in equal installments to be paid at regular intervals over a period of time that shall be specified in the agreement.

(B) REQUIREMENTS FOR INSTALLMENT PAYMENTS.—

(i) TIMING OF FIRST PAYMENT.—The State shall make the first of the installment payments required under this paragraph not later than 30 days after the end of such year.

(ii) LENGTH OF INSTALLMENT PERIOD.—The period of time over which the State shall make the installment payments described in subparagraph (A) for an installment year shall be determined by the Secretary to ensure that the aggregate of any installment payment described in subparagraph (A) or any other alternative date or time frame (as otherwise specified in the agreement) is due no later than 2 years after the date of enactment of such drug for payment for such unit without regard to whether the individual remains enrolled in the State plan for the entire time period.

(iii) INSTALLMENT-BASED PAYMENT AGREEMENTS.—In the case of a drug described in clause (ii), the length of the installment period applicable to such unit shall be determined by the Secretary to ensure that the aggregate of any installment payment described in subparagraph (A) or any other alternative date or time frame (as otherwise specified in the agreement) is due no later than 2 years after the date of enactment of such drug for payment for such unit without regard to whether the individual remains enrolled in the State plan for the entire time period.

(iv) INSTALLMENT PAYMENTS.—In the case of a drug described in clause (ii), any installment payment due under this paragraph shall be paid not later than 30 days after the date of enactment of such drug for payment for such unit without regard to whether the individual remains enrolled in the State plan for the entire time period.

(v) INSTALLMENT-BASED PAYMENTS.—In the case of a drug described in clause (ii), any installment payment required under this paragraph shall be paid not later than 30 days after the date of enactment of such drug for payment for such unit without regard to whether the individual remains enrolled in the State plan for the entire time period.

(B) TREATMENT OF SUBSEQUENTLY APPROVED DRUGS.—

(i) IN GENERAL.—In the case of a manufacturer of a covered outpatient drug that is approved under this subsection, the Secretary shall, to the extent practicable, apply the provisions of this paragraph and the agreement that is based on the outcome achieved by the drug relative to the relevant clinical parameter.

(ii) NOTICE OF INTENT.—

(A) IN GENERAL.—Subject to subparagraph (B), a manufacturer of a covered outpatient drug that is approved under this subsection, the Secretary shall determine within a reasonable time whether the agreement is appropriate. The Secretary, to the extent practicable, shall, to the extent practicable, apply the provisions of this paragraph and the agreement that is based on the outcome achieved by the drug relative to the relevant clinical parameter.

(B) TREATMENT OF PAYMENTS UNDER INSTALLMENT-BASED PAYMENT AGREEMENTS.—In the case of a drug described in clause (ii), the State shall pay the total installment year amount in equal installments to be paid at regular intervals over a period of time that shall be specified in the agreement.

(C) INSTALLMENT-BASED PAYMENT STRUCTURE.—

(A) IN GENERAL.—A risk-sharing value-based payment agreement shall provide for a payment structure under which, for every installment year of the agreement (subject to subparagraph (B)), the State shall pay the total installment year amount in equal installments to be paid at regular intervals over a period of time that shall be specified in the agreement.

(B) REQUIREMENTS FOR INSTALLMENT PAYMENTS.—

(i) TIMING OF FIRST PAYMENT.—The State shall make the first of the installment payments required under this paragraph not later than 30 days after the end of such year.

(ii) LENGTH OF INSTALLMENT PERIOD.—The period of time over which the State shall make the installment payments described in subparagraph (A) for an installment year shall be determined by the Secretary to ensure that the aggregate of any installment payment described in subparagraph (A) or any other alternative date or time frame (as otherwise specified in the agreement) is due no later than 2 years after the date of enactment of such drug for payment for such unit without regard to whether the individual remains enrolled in the State plan for the entire time period.

(iii) INSTALLMENT-BASED PAYMENT AGREEMENTS.—In the case of a drug described in clause (ii), the length of the installment period applicable to such unit shall be determined by the Secretary to ensure that the aggregate of any installment payment described in subparagraph (A) or any other alternative date or time frame (as otherwise specified in the agreement) is due no later than 2 years after the date of enactment of such drug for payment for such unit without regard to whether the individual remains enrolled in the State plan for the entire time period.

(iv) INSTALLMENT PAYMENTS.—In the case of a drug described in clause (ii), any installment payment due under this paragraph shall be paid not later than 30 days after the date of enactment of such drug for payment for such unit without regard to whether the individual remains enrolled in the State plan for the entire time period.

(v) INSTALLMENT-BASED PAYMENTS.—In the case of a drug described in clause (ii), any installment payment required under this paragraph shall be paid not later than 30 days after the date of enactment of such drug for payment for such unit without regard to whether the individual remains enrolled in the State plan for the entire time period.
the Secretary may—

(i) an assessment of the impact of risk-shar ing value-based payment agreements on the opportunity for patients to receive benefits under a State plan or waiver under this title to medically necessary covered outpatient drugs and related treatments;

(ii) an assessment of the impact of such agreements on overall State and Federal spending under this title;

(iii) an assessment of the impact of such agreements on program integrity, including launch price and price increases; and

(iv) such recommendations to Congress as the Secretary deems appropriate.

(8) GUIDANCE AND REGULATIONS.—

(A) IN GENERAL.—Not later than January 1, 2022, the Secretary shall issue guidance to States to facilitate risk-sharing value-based payment agreements under this subsection that includes a model template for such agreements. The Secretary may issue any additional guidance or promulgate regulations as necessary to implement and enforce the provisions of this subsection.

(B) MODEL AGREEMENTS.—

(i) IN GENERAL.—If the Secretary expresses an interest in pursuing a risk-sharing value-based payment agreement under this subsection with a manufacturer for the purchase of a covered outpatient drug, the Secretary shall enter into such an agreement for a covered outpatient drug under a risk-sharing value-based payment agreement under this subsection that includes a model template for such agreements. The Secretary may issue any additional guidance or promulgate regulations as necessary to implement and enforce the provisions of this subsection.

(ii) TERMINATION OPTION.—If the Secretary determines as a result of the assessment by the Chief Actuary under subparagraph (A) that the actual Federal spending under this title with respect to a single State, the confidentiality of information provisions de- scribed in subsection (b)(6)(D) shall apply to such information.

(C) OIG CONSULTATION.—

(i) IN GENERAL.—The Secretary shall consult with the Inspector General of the Department of Health and Human Services to determine whether there are po- tential program integrity concerns with the risk-sharing value-based payment agreements under this subsection. While such shared agreement may serve as a template for a State that wishes to propose, the use of a previously approved agreement shall not affect the submission and approval process for approval of a pro- posed risk-sharing value-based payment agreement under this subsection, including the requirements under paragraph (2)(A).

(ii) CONFIDENTIALITY.—In the case of a risk-sharing value-based payment agreement that is disclosed to a State by the Secretary under this subparagraph and that is in effect with respect to a single State, the confi- dentiality of information provisions de- scribed in subsection (b)(6)(D) shall apply to such information.

(D) CONTINUOUS UPDATE.—

The Inspector General of the Department of Health and Human Services shall review and update, as necessary, any policies or guide- lines of the Office of the Inspector General of the Department of Health and Human Services (includ- ing policies related to the enforcement of section 1123B) to accommodate the use of risk-sharing value-based payment agree- ments in a timely manner.

(9) RULES OF CONSTRUCTION.—

(A) MODIFICATIONS.—Nothing in this sub- section or any regulations promulgated under this subsection shall prohibit a State, from requesting a modification from the Secre- tary to the terms of a risk-sharing value-based payment agreement. A modification that is expected to result in any increase to projected net State or Federal spending under the agreement shall be subject to re- certification by the Chief Actuary as de- scribed in paragraph (2)(A)(ii) before the modification may be approved.

(B) REBATE AGREEMENTS.—Nothing in this subsection shall be construed as requiring a State to enter into a risk-sharing value-based payment agreement or as limiting or superseding the ability of a State to enter into a supplemental rebate agreement for a covered outpatient drug.
“(I) is able to be measured or evaluated on an annual basis for each year of the agreement on an independent basis by a provider or other entity; and

“(II) intended by qualified by the Food and Drug Administration.

“(E) Risk-sharing value-based payment agreement.—The term ‘risk-sharing value-based payment agreement’ means an agreement between a State plan and a manufacturer—

“(i) for the purchase of a covered outpatient drug by a manufacturer that is a potentially curative treatment intended for one-time use;

“(ii) under which payment for such drug shall be made part of an installment-based payment structure that meets the requirements of paragraph (3);

“(iii) which conditions payment on the achievement of at least 2 relevant clinical parameters (as defined in subparagraph (C));

“(iv) which provides that—

“(I) the State plan will directly reimburse the manufacturer for the drug; or

“(II) a third party will reimburse the manufacturer in a manner approved by the Secretary; and

“(v) approved by the Secretary in accordance with paragraph (2).

“(F) Total installment year amount.—The term ‘total installment year amount’ means the risk-sharing value-based payment agreement for the purchase of a covered outpatient drug and an installment year, an amount equal to the product of—

“(i) the unit price of the drug charged under the agreement; and

“(ii) the number of units of such drug administered under the agreement during such installment year.”.

(b) Conforming Amendments.—

(1) Section 1903(k)(10)(A) of the Social Security Act (42 U.S.C. 1396r–8(k)(10)(A)) is amended by striking “or unless section 1927(a)(3) applies and inserting “, section 1927(a)(3) applies with respect to such drugs, or such drugs are the subject of a risk-sharing value-based payment agreement under section 1927(k)(1).”.

(2) Section 1927(b) of the Social Security Act (42 U.S.C. 1396r–8(b)) is amended—

(A) in paragraph (1)(A), by inserting “except for drugs for which payment is made by a State under a risk-sharing value-based payment agreement under subsection (k),” after “under the State plan for such period”; and

(B) in paragraph (3)—

(i) in subparagraph (C)(i), by inserting “or subsection (1)(A)” after “subsection (1)”;

(ii) as a parenthetical under section (1)(A), by inserting “paragraph (4)” after “under this paragraph”.

SEC. 208. APPLYING MEDICAID DRUG REBATE REQUIREMENTS TO DRUGS PROVIDED AS PART OF OUTPATIENT HOSPITAL SERVICES.

(a) In General.—Section 1927(k)(3) of the Social Security Act (42 U.S.C. 1396r–8(k)(3)) is amended to read as follows:

“(3) Limiting definition.—

“(A) In general.—The term ‘covered outpatient drug’ does not include any drug, biological product, or insulin provided as part of, or as incident to and in the same setting as, any of the following (and for which payment may be made under this title as part of payment for the following and not as direct reimbursement for the drug):

“(i) Inpatient hospital services.

“(ii) Hospital services.

“(iii) Dental services, except that drugs for which the State plan authorizes direct reimbursement to the dispensing dentist are covered outpatient drugs.

“(iv) Physicians’ services.

“(v) Outpatient hospital services.

“(vi) Nursing facility services and services provided by an intermediate care facility for the mentally retarded.

“(vii) Other laboratory and x-ray services.

“(viii) Personal and home care services.

“(ix) Ambulance services.

“(x) Other services under this title, and that is provided on an outpatient basis as part of, or as incident to and in the same setting as, described in clause (iv) or (v) of subparagraph (A) and for which payment is made as part of payment for such services.

“(D) No Effect on Best Price.—Any drug, biological product, or insulin excluded from the definition of such term as a result of this paragraph shall be treated as a covered outpatient drug for purposes of determining the best price, as defined in section 1927(k)(5)(C) for such drug, biological product, or insulin.”.

(c) Effective Date; Implementation Guidance.—

(1) In General.—The amendment made by subsection (a) shall take effect on the date that is 1 year after the date of enactment of this Act.

(2) Implementation and Guidance.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall issue guidance and relevant informational bulletins for States, manufacturers (as defined in section 1927(k)(5)) of the Social Security Act (42 U.S.C. 1396r–8(k)(5)), and other relevant stakeholders, including health care providers, regarding implementation of the amendment made by subsection (a).

TITLE III—FOOD AND DRUG ADMINISTRATION

Subtitle A—CREATES Act

SEC. 301. ACTIONS FOR DELAYS OF GENERIC DRUG APPROVALS AND COMMERCIAL HUMAN ACTIVITY

(a) Definitions.—In this section—

“(1) the term ‘commercially reasonable, market-based acquisition cost’ means the market-based acquisition cost for the drug, as defined in section 1874A(c)(6)(B) of the Social Security Act (42 U.S.C. 1395w–3(a)(6)(B));

“(2) a schedule for delivery that results in the transfer of a covered product to the eligible product developer consistent with the timing under subsection (b)(2)(A)(v); and

“(C) no additional conditions are imposed on the sale of the covered product.

(b) The term ‘covered product’ means—

“(I) any drug approved under subsection (c) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355); or

“(II) a license holder under subsection (a) or (k) of section 515 of the Public Health Service Act (42 U.S.C. 262);”.

(c) The term “license holder” means the holder of an application approved under subsection (c) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355); or

(d) The term “Secretary” means the Secretary of Health and Human Services;

(e) The term “single, shared system of elements to assure safe use” means a single, shared system of elements to assure safe use under section 565-1(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355-1(f));

(f) The term “REMS” means a REMS that contains elements to assure safe use under section 565-1(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355-1(f));

(g) The term “REMS with ETASU” means a REMS that contains elements to assure safe use under section 565-1(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355-1(f));

(h) The term “SUFFICIENT QUANTITIES” means an amount of a covered product that the eligible product developer determines allows it to—

“(I) conduct testing to support an application under subsection (b)(2) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355); or

“(II) section 355(k) of the Public Health Service Act (42 U.S.C. 262(k)); and

“(B) fulfill any regulatory requirements relating to approval of such an application.

(c) Civil Action for Failure to Provide Sufficient Quantities of a Covered Product.

(1) In General.—An eligible product developer may bring a civil action against the license holder for a covered product seeking relief under this subsection in an appropriate district court of the United States alleging that the license holder has declined to provide sufficient quantities of the covered product to the eligible product developer on commercially reasonable, market-based terms.

(2) Elements.—

(A) In general.—To prevail in a civil action brought under paragraph (1), an eligible product developer shall prove, by a preponderance of the evidence that—

“(I) the drug or biological product has been placed on the drug shortage list in effect under such section 506E continuously for more than 6 months; or

“(II) the Secretary determines that inclusion of the drug or biological product as a covered product is likely to contribute to alleviating or preventing a shortage.

(3) the term “device” has the meaning given the term in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321);

(4) the term “eligible product developer” means a person that seeks to develop a product for approval pursuant to an application for approval for a covered product under subsection (b)(2) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355); or

(5) the term “license holder” means a person that seeks to develop a product for approval pursuant to an application for approval for a covered product under subsection (b)(2) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355); or

(6) the term “REMS” means a risk evaluation and mitigation strategy under section 565-1(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355-1(f));

(7) the term “REMS with ETASU” means a REMS that contains elements to assure safe use under section 565-1(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355-1(f));

(8) the term “Secretary” means the Secretary of Health and Human Services;
(I) the covered product is not subject to a REMS with ETASU; or

(ii) if the covered product is subject to a REMS with ETASU—

(A) if a product developer has obtained a covered product authorization from the Secretary in accordance with subparagraph (B); and

(B) the product developer has provided a copy of the covered product authorization to the license holder;

(iii) that, as of the date on which the civil action was filed, the product developer has not obtained sufficient quantities of the covered product on commercially reasonable, market-based terms; or

(iv) that the license holder has not delivered to the eligible product developer sufficient quantities of the covered product on commercially reasonable, market-based terms—

(I) for a covered product that is not subject to a REMS with ETASU, by the date that is 31 days after the date on which the license holder received the request for the covered product; and

(II) for a covered product that is subject to a REMS with ETASU, by 31 days after the later of—

(aa) the date on which the license holder received the request for the covered product; or

(bb) the date on which the license holder received a copy of the covered product authorization issued by the Secretary in accordance with subparagraph (B).

(B) AUTHORIZATION FOR COVERED PRODUCT SUBJECT TO A REMS WITH ETASU—

(I) if a product developer may establish.

(ii) a REMS with ETASU for purposes of—

(A) any development and testing that involves human clinical trials, if the eligible product developer has agreed to comply with such requirements as the Secretary determines necessary; or

(B) development and testing that involves human clinical trials, if the eligible product developer has met any other requirements the Secretary may establish.

(II) development and testing that involves human clinical trials, if the eligible product developer has agreed to comply with any order issued under clause (I). A monetary amount awarded under subparagraph (A)(iii) shall not be greater than the revenue that the license holder earned on the covered product during the period—

(i) beginning on—

(I) for a covered product that is not subject to a REMS with ETASU, the date that is 31 days after the date that the eligible product developer received the request; or

(II) for a covered product that is subject to a REMS with ETASU, the date that is 31 days after the date that the eligible product developer received such offer from the license holder or—

(aa) the date on which the license holder received the request; or

(bb) the date on which the license holder received a copy of the covered product authorization issued by the Secretary in accordance with paragraph (2)(B); and

(ii) ending on the date on which the eligible product developer received sufficient quantities of the covered product.

(C) AVOIDANCE OF DELAY.—The court may issue an order under subparagraph (A)(i) before conducting any proceedings that may be necessary to determine whether the eligible product developer is entitled to an award under clause (ii) or (iii) of subparagraph (A) or the amount of any such award.

(D) LIMITATION OF LIABILITY.—A license holder for a covered product shall not be liable to any claim, defense, or local law arising out of the failure of an eligible product developer to follow adequate safeguards to assure safe use of the covered product, during development or testing activities described in this section, including transportation, handling, use, or disposal of the covered product by the eligible product developer.

(d) NO VIOLATION OF REMS.—Section 505–1 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355–1) is amended by adding at the end the following:

‘‘(4) REMEDIES.—

(A) notice.—A covered product authorization issued under this subparagraph shall state that the provision of the covered product by the license holder under the terms of the authorization will not be a violation of the REMS for the covered product.

(B) AFFIRMATIVE DEFENSE.—In a civil action brought under paragraph (1), it shall be an affirmative defense, on which the defendant shall have the burden of persuasion by a preponderance of the evidence—

(A) that, on the date on which the eligible product developer requested to purchase sufficient quantities of the covered product from the license holder—

(i) neither the license holder nor any of its agents, wholesalers, or distributors was engaged in the manufacturing or commercial marketing of the covered product; and

(ii) neither the license holder nor any of its agents, wholesalers, or distributors otherwise had access to inventory of the covered product to supply to the eligible product developer on commercially reasonable, market-based terms;

(B) that—

(i) the license holder sells the covered product through agents, distributors, or wholesalers;

(ii) the license holder has placed no restrictions, explicit or implicit, on its agents, distributors, or other covered products to eligible product developers; and

(iii) the covered product can be purchased by the eligible product developer in sufficient quantities at commercially reasonable, market-based terms from the agents, distributors, or wholesalers of the license holder;

(C) that the license holder made an offer to the individual specified pursuant to paragraph (2)(A)(iii), by a means of communication specified by the individual, to supply sufficient quantities of the covered product to the eligible product developer at commercially reasonable, market-based terms—

(I) for a covered product that is not subject to a REMS with ETASU, by the date that is 14 days after the date on which the license holder received the request for the covered product; and

(II) for a covered product that is subject to a REMS with ETASU, by 7 days after the date on which the eligible product developer received such offer from the license holder; or

(D) that, on the date on which the eligible product developer received such offer from the license holder—

(i) the license holder has not delivered sufficient quantities of the covered product to the eligible product developer at commercially reasonable, market-based terms—

(I) to a REMS with ETASU, the date that is 31 days after the later of—

(aa) the date on which the license holder received the request; or

(bb) the date on which the license holder received a copy of the covered product authorization issued by the Secretary in accordance with paragraph (2)(B); and

(ii) for a covered product that is subject to a REMS with ETASU, the date that is 31 days after the later of—

(aa) the date on which the license holder received the request; or

(bb) the date on which the license holder received a copy of the covered product authorization issued by the Secretary in accordance with paragraph (2)(B); and

(ii) for a covered product that is subject to a REMS with ETASU, the date that is 14 days after the date that is 10 days after the date on which the eligible product developer received such offer from the license holder.

(E) REMEDIES.—

(A) IN GENERAL.—If an eligible product developer prevails in a civil action brought under paragraph (1), the court shall—

(i) award to the eligible product developer reasonable attorney’s fees and costs of the civil action; and

(ii) award to the eligible product developer a monetary amount sufficient to deter the license holder from failing to provide eligible product developers with sufficient quantities of a covered product on commercially reasonable, market-based terms, if the court finds, by a preponderance of the evidence—

(A) that the license holder delayed providing sufficient quantities of the covered product to the eligible product developer without a legitimate business justification; or

(B) that the license holder failed to comply with an order issued under clause (I).

(B) CONSTRUCTIVE DELAY.—A monetary amount awarded under subparagraph (A)(iii) shall not be greater than the revenue that the license holder earned on the covered product during the period—

(i) beginning on—

(I) for a covered product that is not subject to a REMS with ETASU, the date that is 31 days after the date that the eligible product developer received the request; or

(II) for a covered product that is subject to a REMS with ETASU, the date that is 31 days after the date that the license holder received the request; or

(aa) the date on which the license holder received the request; or

(bb) the date on which the license holder received a copy of the covered product authorization issued by the Secretary in accordance with paragraph (2)(B); and

(ii) ending on the date on which the eligible product developer received sufficient quantities of the covered product.
“(C)(i) Elements to assure safe use, if required under subsection (f) for the listed drug, which, subject to clause (ii), for a drug that is the subject of an application under section 505(j) or the listed drug to use a single, shared system under subsection (f), if the Secretary determines that no different, comparable aspect of the elements to assure safe use could satisfy the requirements of subsection (f);”;

(ii) The Secretary may require a drug that is the subject of an application under section 505(j) and the listed drug to use a single, shared system under subsection (f), if the Secretary determines that no different, comparable aspect of the elements to assure safe use could satisfy the requirements of subsection (f).”;

(3) in subsection (i), by adding at the end the following:

“(3) SHARED REMS.—If the Secretary approves, in accordance with paragraph (1)(C)(i)(II), a different, comparable aspect of the elements to assure safe use under subsection (f) for a drug that is the subject of an abbreviated new drug application under section 505(j), the Secretary may require that such different comparable aspect of the elements to assure safe use under subsection (f) for any period of time, of the covered product that is the subject of an application described in subparagraph (A) or (B) of subsection (g)(8).

(a) A GREEMENTS PROHIBITED.—Subject to section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)); or

(b) UNFAIR OR DECEPTIVE ACTS OR PRACTICES ENFORCEMENT AUTHORITY.—

(A) IN GENERAL.—A violation of this section shall be treated as an unfair or deceptive act or practice in violation of section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)); or

(B) POWERS OF COMMISSION.—Except as provided in subparagraph (C) and paragraphs (1)(B) and (3) of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)).

(i) the Commission shall enforce this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties, as applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section; and

(ii) any NDA or BLA holder or subsequent filer that violates this section shall be subject to the penalties and entitled to the same privileges and immunities provided in the Federal Trade Commission Act.

(C) JUDICIAL REVIEW.—In the case of a cease and desist order issued by the Commission, any party to an agreement described in subsection (g)(8) or an approved application that is submitted to the Commissioner of Food and Drugs under section 7002(e)(4) of the Biologics Price Competition and Innovation Act of 2009 (Public Law 111–148; 124 Stat. 817) is submitted to the Commissioner of Food and Drugs; and

(d) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

(1) GENERAL APPLICATION.—The requirements of this section apply, according to their terms, to an NDA or BLA holder or subsequent filer that—

(A) a person, partnership, or corporation over which the Commission has authority pursuant to section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)); or

(B) a person, partnership, or corporation over which the Commission would have authority pursuant to this section but for the fact that such person, partnership, or corporation is not engaged in business for its own profit or that of its members.

(ii) the United States Court of Appeals for the Federal Circuit in which the ultimate parent entity, as so defined, of any subsequent filer that is reasonably attributable to the violation of this section in which such party is the subsequent filer (or to the other subsequent filer) reasonably attributable to the violation of this section; and

(iii) the United States Court of Appeals for the Federal Circuit in which the ultimate parent entity, as so defined, of any subsequent filer that is reasonably attributable to the violation of this section in which such party is the subsequent filer (or to the other subsequent filer) reasonably attributable to the violation of this section; and

(iv) the United States Court of Appeals for the District of Columbia Circuit.

(b) ADDITIONAL ENFORCEMENT AUTHORITY.—

(A) CIVIL PENALTY.—The Commission may commence a civil action to recover a civil penalty in a district court of the United States against any NDA or BLA holder or subsequent filer that violates this section.

(B) SPECIAL RULE FOR RECOVERY OF PENALTY IF CEASE AND DESIST ORDER ISSUED.—

(1) GENERAL.—When the Commission has issued a cease and desist order in a proceeding under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) for violation of this section—

(i) the Commission may commence a civil action as provided in section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)); and

(ii) in such civil action, the findings of the Commission as to the willfulness of such proceeding shall be conclusive, unless—

(aa) the terms of such order expressly provide that the Commission’s findings shall not be conclusive; or

(bb) such order became final by reason of section 5(g)(1) of such Act (15 U.S.C. 45(g)(1)), in which case such findings shall be conclusively supported by evidence introduced into the proceeding.

(C) AMOUNT OF PENALTY.—

(i) IN GENERAL.—The amount of a civil penalty imposed in a civil action under subparagraph (A) on a party to an agreement described in subsection (a) shall be sufficient to deter violations of this section, but in no event greater than—

(I) the value of a subsequent filer or, in the case of an agreement between two subsequent filers, the subsequent filer who gave the value described in subsection (a)(1), the greater of—

(aa) 3 times the value received by such NDA or BLA holder (or by such subsequent filer) that is reasonably attributable to the violation of this section; or

(bb) 5 times the value given to the subsequent filer (or to the other subsequent filer) reasonably attributable to the violation of this section; and

(bb) 3 times the value given to the subsequent filer (or to the other subsequent filer) that is reasonably attributable to the violation of this section.
(ii) FACTORS FOR CONSIDERATION.—In determining such amount, the court shall take into account—
(I) the nature, circumstances, extent, and gravity of the violation;
(II) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, any effect on the ability to continue doing business, profits earned by the NDA or BLA holder (or, in the case of an agreement between two subsequent filers, the subsequent filer who gave the value described in subsection (a)(1)), compensation received by the subsequent filer (or, in the case of an agreement between two subsequent filers, the subsequent filer who received the value described in subsection (a)(1)), and the amount of commerce affected; and
(III) other matters that justice requires.

(D) INJUNCTIONS AND OTHER EQUITABLE RELIEF.—In a civil action under subparagraph (A), the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate.

(4) REMEDIES IN ADDITION.—Remedies provided in this subsection are in addition to, and not in derogation of, any other remedy provided by Federal law.

(5) PRESERVATION OF AUTHORITY OF COMMISSION.—Nothing in this section shall be construed to affect any authority of the Commission under any other provision of law.

(e) FEDERAL TRADE COMMISSION RULE-MAKING.—The Commission may, in its discretion, by rule promulgated under section 553 of title 5, United States Code, exempt from this section certain agreements described in subsection (a) if the Commission finds such agreements to be in furtherance of market competition and for the benefit of consumers.

(f) ANTITRUST LAWS.—Nothing in this section shall limit, or otherwise affect the availability of the antitrust laws as defined in subsection (a) of the Clayton Act (15 U.S.C. 12a), and of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition. Nothing in this section shall modify, impair, limit, or supersede the authority of the Federal Trade Commission to address unfair methods of competition.

(2) include any ancillary agreements that are contingent upon, provide for a contingent condition for, were entered into within 30 days of, or are otherwise related to, the referenced agreement; and
(3) by inserting after subparagraph (E) the following:

Section 201(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)), including a biological product (as defined in section 351(i) of the Public Health Service Act (42 U.S.C. 262(i)),

(5) NDA OR BLA HOLDER.—The term ‘‘NDA or BLA holder’’ means—
(A) the holder of—
(i) an approved new drug application filed under section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(1)), for a covered product; or
(ii) a biologics license application filed under section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)) with respect to a biological product;

(2) include any ancillary agreements that are contingent upon, provide for a contingent condition for, were entered into within 30 days of, or are otherwise related to, the referenced agreement; and

(3) by inserting after subparagraph (E) the following:

in a civil action under subparagraph (A), the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate.

(4) REMEDIES IN ADDITION.—Remedies provided in this subsection are in addition to, and not in derogation of, any other remedy provided by Federal law.

(5) PRESERVATION OF AUTHORITY OF COMMISSION.—Nothing in this section shall be construed to affect any authority of the Commission under any other provision of law.

(e) FEDERAL TRADE COMMISSION RULE-MAKING.—The Commission may, in its discretion, by rule promulgated under section 553 of title 5, United States Code, exempt from this section certain agreements described in subsection (a) if the Commission finds such agreements to be in furtherance of market competition and for the benefit of consumers.

(f) ANTITRUST LAWS.—Nothing in this section shall limit, or otherwise affect the availability of the antitrust laws as defined in subsection (a) of the Clayton Act (15 U.S.C. 12a), and of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition. Nothing in this section shall modify, impair, limit, or supersede the authority of the Federal Trade Commission to address unfair methods of competition.

(2) include any ancillary agreements that are contingent upon, provide for a contingent condition for, were entered into within 30 days of, or are otherwise related to, the referenced agreement; and
(3) by inserting after subparagraph (E) the following:

in a civil action under subparagraph (A), the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate.

(4) REMEDIES IN ADDITION.—Remedies provided in this subsection are in addition to, and not in derogation of, any other remedy provided by Federal law.

(5) PRESERVATION OF AUTHORITY OF COMMISSION.—Nothing in this section shall be construed to affect any authority of the Commission under any other provision of law.

(e) FEDERAL TRADE COMMISSION RULE-MAKING.—The Commission may, in its discretion, by rule promulgated under section 553 of title 5, United States Code, exempt from this section certain agreements described in subsection (a) if the Commission finds such agreements to be in furtherance of market competition and for the benefit of consumers.

(f) ANTITRUST LAWS.—Nothing in this section shall limit, or otherwise affect the availability of the antitrust laws as defined in subsection (a) of the Clayton Act (15 U.S.C. 12a), and of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition. Nothing in this section shall modify, impair, limit, or supersede the authority of the Federal Trade Commission to address unfair methods of competition.

(2) include any ancillary agreements that are contingent upon, provide for a contingent condition for, were entered into within 30 days of, or are otherwise related to, the referenced agreement; and
(3) by inserting after subparagraph (E) the following:

in a civil action under subparagraph (A), the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate.

(4) REMEDIES IN ADDITION.—Remedies provided in this subsection are in addition to, and not in derogation of, any other remedy provided by Federal law.

(5) PRESERVATION OF AUTHORITY OF COMMISSION.—Nothing in this section shall be construed to affect any authority of the Commission under any other provision of law.

(e) FEDERAL TRADE COMMISSION RULE-MAKING.—The Commission may, in its discretion, by rule promulgated under section 553 of title 5, United States Code, exempt from this section certain agreements described in subsection (a) if the Commission finds such agreements to be in furtherance of market competition and for the benefit of consumers.

(f) ANTITRUST LAWS.—Nothing in this section shall limit, or otherwise affect the availability of the antitrust laws as defined in subsection (a) of the Clayton Act (15 U.S.C. 12a), and of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition. Nothing in this section shall modify, impair, limit, or supersede the authority of the Federal Trade Commission to address unfair methods of competition.

(2) include any ancillary agreements that are contingent upon, provide for a contingent condition for, were entered into within 30 days of, or are otherwise related to, the referenced agreement; and
(3) by inserting after subparagraph (E) the following:

in a civil action under subparagraph (A), the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate.

(4) REMEDIES IN ADDITION.—Remedies provided in this subsection are in addition to, and not in derogation of, any other remedy provided by Federal law.

(5) PRESERVATION OF AUTHORITY OF COMMISSION.—Nothing in this section shall be construed to affect any authority of the Commission under any other provision of law.

(e) FEDERAL TRADE COMMISSION RULE-MAKING.—The Commission may, in its discretion, by rule promulgated under section 553 of title 5, United States Code, exempt from this section certain agreements described in subsection (a) if the Commission finds such agreements to be in furtherance of market competition and for the benefit of consumers.

(f) ANTITRUST LAWS.—Nothing in this section shall limit, or otherwise affect the availability of the antitrust laws as defined in subsection (a) of the Clayton Act (15 U.S.C. 12a), and of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition. Nothing in this section shall modify, impair, limit, or supersede the authority of the Federal Trade Commission to address unfair methods of competition.

(2) include any ancillary agreements that are contingent upon, provide for a contingent condition for, were entered into within 30 days of, or are otherwise related to, the referenced agreement; and
(3) by inserting after subparagraph (E) the following:

in a civil action under subparagraph (A), the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate.

(4) REMEDIES IN ADDITION.—Remedies provided in this subsection are in addition to, and not in derogation of, any other remedy provided by Federal law.
(b) CIVIL ACTION AFTER ISSUANCE OF CRANK AND DESIST ORDER.—If the Commission has issued a cease and desist order under section 5 of the Federal Trade Commission Act (15 U.S.C. 45(f)) after a finding of such order by the Commission and the proceeding for the issuance of such order was commenced within the period required by subsection (a) of this section, such proceeding does not prohibit the commencement, after such period, of a civil action under section 311(d)(3)(A) against a party to such order or a civil action under subsection (1) of such section 5 for violation of such order.

Subtitle C—BLOCKING ACT

SEC. 321. CHANGE CONDITIONS OF FIRST GENETIC PRODUCT TO SPUR ACCES S AND COMPETITION.


(1) in subclause (I), by striking “180 days” after all that follows through the period at the end and inserting the following: “180 days after the earlier of—

‘‘(aa) the date of the first commercial marketing of the drug (including the commercial marketing of the listed drug) by any first applicant; or

(bb) the applicable date specified in subclause (III);’’; and

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

“(III) APPLICABLE DATE.—The applicable date specified in this subclause, with respect to an application for a drug described in subclause (I), is the date on which each of the following conditions is first met:

‘‘(aa) The approval of such an application could be made effective, but for the eligibility of a first applicant for 180-day exclusivity under this clause.

‘‘(bb) At least 30 months have passed since the date of submission of an application for the drug at issue by any first applicant.

‘‘(cc) Approval of an application for the drug submitted by at least one first applicant is not precluded under clause (ii).’’

(b) INFORMATION.—The Secretary of Health and Human Services shall—

(1) not later than 120 days after the date of enactment of this Act, publish, as appropriate and available, information sufficient to make available to the public an alphabetical list in numerical order of each biological product for which a biologics license under subsection (a) or this subsection is in effect, or that has been deemed to be licensed under this section pursuant to section 702(c)(4) of the Biologics Price Competition and Innovation Act of 2009, as of such date of enactment;

‘‘(ii) the date of approval of the marketing application and the application number; and

‘‘(III) the marketing or licensure status of the biologics license under subsection (a) or this subsection is in effect or that has been deemed to be licensed under this section pursuant to section 702(c)(4) of the Biologics Price Competition and Innovation Act of 2009.

(ii) Revisions.—Every 30 days after the publication of the first list under clause (i), the Secretary shall update such list under subsection (a) or this subsection during the 30-day period.

(III) the applicable date is first met:

‘‘(A) for the same period as the withdrawal or suspension; or

‘‘(B) if the biological product has been withdrawn from sale, for the period of withdrawal from sale and, if earlier, the period ending on the date the Secretary determines that the withdrawal was not for safety, purity, or potency reasons; and

‘‘(C) a notice of the removal shall be published in the Federal Register.’’

SEC. 331. REVIEW AND REPORT ON TYPES OF IN FORMATION TO BE LISTED.

Not later than 3 years after the date of enactment of this Act, the Secretary of Health and Human Services shall—

(1) solicit public comment regarding the type of information, if any, that should be added to or removed from the list required by subsection (b) of section 331 of the Public Health Service Act (42 U.S.C. 262(k)), as added by subsection (a) and section 331; and

(2) transmit to Congress an evaluation of such comments and other recommendations about the types of information that should be added to or removed from the list.

Subtitle E—Orange Book

SEC. 341. ORANGE BOOK.

(a) SUBMISSION OF PATENT INFORMATION FOR BRAND NAME DRUGS.—Paragraph (1) of section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) is amended to read as follows:

“(b)(1) Any person may file with the Secretary an application with respect to any brand name drug described in the list submitted under subsection (a). Such persons shall submit to the Secretary as part of the application—

‘‘(A) a full list of the articles used as components thereof.

‘‘(B) a list of the articles used in the manufacture, processing, and packaging of such drug.

‘‘(C) a full statement of the composition of such drug.

‘‘(D) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packaging of such drug;

‘‘(E) such samples of such drug and of the articles used as components thereof as the Secretary may require;

‘‘(F) specimens of the labeling proposed to be used for such drug;

‘‘(G) such assessments required under section 505B; and

‘‘(H) patent information, with respect to each patent for which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner engaged in the manufacture, use, or sale of the drug, and consistent with the following requirements:

‘‘(i) The applicant shall file with the application the patent number and the expiration date of:

‘‘(I) any patent which claims the drug for which the applicant submitted the application and is a drug substance (including active ingredient) patent or a drug product (including formulation and composition) patent; and

‘‘(II) any patent which claims the method of using such drug;

‘‘(ii) if an application is filed under this subsection for a drug and a patent of the type described in clause (i) which claims a drug substance or a drug product is issued after the filing date but before approval of the application, the applicant shall amend the application to include such patent information.

Upon approval of the application, the Secretary shall publish the information submitted under paragraph (H), the Secretary, in consultation with the Director of the National Institutes of Health and with representatives of the drug manufacturing industry, review and develop guidelines, as appropriate, on the inclusion of women and minorities in clinical trials required by subparagraph (A).’’

(b) CONFORMING CHANGES TO REQUIREMENTS FOR SUBSEQUENT SUBMISSION OF PATENT INFORMATION.—Section 505(c)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(c)(2)) is amended—

(1) by inserting after the second sentence “the following”:

‘‘(i) no patent number and the expiration date of any patent which the following’:’’;

and

(2) CONFORMING CHANGES TO REQUIREMENTS FOR SUBSEQUENT SUBMISSION OF PATENT INFORMATION.—Section 505(c)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(c)(2)) is amended—

(1) by inserting before the second sentence “the following”:

‘‘(i) no patent number and the expiration date of any patent which the following’:’’;

(2) by inserting after the second sentence “the following”:

‘‘(i) no patent number and the expiration date of any patent which the following’:’’;

and

(3) by inserting after the second sentence “the following”:

‘‘(i) no patent number and the expiration date of any patent which the following’:’’. 
355(j)(7) is amended by adding at the end the following:

“(iv) For each drug included on the list, the Secretary shall specify each exclusivity period that is applicable and has not concluded under—

“(I) clause (ii), (iii), or (iv) of subsection (c)(3)(E) of this section;

“(II) clause (iv) of paragraph (5)(B) of this subsection;

“(III) clause (ii), (iii), or (iv) of paragraph (5)(F) of this subsection;

“(IV) clause (i)–

“(V) section 505E; or

“(VI) section 527(a).”

(4) IN GENERAL.—Section 505(b)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(7)) is amended by adding at the end the following:

“(D)(i) The holder of an application shall in any notification under section 505(j); and

“(II) The holder of an approved application shall include in any notification under clause (I) a copy of the decision described in subsection (c) for a drug on the list that is applicable and has not concluded under—

“(I) clause (ii), (iii), or (iv) of paragraph (5)(F) of this subsection;

“(IV) clause (i)–

“(V) section 505E; or

“(VI) section 527(a).”

(5)(F) of this subsection;

“(c)(3)(E) of this section;

“(d)(1) The Patent Trial and Appeals Board issues a decision from which no appeal has been or can be taken that a patent for such drug is invalid.

“(II) A court issues a decision from which no appeal has been or can be taken that a patent for such drug is invalid.

“(iii) The Secretary shall remove from the list any patent that is determined to be invalid in a decision described in subsection (d)(1) or (II) of clause (i).

“(i) promptly; but

“(II) not before the expiration of any 180-day exclusivity period under paragraph (3)(B) of this subsection.

(2) APPLICABILITY.—Subparagraph (D) of section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), as added by paragraph (1), applies only with respect to a decision described in such subparagraph that is issued on or after the date of enactment of this Act.

(e) REVIEW AND REPORT.—Not later than one year after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall—

“(1) publish a public announcement regarding the types of patent information that should be included on the lists published under section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), including an analysis and evaluation of the types of patents included in such lists and the claims such patents make about the products to which they apply;

“(b) CONTENTS.—The Comptroller General shall include in the report under subsection (a)—

“(1) data on the number of—

“(A) patents included in the list published under paragraph (7) of section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)), that claim the active ingredient or formulation of a drug in combination with a device that is used for delivery of the drug, including the finished dosage form of the drug; and

“(B) claims in each patent that claim a device that is used for the delivery of the drug, but does not claim the drug in combination with the device, with an active ingredient or formulation of a drug;

“(2) data on the date of inclusion in the list under paragraph (7) of such section 505(j) for all patents under such list, as compared to patents that claim a method of using the drug in combination with a device;

“(3) an analysis regarding the impact of including on the list under paragraph (7) of such section 505(j) certain types of patent information for drug product applicants and approved application holders, including an analysis of whether—

“(A) the listing of the patents described in paragraph (1)(A) delayed the market entry of one or more drugs approved under such section 505(j); and

“(B) not listing the patents described in paragraph (1)(A) would delay the market entry of one or more such drugs;

“(4) recommendations about which kinds of patents relating to devices described in paragraph (1)(A) should be submitted to the Secretary to delay the market entry of one or more drugs approved under such section 505(j); and

“(V) section 505E; or

“(IV) section 505A;

“(III) clause (ii), (iii), or (iv) of subsection (c); and

“(I) clause (ii), (iii), or (iv) of paragraph (5)(F) of this subsection; and

“(A) in formats such as webinars, continuing medical education modules, videos, fact sheets, infographics, stakeholder toolkits, or other formats as appropriate and applicable; and

“(B) tailored for the unique needs of health care providers, patients, and others, as the Secretary determines appropriate.

“(4) OTHER INFORMATION.—In addition to the information described in paragraph (2), the Secretary shall continue to publish the following information:

“(A) The action package of each biological product licensed under subsection (a) or (k).

“(B) The summary review of each biological product licensed under subsection (a) or (k).

“(5) CONFIDENTIAL AND TRADE SECRET INFORMATION.—This subsection does not authorize the disclosure of any trade secret, confidential commercial or financial information, or other matter described in section 522(b) of title 5.

“(b) CONTINUING EDUCATION.—The Secretary shall advance education and awareness among health care providers regarding biological products, including biosimilar biological products and interchangeable biologic products, as appropriate, including by developing and continuing education programs that advance the education of such providers on the prescribing of, and relevant clinical considerations with respect to, biological products, including biosimilar biological products and interchangeable biosimilar biological products.

“(b) APPLICATION UNDER THE MEDICARE MERIT-BASED INCENTIVE PAYMENT SYSTEM.—Section 184(b)(6)(C) of the Social Security Act (42 U.S.C. 1395w–4(q)(5)(C)) is amended by adding at the end the following new clause:

“(iv) CLINICAL MEDICAL EDUCATION PROGRAM ON BIOSIMILAR BIOLOGICAL PRODUCTS.—Complementing a clinical medical education program developed or improved under section 352A(b) of the Public Health Service Act by a MIPS eligible professional during a performance period shall earn such eligible professional one-half of the highest potential score for the performance category described in paragraph (2)(A)(iii) for such performance period. A MIPS eligible professional may only count the completion of such a program for purposes of such category one time during the eligible professional’s lifetime.”

Subtitle F—Advancing Education on Biosimilars

SEC. 351. EDUCATION ON BIOLOGICAL PRODUCTS.

(a) WEBSITE; CONTINUING EDUCATION.—Subpart 1 of part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by adding at the end the following:

“SEC. 352A. EDUCATION ON BIOLOGICAL PRODUCTS.

“(a) INTERNET WEBSITE.—

“(1) IN GENERAL.—The Secretary shall maintain and operate an internet website to provide educational materials for health care providers, patients, and caregivers, regarding the meaning of the terms, and the standards for review and licensing of, biological products, including biosimilar biological products and interchangeable biosimilar biological products.

“(2) CONTENT.—Educational materials provided under paragraph (1) may include—

“(A) an explanation of statutory and regulatory terms, including ‘biosimilar’ and ‘interchangeable’, and clarification regarding the use of interchangeable biosimilar biological products; and

“(B) information related to development programs for biological products, including biosimilar biological products and interchangeable biosimilar biological products and relevant clinical considerations for prescribers, which may include, as appropriate and necessary, the comparability of such biological products;

“(C) an explanation of the process for reporting adverse events for biological products, including biosimilar biological products and interchangeable biosimilar biological products; and

“(D) an explanation of the relationship between biosimilar biological products and interchangeable biosimilar biological products licensed under section 351(k) and reference products (as defined in section 351(i)), including by developing or improving continuing medical education programs with respect to such educational materials.

“(3) FORMAT.—The educational materials provided under paragraph (1) may include—

“(A) in formats such as webinars, continuing medical education modules, videos,
that is referenced in an application described in clause (i), shall continue to be identified as a listed drug on the list published pursuant to section 506(j)(7) of the Federal Food, Drug, and Cosmetic Act, and the information for such drug on such list shall not be revised after March 20, 2020, until—

(aa) such drug is removed from such list in accordance with subparagraph (C) of such section 506(j)(7); or

(bb) this subparagraph no longer has force or effect.

(ii) Any drug that is a biological product that has been deemed licensed under section 351 of the Public Health Service Act (42 U.S.C. 262) and that is referenced in an application described in clause (i) shall be subject only to requirements applicable to biological products licensed under—

(III) upon approval under subsection (c) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act of an application described in clause (i) that has not been approved shall be deemed withdrawn.

Subtitle II—Over-the-Counter Monograph
Safety, Innovation, and Reform
SEC. 376. SHORT TITLE; REFERENCES IN SUBTITLE.

(a) Short Title.—This subtitle may be cited as the “Over-the-Counter Monograph Safety, Innovation, and Reform Act of 2019.”

(b) References.—Except as otherwise specified, any reference to “this Act” contained in this subtitle shall be treated as referring only to the provisions of this subtitle.

PART I—OTC REVIEW

SEC. 371. REGULATION OF CERTAIN NON-PRESCRIPTION DRUGS THAT ARE MARKETED WITHOUT AN APPROVED DRUG APPLICATION.

(a) In General.—Chapter V of the Federal Food, Drug, and Cosmetic Act is amended by inserting after section 505F of such Act (21 U.S.C. 355f) the following:

“SEC. 505G. REGULATION OF CERTAIN NON-PRESCRIPTION DRUGS MARKETED WITHOUT AN APPROVED DRUG APPLICATION.

(a) Nonprescription Drugs Marketed Without an Approved Drug Application.

(1) Drugs Subject to a Tentative Final Monograph; Category I Drugs Subject To A Tentative Final Monograph. —A drug is deemed to be generally recognized as safe and effective under section 201(p)(1), not a new drug under section 201(p)(1), and not subject to section 505(b)(1), if—

(A) the drug is—

(i) in conformity with the requirements for nonprescription drugs, and conditions or requirements under subsections (b), (c), and (k); and

(ii) except as permitted by an order issued under section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act and any applicable subsequent determination by the Secretary, the general requirements for nonprescription drugs, and conditions or requirements under subsections (b), (c), and (k); and

(iii) except as permitted by an order issued under section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act and any applicable subsequent determination by the Secretary, the general requirements for nonprescription drugs, and conditions or requirements under subsections (b), (c), and (k); and

(iv) in conformity with the requirements for nonprescription use of such proposed monograph or advance notice of proposed rulemaking, any applicable subsequent determination by the Secretary, the general requirements for nonprescription drugs, and conditions or requirements under subsections (b), (c), and (k); and

(b) The drug is—

(1) classified in category I for safety and effectiveness under a tentative final monograph that is the most recently applicable final monograph; and

(2) TREATMENT OF SUNSCREEN DRUGS. —

(i) in conformity with the requirements for nonprescription use of such proposed monograph or advance notice of proposed rulemaking, any applicable subsequent determination by the Secretary, the general requirements for nonprescription drugs, and conditions or requirements under subsections (b), (c), and (k); and

(ii) in conformity with the requirements for nonprescription use of such proposed monograph or advance notice of proposed rulemaking, any applicable subsequent determination by the Secretary, the general requirements for nonprescription drugs, and conditions or requirements under subsections (b), (c), and (k); and

(iii) in a dosage form that, immediately prior to the date of the enactment of this section, has been used to a material extent and for a material time under section 201(p)(2); or

(2) Covered Drug is—

(i) in conformity with the requirements for nonprescription use of such proposed monograph or advance notice of proposed rulemaking, any applicable subsequent determination by the Secretary, the general requirements for nonprescription drugs, and conditions or requirements under subsections (b), (c), and (k); and

(ii) in conformity with the requirements for nonprescription use of such proposed monograph or advance notice of proposed rulemaking, any applicable subsequent determination by the Secretary, the general requirements for nonprescription drugs, and conditions or requirements under subsections (b), (c), and (k); and

(iii) in a dosage form that, immediately prior to the date of the enactment of this section, has been used to a material extent and for a material time under section 201(p)(2).

(4) CATEGORY II DRUGS DEEMED NEW DRUGS. —A drug that is classified in category II for safety or effectiveness under a tentative final monograph or that is subject to a determination to be not generally recognized as safe and effective in a proposed rule or final rule, or in an applicable subsequent proposed rule or final rule, is a new drug under section 201(p), misbranded under section 502(e), and the information described in section 505(k)(7)(D) of the Public Health Service Act. With respect to sunscreen drugs subject to this section, the applicable requirements in part 352 of title 21, Code of Federal Regulations, for purposes of paragraph (1)(A)(i), shall be the requirements specified in part 352 of title 21, Code of Federal Regulations, as published, and, at the beginning of volume 64 of the Federal Register, except that the applicable requirements governing efficacy, labeling, and labeling of those drugs are specified in section 210.327 of title 21, Code of Federal Regulations.

(5) CATEGORY III DRUGS SUBJECT TO A TENTATIVE FINAL MONOGRAPH; CATEGORY I DRUGS SUBJECT TO PROPOSED MONOGRAPH OR ADVANCE NOTICE OF PROPOSED RULEMAKING.—A drug that is not described in paragraph (1), (2), (3), or (4) is not required to be the subject of an application approved under section 505, and is not subject to section 503(b)(1), if—

(A) the drug is—

(i) in conformity with the requirements for nonprescription use of such proposed monograph or advance notice of proposed rulemaking, any applicable subsequent determination by the Secretary, the general requirements for nonprescription drugs, and conditions or requirements under subsections (b), (c), and (k); and

(ii) in conformity with the requirements for nonprescription use of such proposed monograph or advance notice of proposed rulemaking, any applicable subsequent determination by the Secretary, the general requirements for nonprescription drugs, and conditions or requirements under subsections (b), (c), and (k); and

(iii) in a dosage form that, immediately prior to the date of the enactment of this section, has been used to a material extent and for a material time under section 201(p)(2); or

(B) the drug is—

(i) in conformity with the requirements for nonprescription use of such proposed monograph or advance notice of proposed rulemaking, any applicable subsequent determination by the Secretary, the general requirements for nonprescription drugs, and conditions or requirements under subsections (b), (c), and (k); and

(ii) in conformity with the requirements for nonprescription use of such proposed monograph or advance notice of proposed rulemaking, any applicable subsequent determination by the Secretary, the general requirements for nonprescription drugs, and conditions or requirements under subsections (b), (c), and (k); and

(iii) in a dosage form that, immediately prior to the date of the enactment of this section, has been used to a material extent and for a material time under section 201(p)(2).
that is 180 calendar days after the date of the enactment of this section, unless, before such day, the Secretary determines that it is in the interest of public health to extend the period for which the drug may be marketed without such an approved new drug application.

(5) A drug that the Secretary has determined not to be generally recognized as safe and effective under section 201(p)(1) under a final determination issued under part 330 of title 21, which regulations shall be deemed to be a new drug under section 201(p), as amended, shall be subject to such order in the Federal Register; and

(6) OTHER DRUGS DEEMED NEW DRUGS.—Except as provided in subsection (m), a drug is deemed to be a new drug under section 201(p) and misbranded under section 502(ee) if the drug—

(A) is not subject to section 503(b)(1); and

(B) is not subject to section 503(b)(4), (5), or (6) or subsection (b)(1)(B).

(b) ADMINISTRATIVE ORDERS.—

(1) IN GENERAL.—The Secretary may, on the initiative of the Secretary or at the request of one or more requesters, issue an administrative order as described in paragraph (2) when there are conditions under which a specific drug, a class of drugs, or a combination of drugs, is determined to be—

(i) a new drug under section 201(p)(1) and

(ii) generally recognized as safe and effective under section 201(p)(1).

(2) EFFECT.—A drug or combination of drugs shall be deemed to not require approval under section 505 if such drug or combination of drugs—

(A) is not described in paragraph (1), (2), (3), (4), or (5), or subsection (b)(1)(B).

(B) DETERMINATION.—The Secretary may, after any such reasonable efforts of the Secretary, except when the Secretary determines, for good cause, that a shorter period is not in the public interest, determine in substantial part on the basis of the record, and, for subsequent levels of appeal, within 30 calendar days of the prior decision; and

(C) STANDARD.—The Secretary shall find that a drug is not generally recognized as safe and effective under section 201(p)(1). If—

(i) the record, as defined in clause (i) and (ii) of subparagraph (A);

(ii) the evidence is inadequate to show that the drug is generally recognized as safe and effective under section 201(p)(1); or

(iii) the Secretary determines that information that is both within the categories of data identified in the proposed order and relevant to a determination as to whether the drug is generally recognized as safe and effective under section 201(p)(1); and

(A) the Secretary shall provide for a public comment period of not less than 180 calendar days of such proposed order, except when the Secretary determines, for good cause, that a shorter period is in the interest of public health; and

(B) any person who submits such comment period shall include a certification that the person has submitted all evidence created, obtained, or received by that person that is both within the categories of data discussed containing findings of fact and conclusions of law. The decision of the presiding officer shall be final.

(3) HEARINGS; JUDICIAL REVIEW.—

(A) IN GENERAL.—Only a person who participated in each stage of formal dispute resolution, that is, the Secretary's initiative to determine that a drug, pursuant to subparagraph (A)(III) of paragraph (2)(A)(i) of an administrative order with respect to a drug may request a hearing concerning a final administrative order issued under the Secretary's discretion with respect to such drug. If a hearing is sought, such person must submit a request for a hearing, which shall be based solely on information in the administrative record, to the Secretary not later than 30 calendar days after receiving notice of the final decision of the formal dispute resolution procedure.

(B) No motion to be designated with respect to orders relating to certain drugs.—

(i) IN GENERAL.—The Secretary shall not be required to provide notice and an opportunity for a hearing pursuant to paragraph (2)(A)(iv) if the final administrative order involved relates to a drug—

(A) that is described in section (a)(3)(B) and

(B) with respect to which no human or non-human data studies relevant to the safety or effectiveness of such drug have been completed prior to the issuance of the most recent tentative final monograph relating to such drug.

(II) HumAn DATA STUDIES AND non-HUMAN DATA STUDIES DEFINED.—

(i) The term ‘human data studies’ means clinical trials of safety or effectiveness (including actual use studies), pharmacokinetics studies, or bioavailability studies.

(ii) The term ‘non-human data’ means data from testing other than with human subjects which provides information concerning safety or effectiveness.

(iii) DENIAL OF REQUEST FOR HEARING.—If the Secretary determines that information submitted in a request for hearing under subparagraph (A) with respect to a final administrative order issued under paragraph (2)(A)(iv) does not identify the existence of a genuine and substantial question of material fact, the Secretary may deny such request. In making such a determination, the Secretary may consider only information and data that are based on relevant and reliable scientific principles and methodologies.

(iv) SINGLE HEARING FOR MULTIPLE RELATED REQUESTS.—If more than one request for hearing is submitted with respect to the same administrative order under subparagraph (A), the Secretary may direct that a single hearing be conducted in which all requested hearings were granted may participate.

(v) PRESIDING OFFICER.—The presiding officer of a hearing requested under subparagraph (A) shall—

(i) be designated by the Secretary;

(ii) not be an employee of the Center for Drug Evaluation and Research; and

(iii) have not been previously involved in the development of the administrative order involved or proceedings related to that administrative order.

(vi) RIGHTS OF PARTIES TO HEARING.—The parties to a hearing requested under subparagraph (A) shall have the right to present testimony, including testimony of expert witnesses, and to cross-examine witnesses presented by other parties. If, in the Secretary's opinion, appropriate, the presiding officer may require that cross-examination by parties representing substantially the same interests be consolidated to promote efficiency and avoid duplication.

(vii) FINAL DECISION.—

(A) IN GENERAL.—The procedures described in section 506(h) shall apply with respect to judicial review of final administrative orders issued under this subsection in the same manner and to the same extent as such section applies to an order described in such section except that the court shall be taken by filing in an appropriate district court of the United States in lieu of the appellate courts specified in such section.

(B) PERIOD TO SUBMIT A REQUEST FOR JUDICIAL REVIEW.—A person eligible to request a hearing under this paragraph and seeking judicial review of a final administrative order issued under this subsection shall file such request for judicial review not later than 60 calendar days after the latest of—

(i) the date on which notice of such order is given to the requester; and

(ii) the date on which a hearing with respect to such order is denied under subparagraph (B) or (C)(i).

(C) THE DATE ON WHICH A FINAL DECISION IS MADE FOLLOWING A HEARING UNDER SUBPARA-
(IV) if no hearing is requested, the date on which the time for requesting a hearing expires.

(4) EXPEDITED PROCEDURE WITH RESPECT TO ADMINISTRATIVE ORDERS INITIATED BY THE SECRETARY.—

(A) IMMINENT HAZARD TO THE PUBLIC HEALTH.—

(I) IN GENERAL.—In the case of a determination by the Secretary that a drug, class of drugs, or combination of drugs subject to this section poses an imminent hazard to the public health, after having made reasonable efforts to notify, not later than 48 hours before issuance of such order under this subparagraph, the Secretary shall issue an order in accordance with paragraph (1); and

(ii) the Secretary shall provide for a public comment period of at least 45 calendar days with respect to such interim final order.

(ii) NONDELEGATION.—The Secretary may not delegate the authority to issue an interim final administrative order under this subparagraph.

(B) SAFETY LABELING CHANGES.—

(i) in the case of a determination by the Secretary that a change in the labeling of a drug, class of drugs, or combination of drugs subject to this section is reasonably expected to mitigate a significant or unreasonable risk of a serious adverse event associated with use of the drug, the Secretary may—

(II) after reasonable efforts of notification, issue an interim final administrative order in accordance with paragraph (1) to require such change, together with a detailed statement of the reasons for such order;

(iii) provide for a public comment period of at least 45 calendar days with respect to such interim final order.

(ii) CONTENT OF ORDER.—An interim final order issued under this subparagraph with respect to the labeling of a drug, class of drugs, or combination of drugs subject to this section is reasonably expected to mitigate a significant or unreasonable risk of a serious adverse event associated with use of the drug, the Secretary may—

(II) after reasonable efforts of notification, issue an interim final administrative order in accordance with paragraph (1) to require such change, together with a detailed statement of the reasons for such order;

(iii) CONTENT OF ORDER.—An interim final order issued under this subparagraph with respect to the labeling of a drug, class of drugs, or combination of drugs subject to this section is reasonably expected to mitigate a significant or unreasonable risk of a serious adverse event associated with use of the drug, the Secretary may—

(C) EFFECTIVE DATE.—An order under subparagraph (A) or (B) shall take effect on a date specified by the Secretary.

(D) FINAL ORDER.—After the completion of the proceedings in subparagraph (A) or (B), the Secretary shall—

(I) issue a final order in accordance with paragraph (1);

(ii) publish a notice of availability of such final administrative order in the Federal Register; and

(iii) afford sponsors of such drugs that will be subject to such an order the opportunity for formal dispute resolution up to the level of the Director of the Center for Drug Evaluation and Research, which must initially be within 45 calendar days of the issuance of the order, and for subsequent levels of review within 30 calendar days of the prior decision.

(E) HEARINGS.—A sponsor of a drug subject to a final order issued under subparagraph (A) or (B) may request a hearing on such order. The provisions of paragraphs (2)(A), (B), and (C) of paragraph (3), other than paragraph (3)(C)(v)(II), shall apply with respect to a hearing on such order in the same manner and to the same extent as such provisions apply with respect to a hearing on an administrative order issued under paragraph (2)(A)(ii).

(5) TIMING.—

(I) FINAL ORDER AND HEARING.—The Secretary shall—

(II) subject to a final sunscreen order (as defined in section 586(2)(A)); or

(iv) described in subsection (m)(1), other than drugs subject to an active enforcement action under chapter III of this Act.

(IV) LIMITATIONS ON EXCLUSIVITY.—

(I) IN GENERAL.—Only one 18-month period under this subparagraph shall be granted, under each order described in clause (i), with respect to changes to (the drug subject to such order) which are either—

(a) changes described in clause (i), relating to active ingredients; or

(b) changes described in clause (ii), relating to conditions of use.

(c) changes related to methods of testing safety or efficacy.

(f) NEW HUMAN DATA STUDIES DEFINED.—In this subparagraph, the term ‘new human data studies’ means clinical trials of safety
or effectiveness (including actual use studies), pharmacokinetics studies, or bioavailability studies, the results of which—

(I) have not been relied on by the Secretary;

(II) a proposed or final determination that a drug described in subparagraph (I), or (III) of clause (ii) is generally recognized as safe and effective under section 201(p)(1); or

(b) a final determinations that the change—

(i) is sufficient for such purposes.

(ii) represents the most recently promulgated version of such conditions, including as modified, in whole or in part, by any proposed or final regulations.

(3) DETERMINING WHETHER A CHANGE WILL AFFECT SAFETY OR EFFECTIVENESS.—

(A) IN GENERAL.—The Secretary shall—

(i) establish procedures for evaluating the quality of drugs, and

(ii) shall not—

(a) a drug described in subparagraph (I), or (II) of clause (ii) is generally recognized as safe and effective under section 201(p)(1); or

(b) a final determination that the drug can be safely marketed under conditions of use comparable to those in the U.S. market; and

(c) the Secretary does not certify that the drug can be safely marketed under comparable conditions of use, including, but not limited to, the special needs of pediatric populations, including children.

(4) CONFIDENTIALITY OF INFORMATION SUBMITTED TO THE SECRETARY.—

(A) IN GENERAL.—Subject to paragraph (2), any information, including reports of testing conducted on the drug or drugs involved, that is submitted by a requestor in connection with proceedings on an order under this section (including any minor change under subsection (c) and is not confidential or confidential information subject to section 552(b)(4) of title 5, United States Code, or section 1905 of title 18, United States Code, shall not be disclosed to the public unless the requestor consents to that disclosure.

(B) PUBLIC AVAILABILITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall—

(i) make any information submitted by a requestor in support of a request submitted under subsection (b)(5)(A) available to the public not later than the date on which the proposed order is issued; and

(ii) make any information submitted by any other person with respect to an order relating to such a minor change under section 704(a)(4), within 15 business days of receiving such a request, or such longer period as the Secretary may determine.

(B) INSUFFICIENT INFORMATION.—If the Secretary determines that the information contained in such records is not sufficient to ensure that such order is appropriately harmonized with other orders issued under this Act (and regulations thereunder) and any other orders issued under this section (b)(5)(A) available to the public upon request.

(C) FAILURE TO SUBMIT SUFFICIENT INFORMATION.—If the sponsor fails to provide such information, together with any further comments for applying those orders to specific dosage forms.

(5) DETERMINING WHETHER A MINOR CHANGE WILL AFFECT SAFETY OR EFFECTIVENESS.—

(A) IN GENERAL.—A minor change in the dosage form of a drug that is described in subparagraph (A) shall take into account relevant public standards and standard practices for evaluating the quality of drugs, and may take into account the special needs of pediatric populations, including children.

(B) MONOGRAPHS DESCRIBED.—For purposes of subparagraph (A), a final monograph or tentative final monograph described in this subparagraph if it—

(i) establishes conditions of use for a drug described in paragraph (1) or (2) of subsection (a); and

(ii) may so inform the sponsor of the drug a drug, under conditions of use comparable to those in the United States as a nonprescription drug under comparable conditions of use;

(iii) if the drug has not been previously marketed in the United States as a nonprescription drug, information sufficient for a final determination that the drug is generally recognized as safe and effective, the Secretary after taking into account relevant public standards and standard practices for evaluating the quality of drugs, and may take into account the special needs of pediatric populations, including children.

(D) DEEMED ORDERS INCLUDE HARMONIZING TECHNICAL AMENDMENTS.—The deemed establishment of a final administrative order under subparagraph (A) shall be construed to include any technical amendments to such order as the Secretary determines necessary to ensure that such order is appropriately harmonized, in terms of terminology or other exposure to the active ingredient to a suitable reference product.

(6) INFORMATION REGARDING SAFE NON-PRESCRIPTION MARKETING AND USE AS CONDITION FOR FILING A GENERALY RECOGNIZED AS SAFE AND EFFECTIVE REQUEST.—

(A) IN GENERAL.—In response to a request under this section that a drug described in subparagraph (B) be generally recognized as safe and effective, the Secretary—

(i) may file such request, if the request includes information specified under subparagraph (C) with respect to safe and effective marketing and use of such drug; or

(ii) if the request fails to include information specified under subparagraph (C), shall refuse to file such request and require that nonprescription marketing of the drug be pursuant to a new drug application as described in subparagraph (D).

(B) DRUG DESCRIBED.—A drug described in this subparagraph is a nonprescription drug described in section 586(2)(A).

(C) INFORMATION SPECIFIED.—Information specified in this subparagraph, with respect to a request described in subparagraph (A)(i), is—

(i) specified in subsection (a)(1), (a)(2), or (a)(3);

(ii) subject to a final order under this section; or

(iii) subject to a final order under this section (as defined in section 586(2)(A)).

(D) IN GENERAL.—In response to a request under this section that a drug described in subsection (a)(1), (a)(2), or (a)(3) is generally recognized as safe and effective under section 201(p)(1); or

(E) RULE OF APPLICATION.—Except in the case of a request described in section 586(9), as in effect on January 1, 2017, if the Secretary refuses to file a request under this paragraph, the requestor may not file such request over protest under paragraph (5)(A)(i).

(7) PACKAGING.—An administrative order issued under paragraph (2), (4)(A), or (5) may include requirements for the packaging of a drug to encourage use in accordance with labeling. Such requirements may include unit dosage packaging, requirements for products intended for use by children, requirements to reduce risk of harm from unmonitored ingestion, and other appropriate requirements.

(8) FINAL AND TENTATIVE FINAL MONOGRAPHS FOR CATEGORY I DRUGS DEEMED FINAL ADMINISTRATIVE ORDERS.—

(A) IN GENERAL.—A final monograph or tentative final monograph described in subparagraph (B) shall be deemed to be a final administrative order under this subsection and may be amended, revoked, or otherwise modified in accordance with the procedures of this subsection.

(B) MONOGRAPHS DESCRIBED.—For purposes of subparagraph (A), a final monograph or tentative final monograph is described in this subparagraph if it—

(i) establishes conditions of use for a drug described in paragraph (1) or (2) of subsection (a); and

(ii) may so inform the sponsor of the drug a drug, under conditions of use comparable to those in the United States as a nonprescription drug under comparable conditions of use, including, but not limited to, the special needs of pediatric populations, including children.

(C) DEEMED ORDERS INCLUDE HARMONIZING TECHNICAL AMENDMENTS.—The deemed establishment of a final administrative order under subparagraph (A) shall be construed to include any technical amendments to such order as the Secretary determines necessary to ensure that such order is appropriately harmonized, in terms of terminology or other exposure to the active ingredient to a suitable reference product.

(D) ADMINISTRATIVE ORDERS.—

(1) IN GENERAL.—A final monograph or tentative final monograph described in subparagraph (B) shall be deemed to be a final administrative order under this subsection and may be amended, revoked, or otherwise modified in accordance with the procedures of this subsection.

(2) MONOGRAPHS DESCRIBED.—For purposes of subparagraph (A), a final monograph or tentative final monograph described in this subparagraph if it—

(i) establishes conditions of use for a drug described in paragraph (1) or (2) of subsection (a); and

(ii) may so inform the sponsor of the drug a drug, under conditions of use comparable to those in the United States as a nonprescription drug under comparable conditions of use;

(iii) if the drug has not been previously marketed in the United States as a nonprescription drug, information sufficient for a final determination that the drug was marketed and safely used by consumers in the United States under comparable conditions of use, including, but not limited to, the special needs of pediatric populations, including children.

(E) RULE OF APPLICATION.—Except in the case of a request described in section 586(9), as in effect on January 1, 2017, if the Secretary refuses to file a request under this paragraph, the requestor may not file such request over protest under paragraph (5)(A)(ii).

(F) FINAL AND TENTATIVE FINAL MONOGRAPHS FOR CATEGORY I DRUGS DEEMED FINAL ADMINISTRATIVE ORDERS.—

(A) IN GENERAL.—A final monograph or tentative final monograph described in subparagraph (B) shall be deemed to be a final administrative order under this subsection and may be amended, revoked, or otherwise modified in accordance with the procedures of this subsection.

(B) MONOGRAPHS DESCRIBED.—For purposes of subparagraph (A), a final monograph or tentative final monograph is described in this subparagraph if it—

(i) establishes conditions of use for a drug described in paragraph (1) or (2) of subsection (a); and

(ii) may so inform the sponsor of the drug a drug, under conditions of use comparable to those in the United States as a nonprescription drug under comparable conditions of use, including, but not limited to, the special needs of pediatric populations, including children.

(C) DEEMED ORDERS INCLUDE HARMONIZING TECHNICAL AMENDMENTS.—The deemed establishment of a final administrative order under subparagraph (A) shall be construed to include any technical amendments to such order as the Secretary determines necessary to ensure that such order is appropriately harmonized, in terms of terminology or other exposure to the active ingredient to a suitable reference product.

(1) IN GENERAL.—Subject to paragraph (2), any information, including reports of testing conducted on the drug or drugs involved, that is submitted by a requestor in connection with proceedings on an order under this section (including any minor change under subsection (c)) and is not confidential or confidential information subject to section 552(b)(4) of title 5, United States Code, or section 1905 of title 18, United States Code, shall not be disclosed to the public unless the requestor consents to that disclosure.

(2) PUBLIC AVAILABILITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall—

(i) make any information submitted by a requestor in support of a request submitted under subsection (b)(5)(A) available to the public not later than the date on which the proposed order is issued; and

(ii) make any information submitted by any other person with respect to an order relating to such a minor change under section 704(a)(4), within 15 business days of receiving such a request, or such longer period as the Secretary may determine.

(B) INSUFFICIENT INFORMATION.—If the Secretary determines that the information contained in such records is not sufficient to ensure that such order is appropriately harmonized with other orders issued under this Act (and regulations thereunder) and any other orders issued under this section (including any minor change under subsection (c) and is not confidential or confidential information subject to section 552(b)(4) of title 5, United States Code, or section 1905 of title 18, United States Code, shall not be disclosed to the public unless the requestor consents to that disclosure.
(B) LIMITATIONS ON PUBLIC AVAILABILITY.—Information described in subparagraph (A) shall not be made public if—

(i) the information pertains to pharmacuetical or biopharmaceutical products, or

(ii) the information is submitted with respect to an order subject to subsection (b) or with respect to an order under subsection (b) of another nonprescription drug, or

(iii) the Secretary requests and obtains the information under subsection (c) and such information is submitted with respect to an order under subsection (b) or with respect to an order subject to subsection (b) of another nonprescription drug, or

(iv) the information is of the type contained in raw data.

(e) UPDATES TO DRUG LISTING INFORMATION.—A sponsor who makes a change to a drug subject to this section shall submit updated information, in accordance with this section 506(j) within 30 calendar days of the date when the drug is first commercially marketed, except that a sponsor may request withdrawal of such information with respect to an order subject to subsection (b)(5)(C) (or a licensee, assignee, or successor in interest of such sponsor) shall submit updated information under subsection (b) before the date when the drug is first commercially marketed.

(f) REQUIREMENTS UNDER SECTION 505.—The provisions of this section shall not be construed to preclude a person from seeking or maintaining the approval for an application for a drug under sections 505(b)(1), 505(b)(2), and 505(j). A determination under this section that a drug is not subject to section 506(b)(1), is generally recognized as safe and effective.

(g) GENERAL.—The Secretary shall establish, maintain, and update, as determined necessary by the Secretary, guidelines for pre-approval or pre-marketing review, including the submission of information, in a repository of each final order and in other publications, and shall provide information to the public.

(h) DEVELOPMENT ADVICE TO SPONSORS OR REQUESTORS.—The Secretary shall establish procedures for providing advice to sponsors or requestors for drugs subject to this section; and other information necessary to ensure that the data and information submitted under this section and other matters relevant to the regulation of nonprescription drugs and the development of new nonprescription drugs under this section.

(i) PARTICIPATION OF MULTIPLE SPONSORS OR REQUESTORS.—The Secretary shall establish procedures for facilitating the participation by multiple sponsors or requestors in proceedings under this section, including provision for joint meetings with multiple sponsors or requestors and for designations of representatives for the purpose of representing the interests of a proceeding.

(j) ELECTRONIC FORMAT.—All submissions under this section shall be in electronic format.

(k) EFFECT ON EXISTING REGULATIONS GOVERNING NONPRESCRIPTION DRUGS.—

(1) REGULATIONS OF GENERAL APPLICABILITY TO NONPRESCRIPTION DRUGS.—Except as provided in paragraph (k)(2), nothing in this section supersedes regulations establishing general requirements for nonprescription drugs, including regulations of general applicability contained in parts 200, 201, 202, 203, and 230 of title 21, Code of Federal Regulations, or any successor regulations. The Secretary shall establish or modify such regulations in accordance with section 533 of title 5, United States Code.

(2) REGULATIONS ESTABLISHING REQUIREMENTS FOR SPECIFIC NONPRESCRIPTION DRUGS.—

(A) The provisions of section 310.545 of title 21, Code of Federal Regulations, as in effect on the day before the date of the enactment of this section, shall be a final order under subsection (b).

(B) Regulations in effect on the day before the date of the enactment of this section, adopting requirements for specific nonprescription drugs marketed pursuant to section 310.545 (or requirements for drugs parts 201 and 250 of title 21, Code of Federal Regulations), shall be deemed to be final orders under subsection (b), only as they apply to drugs.

(1) subject to paragraph (1), (2), (3), or (4) of subsection (a); or

(ii) otherwise subject to an order under this section.

(3) WITHDRAWAL OF REGULATIONS.—The Secretary shall withdraw regulations establishing final monographs and the procedures governing the over-the-counter drug review under part 330 and other relevant parts of title 21, Code of Federal Regulations (as in effect on the day before the date of the enactment of this section), or make technical changes to such regulations to ensure conformity with appropriate terminology and cross-references. Notwithstanding subsection (b) of chapter 5 of title 5, United States Code, any such withdrawal or technical changes shall be made without public notice and comment and shall be effective on the date they are made in the Federal Register (or upon such date as specified in such notice).

(l) GUIDANCE.—The Secretary shall issue guidance that specifies—

(1) the procedures and principles for formal meetings between the Secretary and sponsors or requestors for drugs subject to this section;

(2) the format of electronic submissions to the Secretary under this section;

(3) the format of electronic submissions to the Secretary under this section;

(4) consolidated proceedings for appeal and the procedures for such proceedings where appropriate;

(5) for minor changes in drugs, recommendations on how to comply with the requirements in orders issued under paragraph (c)(3) of section 506;

(m) RULE OF CONSTRUCTION.—

(1) IN GENERAL.—This section shall not affect the treatment or status of a nonprescription drug—

(A) that is marketed without an application approved under section 505 as of the date of the enactment of this section;

(B) that is not subject to an order issued under this section; and

(C) to which paragraphs (1), (2), (3), (4), or (5) of subsection (a) do not apply.

(2) TIME LIMITS.—The time limit previously found to be subject to time and extent requirements.

(A) Notwithstanding subsection (a), a drug described in subparagraph (B) may only be lawfully marketed, without an application approved under section 505, pursuant to an order issued under this section.

(B) A drug described in this subparagraph is a drug which, prior to the date of the enactment of this section, the Secretary determined the regulatory or enforcement action to be inappropriate for review under the OTC drug review (as such phrase ‘OTC drug review’ was used in section 330.14 of title 21, Code of Federal Regulations, as added by subsection (a), and section 586C of such Act (21 U.S.C. 360ff-3), the impact of such exclusivity on consumer access. Such study shall include—

(i) an analysis of the impact of exclusivity under section 505G for nonprescription drug products, including—

(A) the number of nonprescription drug products that were granted exclusivity and the indication for which the nonprescription drug products were determined to be generally recognized as safe and effective;

(B) whether the use of such drug products was granted for—

(1) a new active ingredient (including any ester or salt of the active ingredient); or

(2) whether the use of a drug, for which new human data studies conducted or sponsored by the sponsor were essential;

(3) whether, and to what extent, the exclusivity impacted the requestor’s or sponsor’s decision to develop the drug product;
(D) an analysis of the implementation of the exclusivity provision in section 505G, including—
(1) the resources used by the Food and Drug Administration;
(2) the impact of such provision on innovation, as well as research and development in the nonprescription drug market;
(3) the impact of such provision on competition in the nonprescription drug market;
(iv) the impact of such provision on consumer access to nonprescription drug products;
(v) the impact of such provision on the prices of nonprescription drug products; and
(vi) whether the administrative orders initiated by requestors under section 505G have been sufficient incentive to encourage development of nonprescription drug products that otherwise could not be otherwise developed, or developed in as timely a manner; and
(E) whether the administrative orders initiated by requestors under such section 505G have been sufficient incentive to encourage innovation in the nonprescription drug market; and
(2) an analysis of the impact of exclusivity under such section 586C for sunscreen ingredients, including—
(A) the number of sunscreen ingredients that were granted exclusivity and the specific ingredient that was determined to be generally recognized as safe and effective;
(B) whether, and to what extent, the exclusivity granted to such sunscreen ingredients has been utilized by sunscreen ingredient manufacturers; and
(C) whether, and to what extent, the sunscreen ingredient granted exclusivity had previously been available outside of the United States;
(D) an analysis of the implementation of the exclusivity provision in such section 586C, including—
(i) the resources used by the Food and Drug Administration;
(ii) the impact of such provision on competition in the sunscreen market; and
(iii) the impact of such provision on consumer access to sunscreen products; and
(v) the impact of such provision on the prices of sunscreen products; and
(vi) whether the administrative orders initiated by requestors under such section 505G have been utilized by sunscreen ingredient manufacturers to reduce the cost of developing sunscreen ingredients that were likely not be otherwise developed, or developed in as timely a manner; and
(E) whether the administrative orders initiated by requestors under such section 505G have been sufficient incentive to encourage innovation in the sunscreen market;
(c) CONFORMING AMENDMENT.—Section 751(d)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379(d)(1)) is amended—
(1) in the matter preceding subparagraph (A)—
(B) by striking “and” and misbranded” and inserting “and”; and
(2) in subparagraph (A), by striking “regulation or order in effect”.
SEC. 372. MISBRANDING.
Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) is amended by adding at the end the following:
“(f) If it is a drug and it was manufactured, prepared, propagated, compounded, or processed in a facility for which fees have not been paid as required by section 744M.”.
SEC. 373. DRUGS EXCLUDED FROM THE OVER-THE-COUNTER DRUG REVIEW.
(a) IN GENERAL.—Nothing in this Act (or the amendments made by this Act) shall apply to any nonprescription drug (as defined in section 301 of the Federal Food, Drug, and Cosmetic Act, as added by section 1001 of this Act) which was excluded from the nonprescription drug market.
(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preclude or limit the applicability of any other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).
SEC. 374. TREATMENT OF SUNSCREEN INNOVATION.
(a) REVIEW OF NONPRESCRIPTION SUNSCREEN ACTIVE INGREDIENTS.—
(1) IN GENERAL.—A sponsor of a nonprescription sunscreen active ingredient or combination of nonprescription sunscreen active ingredients to which the exclusivity provision of this Act, is subject to a proposed sunscreen order under section 586C of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360fff–3) may elect, by means of giving written notification to the Secretary of Health and Human Services within 180 calendar days of the enactment of this Act, to transition into the review of such ingredient or combination of ingredients pursuant to the process set out in section 505G of the Federal Food, Drug, and Cosmetic Act, as added by section 1001 of this Act.
(B) ELECTION EXERCISED.—Upon receipt by the Secretary of Health and Human Services of a timely notification under subparagraph (A)—
(i) the proposed sunscreen order involved is deemed to be a request for an order under subparagraph (b) of section 505G of the Federal Food, Drug, and Cosmetic Act, as added by section 1001 of this Act; and
(ii) such order is deemed to have been accepted for filing under subparagraph (b)(6)(A)(i) of such section; and
(C) ELECTION NOT EXERCISED.—If a notification under subparagraph (A) is not received by the Secretary of Health and Human Services within 180 calendar days of the date of enactment of this Act, the review of the proposed sunscreen order described in subparagraph (A)—
(i) shall continue under section 586C of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360fff–3); and
(ii) shall not be eligible for review under section 505G, added by section 1001 of this Act.
(b) DEFINITIONS.—In this subsection, the terms “sponsor”, “nonprescription”, “sunscreen active ingredient”, and “proposed sunscreen order” have the meanings given to those terms in section 586 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360fff–3).
(2) AMENDMENTS TO SUNSCREEN PROVISIONS.—
(1) FINAL SUNSCREEN ORDERS.—Paragraph (3) of section 586G of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360fff–3(e)) is amended to read as follows:
“(3) RELATIONSHIP TO ORDERS UNDER SECTION 502F.—A sunscreen order (other than an order that is deemed to be a final order under section 505G).”.
(2) MEETINGS.—Paragraph (7) of section 586C(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360fff–3(b)) is amended—
(A) by striking “A sponsor may request” and inserting the following:
“A sponsor may request”;
and
(B) by adding at the end the following:
“(C) ELECTION NOT EXERCISED.—If the Secretary determines that such additional confidential meeting is not reasonably necessary for the sponsor to advance its proposed sunscreen ingredient or combination of ingredients, or if the request for such additional confidential meeting fails to include sufficient information upon which to base a substantive discussion, the Secretary shall publish a post- market announcement in the Federal Register under this subparagraph that does not disclose confidential commercial information or trade secrets. This subparagraph does not authorize the disclosure of confidential commercial information or trade secrets subject to section 522(b)(4) of title 5, United States Code, or section 1905 of title 18, United States Code.”.
(3) EXCLUSIVITY.—Section 586C of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360fff–3) is amended by adding at the end the following:
“(D) EXCLUSIVITY.—
(1) IN GENERAL.—A final sunscreen order shall have the effect of authorizing solely the order requestor (or the licensees, assignees, or successors in interest of such requestor with respect to the subject of such request and listed under paragraph (5)) for a period of 18 months, to market a new sunscreen ingredient under this section incorporating changes described in paragraph (2) subject to the limitations under paragraph (4), beginning on the date the requestor, licensees, assignees, or successors in interest of such requestor with respect to the subject of such request and listed under paragraph (5) may request one or more confidential meetings pursuant to the order.
(2) CHANGES DESCRIBED.—A change described in this paragraph is a change subject to an order specified in paragraph (1) that permits a sunscreen to contain an active sunscreen ingredient not previously incorporated in a marketed sunscreen listed in paragraph (3).
(3) MARKETED SUNSCREEN.—The marketed sunscreen ingredients described in this paragraph are sunscreen ingredients—
(B) marketed in accordance with a final order issued under this section.
(4) LIMITATIONS ON EXCLUSIVITY.—Only one 18-month period may be granted per ingredient under paragraph (1).
(5) LISTING OF LICENSEES, ASSIGNEES, OR SUCCESSORS IN INTEREST.—Requestors shall include the names of all licensees, assignees, or successors in interest of the sunscreen drug subject to such request is introduced or delivered for introduction into interstate commerce.

December 12, 2019
commerce, a list of licensees, assignees, or successors in interest under paragraph (1)

(4) SUNSET PROVISION.—Subchapter I of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360ff et seq.) is amended by adding at the end the following:

"SEC. 588H. SUNSET.

"This subchapter shall cease to be effective at the end of fiscal year 2022.


(c) TREATMENT OF AUTHORITY REGARDING FINALIZATION OF SUNSCREEN MONOGRAPH.—

(1) IN GENERAL.—

(A) REVISION OF FINAL SUNSCREEN ORDER.—Not later than November 26, 2019, the Secretary of Health and Human Services (referred to in this subsection as the "Secretary") shall amend and revise the final administrative order concerning nonprescription sunscreen (referred to in this subsection as the "sunscreen order") for which the consent, prior to the date of enactment of this Act, was represented by the final monograph for sunscreen drug products set forth in part 352 of title 21, Code of Federal Regulations (as in effect on May 21, 1999).

(B) ISSUANCE OF REVISED SUNSCREEN ORDER; EFFECTIVE DATE.—A revised sunscreen order described in subparagraph (A) shall be—

(i) issued in accordance with the procedures described in section 505G(c)(2) of the Federal Food, Drug, and Cosmetic Act;

(ii) issued in proposed form not later than May 26, 2019; and

(iii) effective not later than November 26, 2020; and

(iv) issued by the Secretary at least 1 year prior to the effective date of the revised order.

(C) Duration of Authority.—The requirement under paragraph (1) of the date of a letter submitted by the Secretary of Health and Human Services pursuant to subsection (a) of which the Secretary indicates that the Food and Drug Administration has completed its evaluation and revised, in a final order, as applicable, the sunscreen order as described in subsection (a)(2).

SEC. 376. TECHNICAL CORRECTIONS.

(a) IMPORTS AND EXPORTS.—Section 801(e)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(e)(4)(E)) is amended by striking "subparagraph" each phrase such term appears and inserting "paragraph".

(b) FDA REAUTHORIZATION ACT OF 2017.—

(1) IN GENERAL.—Section 905(b)(4) of the Reauthorization Act of 2017 (Public Law 115-52) is amended by striking "Section 743H(2)(B)" and inserting "Section 743H(2)(B)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as of the date of enactment of the FDA Reauthorization Act of 2017 (Public Law 115-52).

PART 2—USER FEES

SEC. 381. SHORT TITLE.—This part may be cited as the “Over-the-Counter Monograph User Fee Act of 2019”.

(a) FINDING.—The Congress finds that the fees authorized by the amendments made in this part will be dedicated to OTC monograph drug activities, as set forth in the goals identified for purposes of part 19 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Energy and Commerce of the House of Representatives, as set forth in the Congressional Record.

(b) DEFINITIONS.—In this part—

"(A) one business entity controls, or has the power to control, the other business entity; or

"(B) a third party controls, or has the power to control, both of the business entities.

"(2) The term ‘contract manufacturing organization facility’ means an OTC monograph drug facility where neither the owner nor any affiliate of such owner or facility sells the OTC monograph drug produced at such facility directly to wholesalers, retailers, or consumers in the United States.

"(3) The term ‘costs of resources allocated for OTC monograph drug activities’ means the expenses in connection with OTC monograph drug activities for—

(A) officers and employees of the Food and Drug Administration, contractors of the Food and Drug Administration, advisory committees, and costs related to such officers, employees, and committees and costs related to contracts with such contractors;

"(B) management of information, and the acquisition, maintenance, and repair of computer resources;

"(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies; and

"(D) collecting fees under section 744M and assessment fees allocated for OTC monograph drug activities.

"(4) The term ‘FDA establishment identifier’ is the unique number automatically generated by Food and Drug Administration’s Field Accomplishments and Compliance Tracking System (FACTS) (or any successor system).

"(5) The term ‘OTC monograph drug’ means a nonprescription drug without an approved new drug application which is governed by the provisions of section 505G.

"(6) The term ‘OTC monograph drug activities’ means activities of the Secretary associated with OTC monograph drugs and inspection of facilities associated with such products, including the following activities.

"(A) The activities necessary for review and evaluation of OTC monographs and OTC monograph order requests, including—

(i) orders requesting or finalizing applicable conditions of use for OTC monograph drugs;

(ii) orders affecting status regarding generic extension of patent or effectiveness of an OTC monograph ingredient or combination of ingredients under specified conditions of use;

(iii) all OTC monograph drug development and review activities, including intra-agency collaboration;

(iv) regulation and policy development activities related to OTC monograph drug activities.

"(B) officers and employees of the Food and Drug Administration, contractors of the Food and Drug Administration, advisory committees, and costs related to such officers, employees, and committees and costs related to contracts with such contractors;
"(iii) developing and using improved analytical tools to assess potential safety risks, including access to external databases.

"(E) Other activities necessary for implementation in an OTC monograph drug facility.

"(7) The term ‘OTC monograph order request’ means a request for an order submit- ment under section 505G(b)(5)."
"(2) Subsequent fiscal years.—For each of the fiscal years 2020 through 2023, fees under subsection (a)(1) shall be established to generate a total facility fee revenue amount of—

"(A) the annual base revenue for the fiscal year (as determined under paragraph (3));

"(B) the dollar amount equal to the inflation adjustment for the fiscal year (as determined under subsection (c)(1)); and

"(C) the dollar amount equal to the operating reserve adjustment for the fiscal year, if applicable (as determined under subsection (c)(2));

"(D) additional direct cost adjustments (as determined under subsection (c)(3)); and

"(E) additional dollar amounts for each fiscal year as follows:

"(i) $7,000,000 for fiscal year 2020;

"(ii) $7,000,000 for fiscal year 2021;

"(iii) $7,000,000 for fiscal year 2022;

"(iv) $3,000,000 for fiscal year 2023.

(3) Annual base revenue.—For purposes of paragraphs (1)(A) and (2)(A), the dollar amount of the annual base revenue for a fiscal year shall be—

"(A) for fiscal year 2019, $8,000,000; and

"(B) for fiscal year 2020 through 2023, the dollar amount of the total revenue amount established under this subsection for the previous fiscal year, not including any adjustments under paragraphs (1) and (2), multiplied by the proportion of personnel compensation and benefits paid with respect to such positions for the first 3 years of the preceding 4 years of available data; and

"(C) for each of fiscal years 2022 and 2023, the sum of—

"(i) the average annual percent change in the cost, per full-time equivalent position of the Federal Administration, in personnel compensation and benefits paid with respect to such positions for the first 3 years of the preceding 4 fiscal years, multiplied by the proportion of personnel compensation and benefits costs to total costs of OTC monograph drug activities for the first 3 years of the preceding 4 fiscal years; and

"(ii) the average annual percent change that occurred in the Consumer Price Index for urban consumers (Washington-Baltimore, DC-MD-VA-WV; Not Seasonally Adjusted; All items; Annual Index) for the first 3 years of the preceding 4 years of available data; and

"(C) COMPLIANCE.—The Secretary shall be considered to have met the requirements of subparagraph (B) in any fiscal year if the costs funded by appropriations and allocated for OTC monograph drug activities are not more than 15 percent below the level specified in such subparagraph.

(4) Annual fee setting.—

"(A) Fiscal year 2019.—The Secretary shall not later than the second Monday in March of 2019—

"(i) establish OTC monograph drug facility fees for fiscal year 2019 under subsection (a), based on the revenue amount for such year under subsection (b) and the adjustments provided under this subsection;

"(ii) publish fee revenue, facility fees, and OTC monograph order requests in the Federal Register.

"(B) Subsequent fiscal years.—The Secretary shall not later than the second Monday in March of each fiscal year that begins after September 30, 2019—

"(i) establish for each such fiscal year, based on the revenue amounts under subsection (b) and the adjustments provided under this subsection—

"(I) OTC monograph drug facility fees under subsection (a)(1); and

"(II) OTC monograph order request fees under subsection (a)(2); and

"(iii) publish such fee revenue amounts, facility fees, and OTC monograph order request fees in the Federal Register.

"(D) Provision for early payments in subsequent fiscal years.—In any case where the Secretary does not receive payment of a fee assessed under subsection (a) within 30 calendar days after the due date for such fee, the costs funded by appropriations and allocated for OTC monograph drug activities are not more than 15 percent below the level specified in such subparagraph.

(5) Authorization of appropriations.—For each of the fiscal years 2019 through 2023, there is authorized to be appropriated for fees under this section an amount equal to the total amount of fees assessed for such fiscal year under this section.

(6) Collection of unpaid fees.—In any case where the Secretary does not receive payment of a fee assessed under subsection (a) within 20 calendar days after the due date for such fee, the costs funded by appropriations and allocated for OTC monograph drug activities are not more than 25 percent below the level specified in such subparagraph.

(7) Identification of facilities.—The Secretary shall be deemed misbranded under section 502(f) if any drug facility manufactured in such a facility is not marked with the name of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

(8) Construction.—This section may not be construed to require that the number of

(9) Application of penalties.—All OTC monograph drugs manufactured in such a facility or containing an ingredient manufactured in such a facility are subject to the penalties deemed necessary under section 305(c).
full-time equivalent positions in the Department of Health and Human Services, for officers, employees, and advisory committees not engaged in OTC monograph drug activities, but not to exceed the number of officers, employees, and advisory committees so engaged.

**SEC. 744N. REAUTHORIZATION; REPORTING REQUIREMENTS.**

(a) Performance Report.—Beginning with fiscal year 2019, and not later than 120 calendar days after the end of each fiscal year thereafter for which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 2001(b) of the Over-the-Counter Monograph Safety, Innovation, and Reform Act of 2019 during such fiscal year and the future plans of the Food and Drug Administration for meeting such goals.

(b) Fiscal Report.—Not later than 120 calendar days after the end of fiscal year 2019 and each subsequent fiscal year for which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 2001(b) of the Over-the-Counter Monograph Safety, Innovation, and Reform Act of 2019.

(c) Public Availability.—The Secretary shall—

(A) make the reports required under sub-paragraphs (a) and (b) available to the public on the website of the Food and Drug Administration;

(B) publish in the Federal Register, for OTC monograph drug activities for the first 5 fiscal years after fiscal year 2023, and for the reauthorization of this part for such fiscal years, the Secretary shall consult with—

(A) the Committee on Energy and Commerce of the House of Representatives;

(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

(C) scientific and academic experts;

(D) health care professionals;

(E) representatives of patient and consumer advocacy groups; and

(F) the regulated industry.

(d) Reauthorization.—After negotiations with the regulated industry, the Secretary shall—

(A) establish the recommendations developed under paragraph (1) to the congressional committees specified in such paragraph;

(B) publish such recommendations in the Federal Register;

(C) provide for a period of 30 calendar days for the public to provide written comments on such recommendations; and

(D) hold a meeting at which the public may present its views on such recommendations; and

(E) after consideration of such public views and comments, revise such recommendations as necessary.

**3. Transmission of Recommendations.—** Not later than January 15, 2023, the Secretary shall transmit to the Congress the revised recommendations under paragraph (2), a summary of the views and comments received on such paragraph, and any changes made to the recommendations in response to such views and comments.

**Subtitle I—Other Provisions**

**SEC. 391. PROTECTING ACCESS TO BIOLOGICAL PRODUCTS.**

Section 351(k)(7) of the Public Health Service Act (42 U.S.C. 262(k)(7)) is amended by adding at the end the following:

(9) DEEMED LICENSES.—

(1) No additional exclusivity through deeming is granted upon any exempt salt of the active ingredient that is deemed to be a license for a biological product under this section pursuant to section 702(e)(4) of the Biologies Price Competition and Innovation Act of 2009 shall not be treat ed as having been first licensed under subsection (a) for purposes of subparagraphs (A) and (B).

(ii) APPLICATION OF LIMITATIONS ON EXCLUSIVITY.—Subparagraph (C) shall apply with respect to a reference product referred to in such subparagraph that was the subject of an approved application that was deemed to be a license pursuant to section 702(e)(4) of the Biologies Price Competition and Innovation Act of 2009.

**SEC. 392. ORPHAN DRUG CLARIFICATION.**

Section 528A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc(c)) is amended by adding at the end the following:

(3) APPLICABILITY.—The exclusivity periods described in section 527, section 505A(b)(1)(A)(ii), and section 505A(c)(1)(A)(ii) of the Federal Food, Drug, and Cosmetic Act shall not be treated as having been first licensed under an approved application for the biological product deemed to be a license for the biological product under subsection (a) unless paragraph (2) is in effect.

**SEC. 393. CONDITIONS OF USE FOR BIOSIMILAR BIOLOGICAL PRODUCTS.**

Section 351(k)(2)(A)(iii) of the Public Health Service Act (42 U.S.C. 262(k)(2)(A)(iii)) is amended by adding at the end the following:

(7) in section 505 (21 U.S.C. 355)—

(f) CONFORMING AMENDMENTS.—

(1) in section 505 (21 U.S.C. 355)—

(2) in section 512(c)(2)(F) (21 U.S.C. 351(k)(2)(A)(ii) is amended by adding at the end the following:

(3) APPLICABILITY.—The exclusivity periods described in section 527, section 505A(b)(1)(A)(ii), and section 505A(c)(1)(A)(ii) of the Federal Food, Drug, and Cosmetic Act shall not be treated as having been first licensed under an approved application for the biological product deemed to be a license for the biological product under subsection (a) unless paragraph (2) is in effect.

**SEC. 394. CLARIFYING THE MEANING OF NEW CHEMICAL ENTITY.**

Chapter V of the Federal Food, Drug, and Cosmetic Act is amended—

(1) in section 355 (21 U.S.C. 355)—

(A) in subsection (c)(3)(E),—

(i) in clause (ii), by striking “active ingredient (including any ester or salt of the active ingredient)” and inserting “active moi ety (as defined by the Secretary in section 314.3 of title 21, Code of Federal Regulations (or any successor regulations))”;

(ii) in clause (iii), by striking “active ingredient (including any ester or salt of the active ingredient)” and inserting “active moi ety (as defined by the Secretary in section 314.3 of title 21, Code of Federal Regulations (or any successor regulations))”;

(iii) APPLICABILITY.—Subparagraph (C) shall apply with respect to a reference product referred to in such subparagraph that was the subject of an approved application that was deemed to be a license pursuant to section 702(e)(4) of the Biologies Price Competition and Innovation Act of 2009.

**SEC. 401. PERMANENT EXTENSION OF REDUCTION IN MEDICAL EXPENSE DEDUCTION FLOOR.**

(a) In General.—Section 21(a) of the Internal Revenue Code of 1986 is amended by striking “40 percent” and inserting “7.5 percent”.

(b) Conforming Amendments.—

(1) Section 21 of such Code is amended by striking subparagraph (f).

(2) Section 56(c)(1) of such Code is amended by striking subparagraph (B) and redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E), respectively.
paid for menstrual care products shall be

'For purposes of this subparagraph, amounts

penses incurred after December 31, 2019.

made by subsection (c) shall apply to ex-

SEC. 403. INCLUSION OF CERTAIN OVER-THE-

COUNTER MEDICAL PRODUCTS AS QUALIFIED MEDICAL EXPENSES.

(a) HSA.—Section 223(d)(2)(C) of the Internal Revenue Code of 1986 is amended—

(1) by striking the last sentence of sub-

paragraph (A) and inserting the following: ‘‘For purposes of this subparagraph, amounts paid for menstrual care products shall be treated as paid for medical care.’’; and

(2) by adding at the end the following new

subparagraph:

‘‘(D) Menstrual care product.—For pur-

poses of this paragraph, the term ‘menstrual care product’ means a tampon, pad, liner, cup, sponge, or similar product used by indi-

viduals with respect to menstruation or other genital-tract secretions.’’;

(b) Archer MSAs.—Section 223(d)(2)(A) of such Code is amended by striking the last sentence and inserting the following: ‘‘For purposes of this subparagraph, amounts paid for menstrual care products (as defined in section 223(d)(2)(D)) shall be treated as paid for medical care.’’.

SEC. 404. HEALTH FLEXIBLE SPENDING ARRANGE-
MENTS AND HEALTH REIMBURSEMENT ARRANGEMENTS AND ABUSE.—Beginning January 1, 2021, the

HHS.

PLANS AND MA–PD PLANS TO RE-

SEC. 501. PAYMENT FOR BIOSIMILAR BIOLOGI-

CAL PRODUCTS DURING INITIAL PER-

SEC. 504. ESTABLISHMENT OF PHARMACY QUAL-

ITY MEASURES.

(a) IN GENERAL.—A PDP sponsor that im-

plements incentive payments to a pharmacy or price concessions paid by a pharmacy based on quality measures shall use meas-

ures established or approved by the Sec-

retary under subparagraph (B) with respect to payment for covered part D drugs dis-

persed through such pharmacy.

SEC. 505. IMPROVING COORDINATION BETWEEN THE FOOD AND DRUG ADMINIS-

TRATION AND THE CENTERS FOR MEDICARE & MEDICAID SERVICES.

(a) PUBLIC MEETING.—(A) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services referred to in this section as the ‘‘Secretary’’) shall convene a public meeting for the purposes of discussing and providing input on improvements to coordination be-

tween the Food and Drug Administration and the Centers for Medicare & Medicaid Services in preparing for the availability of novel medical products described in sub-

section (c) on the market in the United States.

(b) Attendees.—The public meeting shall include:

(1) representatives of relevant Federal agencies, including representatives from each of the medical product centers within the Food and Drug Administration and representa-

tives from the coding, coverage, and payment offices within the Centers for Medi-

care & Medicaid Services;

(2) stakeholders with expertise in the re-

search and development of novel medical products, including manufacturers of such products;

(3) representatives of commercial health insurance payers;

(4) stakeholders with expertise in the ad-

ministration and use of novel medical prod-

ucts, including physicians; and

(5) stakeholders representing patients and

with expertise in the utilization of patient experience data in medical product develop-

ment.

(b) Requirement for payment

amount for biosimilar biological products during ini-

tial period.—In the case of a biosimilar bio-

logical product, the payment amount established on or after July 1, 2020, in lieu of applying subparagraph (A) during the initial period described in such subparagraph with respect to the biosimilar biological product, the payment amount established under this section for the biosimilar biological product is the lesser of the following:

‘‘(1) The amount determined under clause

(ii) of such subparagraph for the biosimilar biological product.

(ii) The amount determined under sub-

section (b)(1)(B) for the reference biological product.’’.

SEC. 502. GAO STUDY AND REPORT ON AVERAGE SALES PRICE.

(a) STUDY.—(1) IN GENERAL.—The Comptroller General of the United States (in this section referred to as the ‘‘Comptroller General’’) shall con-

duct a study on spending for applicable drugs under part B of title XVIII of the Social Se-

curity Act.

(2) APPLICABLE DRUGS DEFINED.—In this section, the term ‘‘applicable drugs’’ means drugs and biologicals—

(A) for which reimbursement under such part B is based on the average sales price of the drug or biological; and

(B) that account for the largest percentage of total spending on drugs and biologicals under such part B (as determined by the Comptroller General, but in no case less than 25 drugs or biologicals).

(3) REQUIREMENTS.—The study under para-

graph (1) shall include an analysis of the fol-

lowing:

(A) The extent to which each applicable drug is pay-

ed for under such part B for Medicare bene-

ficiaries; or

(i) i) private payers in the commercial market.

(B) Any change in Medicare spending or

Medicare beneficiary cost-sharing that

would occur if the average sales price of an applicable drug was based solely on pay-

ments by private payers in the commercial market.

(C) The extent to which drug manufactur-

ers provide rebates, discounts, or other price con-

cessions to private payers in the commer-

cial market for applicable drugs, which the

manufacturer includes in its average sales price calculation for—

(i) formulary placement;

(ii) utilization management consider-

ations; or

(iii) other purposes.

(D) Barriers to drug manufacturers pro-

viding such price concessions for applicable drugs.

(E) Other areas determined appropriate by

the Comptroller General.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to Con-

gress a report on the study conducted under sub-

section (a), together with recommenda-

tions for such legislation and administra-

tive action as the Secretary determines appro-

priate.

SEC. 503. REQUIRING PRESCRIPTION DRUG PLANS AND MA–PD PLANS TO RE-

PORT POTENTIAL FRAUD, WASTE, AND ABUSE TO THE SECRETARY OF HHS.

Section 1860D–4 of the Social Security Act (42 U.S.C. 1395w–104(a)) is amended by adding at the end the following new subsection:

‘‘(p) REPORTING POTENTIAL FRAUD, WASTE, AND ABUSE.—Beginning January 1, 2021, the

PDP sponsor of a prescription drug plan shall report to the Secretary, as specified by the Secretary—

(1) any substantiated or suspicious activi-

ties (as defined by the Secretary) with re-

spect to the part D drug that is paid for under this part that it

lates to fraud, waste, and abuse; and

(2) any steps made by the PDP sponsor after identifying such activities to take cor-

rective action.

SEC. 504. ESTABLISHMENT OF PHARMACY QUAL-

ITY MEASURES UNDER MEDICARE PART D.

Section 1860D–4(c) of the Social Security Act (42 U.S.C. 1395w–104(c)) is amended by adding at the end the following new para-

graph:

‘‘(B) APPLICATION OF PHARMACY QUALITY MEASURES.—

(G) IN GENERAL.—A PDP sponsor that im-

plements incentive payments to a pharmacy or price concessions paid by a pharmacy based on quality measures shall use meas-

ures established or approved by the Sec-

retary under subparagraph (B) with respect to payment for covered part D drugs dis-

persed through such pharmacy.

‘‘(B) STANDARD PHARMACY QUALITY MEAS-

URES.—The Secretary shall establish or ap-

prove standard quality measures from a con-

sensus and evidence-driven panel of experts to be used for payments described in subparagraph (A). Such measures shall focus on patient health outcomes and be based on proven criteria measuring pharmacy performance.

‘‘(C) EFFECTIVE DATE.—The requirement under subparagraph (A) shall take effect for plan years beginning on or after January 1, 2021, and shall be based on payments described in subparagraph (A). The Secretary determines there are sufficient measures established or approved under subparagraph (B) to meet the requirement under subparagraph (B).
medical product meets the reasonable and necessary requirements for coverage and payment under title XVIII of the Social Security Act pursuant to section 1862(a)(1)(A) of such Act, or
(v) the availability of information for sponsors of such novel medical products to meet each of those requirements; and
(vi) the absence of information related to significant clinical improvement over existing therapies for patients between the Food and Drug Administration and the Centers for Medicare & Medicaid Services with respect to novel medical products.

(D) Trade Secrets and Confidential Information.—No information discussed as a part of the public meeting under this paragraph shall be construed as authorizing the Secretary to disclose any information that is a trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code.

(2) Improving Transparency of Criteria for Medicare Coverage.—

(A) In General.—Not later than 18 months after the public meeting under paragraph (1), the Secretary shall update the final guidance titled ‘National Coverage Determination for Medicare Services Under Medicare for Novel Medical Products.’ Not later than 12 months after issuing draft guidance under subparagraph (A), the Secretary shall finalize the updated guidance to address any such opportunities.

(b) section 515B of such Act (42 U.S.C. 1395y(v)(1)) by amending at the end the following new paragraph:

(7) PATIENT CONSULTATION IN NATIONAL AND LOCAL COVERAGE DETERMINATIONS.—The Secretary may consult with patients and organizations representing patients making national and local coverage determinations.

SEC. 507. MEDPAC REPORT ON SHIFTING COVERAGE OF CERTAIN MEDICARE PART B DRUGS TO MEDICARE PART D.

(a) Study.—The Medicare Payment Advisory Commission (in this section referred to as the ‘Commission’) shall conduct a study on shifting coverage of certain drugs and biologicals for which payment is currently made under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) to part D, if any, that may be necessary to integrate coverage of such drugs and biologicals into such part B to such part D.

(b) Report.—

(1) In General.—Not later than June 30, 2021, the Commission shall submit to Congress a report containing the results of the study conducted under subsection (a).

(2) Contents.—The report under paragraph (1) shall include information, and recommendations as the Commission deems appropriate, regarding—

(A) a description of challenges in the coding, coverage, and payment processes under the Medicare program for novel medical products;

(2) in subsection (c), by adding at the end the following new paragraph:

SEC. 508. REQUIREMENT THAT DIRECT-TO-CONSUMER ADVERTISEMENTS FOR PRESCRIPTION DRUGS AND BIOLOGICALS INCLUDE TRUTHFUL AND NON-MISLEADING PRICING INFORMATION.

(a) In General.—The Secretary shall require that each direct-to-consumer advertisement for a prescription drug or biological product for which payment is available under title XVIII or XIX includes an appropriate disclosure of truthful and non-misleading pricing information with respect to the drug or product.

(b) Determination by CMS.—The Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall determine the components of the requirement under subsection (a), such as the format, presentation, and content of the price point listing, the price information for disclosure.

SEC. 509. CHIEF PHARMACEUTICAL NEGOTIATOR AT THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

(a) In General.—Section 141 of the Trade Act of 1974 (19 U.S.C. 2171) is amended—

(1) by striking ‘‘Chief Innovation and Intellectual Property Negotiator, Office of the United States Trade Representative.’’ and inserting ‘‘Chief Pharmaceutical Negotiator, Office of the United States Trade Representative.’’ and

(2) by striking ‘‘Chief Innovation and Intellectual Property Negotiator, Office of the United States Trade Representative.’’ and inserting ‘‘Chief Innovation and Intellectual Property Negotiator, Office of the United States Trade Representative.’’

(b) Compensation.—Section 3314 of title 5, United States Code, is amended by striking ‘‘Chief Innovation and Intellectual Property Negotiator, Office of the United States Trade Representative,’’ and inserting the following:

(c) Report Required.—Not later than the date that is one year after the appointment of the first Chief Pharmaceutical Negotiator pursuant to section 141(b) of the Trade Act of 1974, as amended by subsection (a), and annually thereafter, the United States Trade Representative shall submit to the Committee on Ways and Means of the Senate and the Committee on Ways and Means of the House of Representatives a report describing in detail—

(1) actions taken by the United States Trade Representative during the one-year period preceding the submission...
of the report to ensure the protection of United States pharmaceutical products and services; and
(2) other actions taken by the United States Trade Representative to advance United States pharmaceutical products and services.

SEC. 510. WAIVING MEDICARE COINSURANCE FOR COLORECTAL CANCER SCREENING TESTS.

Section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) is amended—
(1) by moving the flush text following paragraph (9) 2 ems to the left; and
(2) by adding at the end of such flush text the following new paragraph and new sub-paragraphs:

(a)商品 or service furnished on or after January 1, 2021, that is a colorectal cancer screening test regardless of the code that is billed for the establishment of a diagnosis as a result of the test, or
(b) other procedure that is furnished in connection with, as a result of, and in the same clinical encounter as the screening test.

The Acting CHAIR. Pursuant to House Resolution 758, the gentleman from Oregon (Mr. WALDEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oregon.

Mr. WALDEN. Mr. Chairman, I yield myself 2 minutes.

I rise in support of the substitute amendment, H.R. 19, the Lower Costs, More Cures Act.

There is a better way, ladies and gentlemen. We can reduce the high costs of drugs. We can improve health and lower long-term costs without stifling innovation and restricting patients’ access to new, lifesaving medications.

H.R. 19, the Lower Costs, More Cures Act, is the bipartisan solution that can be signed into law this year and immediately begin to provide relief to patients and seniors from high prescription costs.

This bill lowers out-of-pocket spending. It protects access to new medicines and cures. It strengthens transparency and accountability and champions competition.

Every single proposal in this substitute is bipartisan, Democrats and Republicans coming together.

First, H.R. 19 encourages innovation of groundbreaking new cures and promotes the introduction of more low-cost generic and biosimilar competition to the marketplace faster, through inclusion of the CREATES Act, which streamlines the regulation of over-the-counter products, stopping the pay-for-delay negotiations and patent system gamesmanship.

These policies unanimously passed the Energy and Commerce Committee earlier this year. They would have unanimously passed on this House floor, had a poison pill not been put in up in the Rules Committee.

H.R. 19 also has a critical provision to make insulin more affordable by requiring insurance companies to cap the costs of insulin for seniors at $30 a month.

H.R. 19 increases transparency and removes uncertainty at the pharmacy counter by requiring insurance compa-
Mr. Chair, I yield back the balance of my time.

Ms. PORTER. Mr. Chairman, the gentleman is correct that there are many provisions in the amendment that do have strong bipartisan support, including, for example, making permanent the medical expense tax deduction.

The problem with the amendment is it doesn’t tackle the fundamental problem, which is reducing drug prices. This amendment fails to solve the main problem of actually lowering drug prices.

This is why Senator GRASSLEY has been a sponsor on the Republican side in the Senate of the kinds of things I have worked on that are included in this bill that would address price gouging, the ability of pharmaceutical companies to raise prices multiple times in a single year. This bill, H.R. 3, would let us capture the taxpayer savings from that.

The GAO found that fewer than one in five new drugs are truly innovative. It is true that we need new cures, new cures for Alzheimer’s, new cures for ALS, but H.R. 3 makes sure not just that we have new cures by increasing science research, but makes sure that those new cures are going to be affordable and can actually get into the hands of Americans.

Mr. Chair, I reserve the balance of my time.

Mr. WALDEN. Mr. Chairman, let me say in response, the CBO also said 38 new cures will never come about. The Council of Economic Advisers says 100 new cures will never come about.

H.R. 3, the underlying bill the majority wants to put into law, actually denies people who are desperately hoping for cures, that innovation.

To answer further your question, there are 138 different Democratic sponsors of the bill that we have put together here.

Mr. WALDEN. H.R. 3 will yield 2 minutes to the gentlewoman from North Carolina (Ms. FOXX).

Ms. FOXX of North Carolina. Mr. Chairman, Democrats are putting policies and priorities that are care over cost and money-saving treatments and, more importantly, people’s lives.

Sadly, workers and families are being left down by Democrats. That is why I am proud to be a sponsor and support H.R. 19, the Lower Costs, More Cures Act. This legislation includes 40 provisions backed by Democrats and Republicans, and it can go to the President’s desk today.

Unlike H.R. 3, which the nonpartisan Congressional Budget Office predicts will result in 38 fewer cures, H.R. 19 protects access to new medicines and cures. It also lowers out-of-pocket spending, strengthens transparency and accountability, and champions competition.

Mr. Chair, the Lower Costs, More Cures Act is policy that acts in the interests of hardworking Americans. I urge my colleagues to support this bipartisan, commonsense amendment.

Ms. PORTER. Mr. Chair, claims that H.R. 3 will only slow research and stop cures are fearmongering.

H.R. 3 makes substantial investment in public research to help create new cures and, most importantly, will make sure that cures actually can help people in their lives.

It is only fair that the government, elected by the taxpayers, and the administration, appointed by elected officials, should get to negotiate drug prices, and it will not come at the expense of innovation.

Mr. Chair, may I inquire as to how much time remains.

The Acting CHAIR. The gentleman has 30 seconds remaining.

Ms. PORTER. Mr. Chair, I look forward to working with my colleagues on both sides of the aisle to continue to come up with ways to support drug innovation and the kind of innovation that is happening in Orange County, the area that I represent.

But we have to tackle the fundamental problem here, which is that pharmaceutical companies are gouging Americans; they are overcharging them; and they are leaving lifesaving drugs out of the hands of the American people each and every day. This amendment does not tackle that fundamental problem.

Today, 9 out of 10 big pharmaceutical companies spend more on marketing, sales, and overhead than they do on research.

I am proud to support the package of H.R. 3 because it will tackle the fundamental problem of permitting price negotiation and making drugs more affordable for Americans.

Mr. Chair, I yield back the balance of my time.

Mr. WALDEN. Mr. Chairman, I yield myself such time as I may consume.

I appreciate the gentlewoman’s comments.

Ours is the only bipartisan bill. Thirty-six different provisions passed out of either the Ways and Means or Energy and Commerce Committee with unanimous, bipartisan support, all these provisions cosponsored by Democrats. Seventeen different bills passed out of the House of Representatives with bipartisan support in here. This is the bipartisan package.

I have always worked across the line and, given those terms in section 1847A(c)(6).

Mr. WALDEN. I pledge to continue to work with my colleagues on the bipartisan package.

The Acting CHAIR. I yield the balance of my time back to the gentleman from Oregon (Mr. WALDEN).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. WALDEN. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 2 of rule X, the Chair, after the proceedings on the amendment offered by the gentleman from Oregon will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. TONKO

The Acting CHAIR. It is now in order to consider amendment No. 2 printed in part B of House Report 116–334. Ms. PORTER. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Add at the end of title VIII the following (and conform the table of contents accordingly):

SEC. 812. ADDITION OF NEW MEASURES BASED ON ACCESS TO BIOSIMILAR BIOLOGICAL PRODUCTS TO THE 5-STAR RATING SYSTEM UNDER MEDICARE ADVANTAGE.

(a) IN GENERAL.—Section 1853(o)(4) of the Social Security Act (42 U.S.C. 1395w–23(o)(4)) is amended by adding at the end the following new subparagraph:

(”E) ADDITION OF NEW MEASURES BASED ON ACCESS TO BIOSIMILAR BIOLOGICAL PRODUCTS.—

(1) IN GENERAL.—For 2021 and subsequent years, the Secretary shall add a new set of measures to the 5-star rating system based on access to biosimilar biological products covered under part B and, in the case of MA–PD plans, such products that are covered part D drugs. Such measures shall assess the impact a plan’s benefit structure may have on enrollees’ utilization of or ability to access biosimilar biological products, including in comparison to the reference biological product, and shall include measures, as applicable, with respect to the following:

(I) COVERAGE.—Assessing whether a biosimilar biological product is on the plan formulary in lieu of or in addition to the reference biological product.

(II) PREFERENCING.—Assessing tier placement or cost-sharing for a biosimilar biological product relative to the reference biological product.

(III) UTILIZATION MANAGEMENT TOOLS.—Assessing whether and how utilization management tools are used with respect to a biosimilar biological product relative to the reference biological product.

(IV) UTILIZATION.—Assessing the percentage of enrollees prescribed the biosimilar biological product with the reference biological product also available.

(II) DEFINITIONS.—In this subparagraph, the terms ‘biosimilar biological product’ and ‘reference biological product’ have the meaning given those terms in section 1847A(c)(6).

(III) PROTECTING PATIENT INTERESTS.—In developing such measures, the Secretary shall ensure that each measure developed to address coverage, preferencing, or utilization management is constructed such that patients retain equal access to appropriate therapeutic options without undue administrative burden.

(b) CLARIFICATION REGARDING APPLICATION TO PRESCRIPTION DRUG PLANS.—To the extent the Secretary of Human Services applies the 5-star rating system under section 1853(o)(4) of the Social Security Act (42 U.S.C. 1395w–23(o)(4)), or a similar system, to prescription drug plans under part D of title XVIII of such Act, the provisions of subparagraph (E) of such section, as
added by subsection (a) of this section, shall apply under the system with respect to such plans in the same manner as such provisions apply to the 5-star rating system under such section.

The Acting CHAIR. Pursuant to House Resolution 758, the gentleman from New York (Mr. Tonko) and a Member opposed each will control 5 minutes.

Mr. Tonko. Mr. Chair, I yield myself as much time as I may consume.

Despite the passage in 2010 of the Biologics Price Competition and Innovation Act through the Affordable Care Act, which created the modern pathway for bringing biosimilar drugs to market, consumers in the United States are still not reaping the cost-saving benefits that a full, mature biosimilars market would provide. As of May, only 19 biosimilars had been approved by the FDA, and many of those that have been approved are not on the market for a number of reasons.

Economics 101 teaches us that, when more competition is introduced into the market, prices come down. We have seen an overwhelming success of the generic pharmaceuticals market here at home, and we are seeing it with biosimilars in other parts of the globe.

In Europe, for example, the introduction of biosimilar competition for Humira led to the brand manufacturer dropping the price by more than 80 percent in some countries.

Unfortunately, here in the United States, biosimilars still face very low market share and utilization, despite the fact they could generate much-needed savings for patients and for taxpayers.

If we want to continue to meaningfully lower drug costs for American patients, Congress, and should no more create a policy environment that is ripe for greater biosimilar adoption.

Mr. WALDEN. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Oregon is recognized for 5 minutes.

Mr. WALDEN. Mr. Chair, I yield myself such time as I may consume.

Mr. Chair, I commend my friend, and he is my friend, Mr. Tonko. He is a very thoughtful legislator, and we have worked together on a lot of different bills.

He offered and withdrew this amendment at full committee markup of H.R. 3, and I continue to extend the offer to sit down and try to work out the differences in the language.

Unfortunately, as it is currently constructed, though, this could have unintended consequences, we believe, including actually increasing drug prices, which none of us wants, which I know is not the gentleman’s goal either. Star ratings to measure the quality of an insurance plan or a specific benefit are used by consumers and the government, but to apply an automatic star rating change to a plan’s coverage of biosimilars could give a manufacturer too much negotiating leverage, and we don’t want to do that. This would shift in the type of quality measure the plans would be rated on and would actually affect the way they would negotiate with manufacturers and, unfortunately, we believe, not necessarily be in the interest of consumers who are in a way paying for consumers in Medicare Advantage.

Mr. WALDEN. Mr. Chair, I yield 3 minutes to the gentleman from Montana (Mr. Gianforte).

Mr. Gianforte. Mr. Chair, I thank the gentleman for yielding, and I appreciate the intent that the gentleman has here with this bill.

The costs of prescription drugs have continued to rise, putting Montanans with critical health issues in jeopardy. I recently heard from a senior in Libby, Montana, with colon cancer. He was diagnosed in 2010, and his disease has bankrupted his family.

He confided that the cancer drug he takes costs $17,000 per month. It is the only drug that works for his cancer, and Medicare only covers $11,000. He is forced to either give up his fight against cancer or pay an extra $6,000 a month for a lifesaving drug. That is an extra $72,000 a year. As he put it: “I find it rather disconcerting that one must sell his home and all his possessions just to survive cancer.”

I agree. This task is to stop. No one should have to end up like my constituent in Libby.

The fact is that we could lower prescription costs while capping seniors’ out-of-pocket costs by the end of 2019. It is also disheartening that Republicans have been working in good faith all year on a bipartisan basis to do just that.

Unfortunately, House Democrats, led by Speaker Nancy Pelosi, are putting partisan politics in front of patients. Her plan would have devastating consequences for Montanans. It will lead to rationing of lifesaving medication, Big Government price fixing, and government bureaucrats between you and your doctor.

The truth is her partisan bill will never move past the House floor. We have heard from Majority Leader McConnell that the Pelosi plan is dead on arrival in the Senate, and it doesn’t have a chance of being signed into law by President Trump.

Unfortunately, as we wait on Democrats to act in a bipartisan way, costs...
continue to rise and hardworking Montanans continue to choose between their needed medication and paying their bills.

On the other hand, Republicans have introduced the Lower Costs, More Cures Act. This is a crucial bill that could be signed into law by the end of 2019. This bill increases transparency, encourages innovation for new drugs and cures, and places a cap on seniors’ out-of-pocket costs.

I have also been working to lower costs and shed light on the true cost of prescription drugs. Last week, I introduced bipartisan legislation to bring much-needed transparency into the practice of middlemen in the pharmaceutical supply chain, called pharmacy benefit managers. My bill increases competition between PBMs and lowers costs for patients. It is truly a win-win.

Waiting any longer to pass bills that lower costs for patients to score political points is unacceptable. Enough is enough. Let’s stop the political theater and get back to work.

Mr. TONKO. Mr. Chair, we have no further speakers on this side, and I am prepared to close.

Mr. Chair, I respect the opinions of Mr. WALDEN. We have worked in a bipartisan fashion on several issues before in Energy and Commerce, but I believe the claim that this would increase costs is simply false. Like the Senate Finance Committee that is moving forward with this proposal on biosimilars, we believe it is a way to lower costs.

To date, the nine biosimilars accessible to patients are at an average discount of 28 percent. It is simply a false claim that a biosimilar would not launch at a lower price.

Certainly, we must do better. We are reminded constantly that we can do better and we must do better. As the namesake of this legislation had constantly implored, Representative Elijah Cummings always knew that we must score for the public. That is why we must pass this amendment.

Mr. Chair, I yield back the balance of my time.

Mr. WALDEN. Mr. Chairman, I understand my friend’s comments. None of us wants to accidentally create a situation where prices go up rather than down, and I know that is not his intent. We have that concern on this side.

Perhaps we can work this out along the way and get to the same place here, because I think we share a similar goal.

Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. Pursuant to House Resolution 758, the gentleman from California (Mr. PETERS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. PETERS. Mr. Chair, I yield myself such time as I may consume.

The Acting CHAIR. The question is on the amendment offered by the gentleman from New York (Mr. TONKO). The Acting CHAIR. The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. PETERS

The Acting CHAIR. It is now in order to consider amendment No. 3 printed in part B of House Report 116–334.

Mr. PETERS, Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 105, line 9, strike “$500,000,000” and insert “$400,000,000.”

At the end of subtitle A of title VII, add the following:

SEC. 703. INNOVATION NETWORK.

Part A of title IV of the Public Health Service Act (42 U.S.C. 231 et seq.), as amended by section 702, is further amended by adding at the end the following:

**SEC. 404P. INNOVATION NETWORK.**

(a) FUNDS.—The Director of NIH shall award grants or contracts to eligible entities to develop, expand, and enhance the commercialization of biomedical products.

(b) ELIGIBLE ENTITY.—In this section, the term ‘eligible entity’ means an entity receiving funding under—

(1) the Small Business Innovation Research program of the National Institutes of Health; or

(2) the Small Business Technology Transfer program of the National Institutes of Health.

(c) USE OF FUNDS.—An eligible entity shall use the funds received through such grant or contract to support—

(1) the Innovation Corps Readiness Pilot program of the National Institutes of Health;

(2) the Innovation Corps program of the National Institutes of Health;

(3) the Commercialization Accelerator program of the National Institutes of Health;

(4) the Commercialization Assistance program of the National Institutes of Health; and

(5) such other programs and activities as the Director of NIH determines to be appropriate, to support the commercialization stage of research, later stage research and development, technology transfer, and commercialization technical assistance.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2021 through 2025, to be available until expended.

The Acting CHAIR. The amendment I offer today will go to the heart of biopharmaceutical innovation, research, and development facility in my district recently launched a one-time gene replacement therapy that essentially halts the progression of a rare and deadly genetic childhood disorder: spinal muscular atrophy. This company is also currently investing in research to cure a genetic form of ALS.

If we aren’t careful, we might put those kinds of breakthrough therapies at risk of never treating a single patient.

From the NIH and academic research institutions to philanthropy and biopharmaceutical industry, there is a flow of capital today in the public and private sectors that supports innovation.

At the risk of oversimplifying, the NIH focuses on basic biomedical science, investigating the underlying mechanisms of disease, while smaller biotech companies supported by institutional investors take the basic science to the preclinical and early-phase stages of drug development.

Drug companies, venture capitalists, later-stage research, fund clinical trials, and invest in startups. These financial backers, like drug companies and venture capitalists, are important because they can help close the funding gap that exists between preclinical research and the early- and late-stage clinical trials.

If H.R. 3 changes investor behavior as some predict, that could widen the gap for smaller biotechs, by the so-called “valley of death.” I think we can all agree that these are consequences we want to avoid.

Securing funding for the high cost of clinical trials is often cited as the key hurdle facing smaller biotech companies at the precipice of the so-called valley of death.

While the biopharmaceutical industry and the Federal Government both fund clinical trials, NIH’s ability to bring drugs to market is constrained by its limited budget and a mandate to carry out its core mission of advancing biomedical research, which is not necessary the same as bringing drugs to market.

Over time, these limitations have resulted in the declining number of NIH-
The biopharma industry is really good at bringing drugs to market because it can afford expensive failures. The Federal Government is really good at research and development because it can ignore constraining signals of the commercial world. We do patients no favors by pitting biopharma against government. And I want to thank Chairman PALLONE and his staff on the Energy and Commerce Committee for working with me to include two priorities of mine in this bill. I establish a pilot program that will award multiyear contracts to public and private entities like research institutions, medical centers, and biotech companies to support phase 2 and phase 3 clinical trials. That pilot program will receive $500 million every year for 5 years. The bill also includes this amendment No. 3 before you today, which is based on my bill, the Innovation and Capital Network Act of 2019. My amendment creates an innovation startup fund at NIH that will support the commercialization stage of research, later-stage research and development, as well as technology, transfer, and workforce development. Specifically, it directs $500 million over 5 years to incentivize incubators, accelerators, and other financial backers to support biotech companies through early- to mid-stage clinical studies.

The two things are mutually reinforcing. NIH is free to do more drug development, and more small to midsize biotech companies can freely follow the science. In other words, these small biotechs can pursue unforeseen opportunities that could lead to a cure for cancer.

Whether you vote for H.R. 3 or not, we must continue to support and strengthen the network of capital that sustains innovation. Mr. Chairman, with that, I yield back the balance of my time.

Mr. WALDEN. Mr. Chair, I am opposed to the amendment and seek time in opposition.

The Acting CHAIR. The gentleman from Oregon is recognized for 5 minutes.

Mr. WALDEN. Mr. Chair, I appreciate my colleague’s amendment on this. And I think it is especially important because it does strike at the heart of the issue and the concerns many of us on this side of the aisle have.

The California Life Sciences Association told us that, if enacted, H.R. 3’s Medicare Part D foreign reference pricing proposal would reduce by 88 percent the number of drugs brought to market by small and emerging companies in California alone due to changed incentives. So they think up to 88 percent of the great innovations and cures they are working on will never come to market. They also think it would eliminate 80,000 biotech R&D jobs nationwide and reduce revenues by $71 billion a year.

So, these are the people, predominantly out in California, that do this every day, that are living in this world of trying to create innovation and new lifesaving drugs. And they are saying, if H.R. 3 was enacted, the drug they are working on would never come to market. These are the small startups.

We have had a lot from others on the floor in the last 24 hours about Big Pharma. Well, let’s talk about Big Pharma here. We are talking about small, little startups, American entrepreneurs. If you think about Silicon Valley in the high-tech world, this is the equivalent in the biotech world.

These are individuals who have an idea and a big brain, and they are coming together to come up with a cure to these diseases like SMA, Alzheimer’s, sickle cell anemia, and things like that that we all struggle with in our communities.

Our fear on this side of the aisle, as Republicans, is we know, based on the facts and the independent analysis of our Congressional Budget Office, based on the Council of Economic Advisers, based on the input of the very people these startups are hiring today in these laboratories across America, where two-thirds of the world’s innovation comes from in this space, that H.R. 3 will significantly reduce new cures coming to market.

Now, we are all for lowering drug prices. I think we would have a unanimous vote on the provisions in our alternative here if we had a fair opportunity to take these one at a time. We are glad we have the opportunity to have the vote. I think, because there are 138 Democrats on the measures that are in what I would call our bipartisan proposal here, that we could get bipartisan support for it. And we could lower drug costs. We could stop the gamesmanship in the system. And we can continue to have more cures in America, not less.

And, let’s face it—I do not believe it is an overstatement to say people will die if we have fewer cures. We know that to be a fact. It is not just a talking point. It is a fact. It is a truth. And in a time when we should rely on more facts, this is one we should think about seriously before we vote on H.R. 3.

That is why, Mr. Chairman, we came up with our proposal. And it is one of really thoughtful proposals, some of which have passed out of committees in the House or in the Senate—bipartisan support for them.

Now, on the Peters amendment itself: It is a laudable amendment. It will not be able to substitute for the destruction, however, of the American biomedical industry under H.R. 3.

The Congressional Budget Office says the effects on the new drug introductions from increased Federal spending under the biotech research would be modest. That is CBO.

I will let our Members vote as they want. Certainly, we all want to do more to invest in our National Institutes of Health.

I have no real objection to the gentleman’s amendment, but the underlying bill eviscerates what he is trying to accomplish here in terms of medical research and breakthrough cures.

Mr. Chairman, with that, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. PETERS). The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. KENNEDY

The Acting CHAIR. It is now in order to consider amendment No. 4 printed in part B of House Report 116–334. Mr. KENNEDY. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment. The text of the amendment is as follows:

In section 1319 of the Social Security Act, as proposed to be added by section 2635.502 of title 5, Code of Federal Regulations, or its preambles:

(1) in subsection (a), strike “the Secretary shall” and insert “subject to subsection (h), the Secretary shall”;

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

“(b) CONFLICT OF INTEREST.—

“(1) IN GENERAL.—In the case the Inspector General of the Department of Health and Human Services determines the Secretary has a conflict, with respect to a matter described in paragraph (2), the individual described in paragraph (3) shall carry out the duties of the Secretary under this part, with respect to a negotiation-eligible drug, that would otherwise be such a conflict.

“(2) MATTER DESCRIBED.—A matter described in this paragraph is—

“(A) a financial interest (as described in section 2635.502 of title 5, Code of Federal Regulations, except for an interest described in subsection (b)(2)(iv) of such section) on the date of the selected drug publication date, with respect the price applicability year (as applicable);

“(B) a personal or business relationship (as described in section 2635.502 of such title) on the date of the selected drug publication date, with respect the price applicability year; and

“(C) employment by a manufacturer of a negotiation-eligible drug during the preceding 10-year period beginning on the date of the selected drug publication date, with respect to each price applicability year; and

“(D) any other matter the General Counsel determines is a conflict.

“(3) INDIVIDUAL DESCRIBED.—An individual described in this paragraph is—

“(A) the highest-ranking officer or employee of the Department of Health and Human Services (as determined by the organizational chart of the Department) that does not have a conflict under this subsection; and

“(B) is nominated by the President and confirmed by the Senate with respect to the position.”;

The Acting CHAIR. Pursuant to House Resolution 758, the gentleman from Massachusetts (Mr. KENNEDY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. KENNEDY. Mr. Chair, I yield myself such time as I may consume.

I want to thank Speaker PELOSI, Chairman PALLONE, Chairman NEAL,
and Chairman Scott for their extraordinary leadership on this legislation and for helping bring this historic reform of our prescription drug system to the floor today.

In the last few years, President Trump has demonstrated how quickly the revolving door between industry lobbyists and high-ranking government officials and offices can spin.

It is a practice that may not have started with this current administration, but it is certainly one that he has perfected. Even after promising to drain the swamp, President Trump has appointed more former industry lobbyists to his cabinet in under 3 years than both Presidents Obama and O’Neill did in their entire time in office.

With those appointments, conflicts of interest run rampant, and corruption has not been hard to find. That is what this amendment attempts to address. It is about good, clean, ethical governance.

If we are going to give the Secretary of Health and Human Services the authority to negotiate drug prices, which we absolutely should, we must ensure that those negotiations cannot be tainted by past business relationships or potential personal financial gain, because it is not fair for a secretary to be put into a position where his or her motives may be questioned. And it is certainly not fair to the public to be forced to question the intentions of that secretary.

Put simply, a secretary who was previously responsible for price increases on insulin and numerous other drugs while working for a Big Pharma company may be inclined to choose profits of that former employer over the patients he now serves. That same secretary may choose to increase those prices higher or negotiate in something other than good faith based on inside prices higher or negotiate in something other than good faith.

Secretary may choose to increase those prices higher or negotiate in something other than good faith based on inside prices higher or negotiate in something other than good faith.

We think, rather than kill cures, you should accelerate it. Because when you look at the ravages to these families and our loved ones, really the costliest drug is the one that we did not get developed. That is what we strongly oppose.

For those reasons, I urge my colleagues to oppose this amendment.

Mr. KENNEDY. Mr. Chairman, how much time remaining?

The Acting CHAIR. The gentleman from Massachusetts has 2 1/2 minutes remaining.

Mr. KENNEDY. Mr. Chair, I yield 1 1/2 minutes to the gentlewoman from Michigan (Mrs. DINGELL.)

Mrs. DINGELL. Mr. Chairman, I thank my colleague, Representative Kennedy, for adding an amendment to this bill that will tighten it even further. I also thank Speaker Pelosi, Chairman Pallone, Chairman Neal, and Chairman Scott for their extraordinary leadership.

There is a reason that we pay nearly four times more for prescription drugs than other industrialized nations. They use negotiation to lower drug prices. We don’t.

Negotiating lower drug prices is a promise that the President, Democrats, and Republicans have made, and the Elijah E. Cummings Lower Drug Costs Now Act makes good to this commitment.

Representative Kennedy’s amendment further strengthens this provision to ensure that the Secretary of Health and Human Services, who is responsible for these negotiations, is free from conflicts of interest. A public office is a public trust, and America’s seniors and patients deserve to have confidence that the Secretary’s interests are aligned with theirs.

That is why this amendment is so important. It puts American people first when negotiating drug prices so that they receive the best deal possible.

I urge my colleagues to support this amendment, which will ensure that the American people, not special interests, are represented in drug price negotiations.

Mr. KENNEDY. Mr. Chairman, I would like to close by stating a couple of things.

First, to my friend, the Chairman from Texas, the intent of this amendment is not directed at any one individual. It is directed at an intent, which I think we do share, to ensure the integrity of a position and an office that is focused on the well-being of every American.

Second, nobody here wants to do anything that is somehow going to hinder anyone’s cure or the potential for a new cure to come to market.

We do, however, have to wrestle with the fact that 26 percent of the patients across this country in need of insulin ration it. We have to reconcile the fact that 55 percent of the counties in this country do not have a single practicing psychiatrist, psychologist, or social worker. We have to wrestle with the fact that one-third of the donations on GoFundMe are for healthcare costs.

The existing system that we have is failing American families day in and day out. They are asking for this for a reason, and we are delivering it. I urge my colleagues to vote for it.

Mr. Chair, I yield back the balance of my time.

Mr. BRADY. Mr. Chairman, let me talk about the underlying bill here.

The existing system that we have is failing American families day in and day out. They are asking for this for a reason, and we are delivering it. I urge my colleagues to vote for it.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Massachusetts (Mr. Kennedy).

The amendment was agreed to.

Amendment No. 5 offered by Mr. O’HALLERAN

The Acting CHAIR. The question is now in order to consider amendment No. 5 printed in part B of House Report 116–334.

Mr. O’HALLERAN. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.
The text of the amendment is as follows:

Add at the end of title VIII the following new section (and conform the table of contents accordingly):

SEC. 812. GRADUATE MEDICAL EDUCATION IMPROVEMENTS IN RURAL AND UNDERSERVED COMMUNITIES.

Part P of title III of the Public Health Service Act (42 U.S.C. 239g et seq.) is amended by adding at the end the following new section:

"SEC. 399V-2. GRADUATE MEDICAL EDUCATION IMPROVEMENTS IN RURAL AND UNDERSERVED COMMUNITIES.

"(a) RURAL AND UNDERSERVED COMMUNITY GME GRANT PROGRAM.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish a grant program under the Department of Health and Human Services to award grants to specified hospitals (as defined in subsection (b)) that have not established an approved medical residency training program (as defined for purposes of section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D))) in order to encourage such hospitals to establish such a program, or to establish an affiliation with a hospital in order to establish such a program in order to host residents under such program.

"(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used by a specified hospital for any initial costs associated with establishing such a program or such an affiliation, including costs associated with faculty development, administration, infrastructure, supplies, and legal and consultant services.

"(c) SPECIFIED HOSPITAL DEFINED.—For purposes of subsection (a), the term 'specified hospital' means a hospital or critical access hospital (as such terms are defined in section 1861 of the Social Security Act (42 U.S.C. 1395x(a))) that—

"(1) is—

"(A) located in a rural area (as defined in section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D))); and

"(B) operated by a rural hospital (as defined in section 1886(d)(8)(E) of such Act (42 U.S.C. 1395ww(d)(8)(E))); and

"(2) is located in a medically underserved area (as defined in section 330a(a) of the Public Health Service Act (42 U.S.C. 254c–14(a)));

"(d) CRITICAL ACCESS HOSPITAL GRANT PROGRAM.—Not later than 1 year after the date of the enactment of this Act, the Secretary, acting through the Administrator of the Health Resources and Services Administration, shall establish a grant program under which the Secretary shall award grants to specified hospitals (as defined in subsection (b)(3)(A)) to establish a critical access hospital (as defined in section 1861 definition of "critical access hospital" (42 U.S.C. 1395ww definition of critical access hospital)) for the purposes of making grants under this section for each of fiscal years 2020 through 2025.

The Acting CHAIR. Pursuant to House Resolution 758, the gentleman from Arizona (O'HALLEAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. O'HALLEAN. Mr. Chairman, today, I rise in support of my amendment to H.R. 3, the Elijah E. Cummings Lower Drug Costs Now Act.

I would first like to thank Chairman PALLONE and Chairman NEAL for committing to work with me on this amendment and the committee staff for their efforts as well.

I am proud to represent Arizona's First Congressional District. Our district is larger than the State of Illinois and is one of the most rural in the country.

This year, I have held 26 townhalls across the vast district. At each and every one, I heard from rural residents struggling to access quality healthcare close to home. That is why I introduced my amendment.

My amendment would reward grants to hospitals in rural and medically underserved areas so these hospitals are able to establish a graduate medical education program or partner with an approved hospital to host residents.

According to the Congressional Research Service, more than half of family medicine physicians reside within 100 miles of where they trained as residents. My amendment will incentivize doctors to stay in practice in our rural communities by providing opportunities to bring medical students to rural areas to care for patients in these hospitals who are not reimbursed for hosting graduate medical education programs until they are fully established.

The grants awarded under my amendment would cover associated startup costs for hospitals, including necessary infrastructure, equipment, and fees.

My amendment also requires the nonpartisan Government Accountability Office to issue a report on the success of the changes that this education will implement, including analysis of whether residents stayed in the rural communities where they trained. According to the Association of American Medical Colleges, our country will suffer a shortage of over 120,000 physicians by the year 2032. We are already losing physicians across rural America, and rural areas will be hit especially hard.

I am offering my amendment today to mitigate the effects that those seeking care in rural areas will experience.

As we move forward with H.R. 3, we must not leave our rural communities on the back burner. Our rural communities will not be able to access their medications in the first place if they cannot access providers.

My amendment takes an all-of-the-approach to improving rural healthcare by expanding and revamping the ways we recruit qualified medical professionals in the area where we need them most. I reserve the balance of my time.

Mr. BRADY, Mr. Chairman, I claim the time in opposition to the amendment.

The Acting Chair. The gentleman from Arizona is recognized for 5 minutes.

Mr. BRADY. Mr. Chair, this amendment requires the Secretary of Health and Human Services to award grants to hospitals, including critical access hospitals, located in rural or medically underserved areas to establish and improve medical residency training programs. The goals in this amendment are laudable.

But like so much around here, bipartisan work in this area has been stymied because of impeachment. The rush to impeach has created a toxic atmosphere and prevented parties from working on the people's business, creating a constitutional crisis for purely political reasons.

It is a nice change to hear this discussion because earlier this year, we offered in the Ways and Means Committee an amendment to reallocate these GME slots exactly to these rural areas that are underserved.

Unfortunately, those amendments were rejected on a largely partisan basis. I wish the gentleman from Arizona would have been with us that day because almost all Democrats voted no.

Mr. Chairman, the time to issue a real report on these issues is now. This amendment provides more Medicare-funded payments to hospitals for these GME slots but without making any immediate reforms that everyone knows need to happen. An Institute of Medicine report called for innovative approaches to improve the match between available physicians and the rural workforce that we need and national healthcare needs.

December 12, 2019
CONGRESSIONAL RECORD — HOUSE
H10207
Just last week, the Journal of American Medical Association Internal Medicine published a study and found Medicare is overpaying for GME and that this wasted money could actually be used to address the physician shortages in underserved areas. According to the study’s lead author, Medicare GME may be overpaying some hospitals up to $1.28 billion annually. So instead of creating another grant program on a bill that is dearer than a doormat, let’s make a serious attempt at GME reform.

After impeachment is over, if it wastes all of next year as well as this, maybe we can build upon MedPAC recommendations, establish a permanent performance-based incentive program that actually reaches what I think we as Democrats and Republicans want and create the standards needed for these rural underserved areas. These overpayments identified in the report could actually go toward expanding the hospital-based health center program, which would be terrific because that focuses on training in community-based primary care settings. That is where healthcare providers are needed the most. That is where they tend to thrive in the community. That is a win-win for everyone.

While I look forward to working with the gentleman from Arizona on ways to reform graduate medical education, I urge my colleagues to oppose the amendment, and I reserve the balance of my time.

Mr. O’HALLERAN. Mr. Chairman, I yield 1 minute to the gentlewoman from New Mexico (Ms. TORRES SMALL), my colleague.

Ms. TORRES SMALL of New Mexico. Mr. Chair, I thank the gentlewoman from Arizona for yielding and for his tireless work fighting for improved healthcare in rural communities.

Congressman O’HALLERAN’s amendment, while we are proud to co-sponsor, is vital in rural areas like those in New Mexico’s Second Congressional District. Hospitals often run on small margins and do not have the necessary resources to establish new residency training programs.

This is especially problematic given the shortage of up to more than 100,000 physicians by 2030 in the United States. Rural communities, in particular, already struggle to attract and keep medical specialists. Therefore, it is only fitting that the Federal Government invests a portion of the savings earned by H.R. 3 into rural areas to improve healthcare accessibility, and this amendment would do just that.

As we continue debating healthcare legislation, I urge my colleagues to support initiatives that provide rural residents greater access to basic healthcare. I ask my colleagues to join me in support of this amendment and the underlying bill.

Mr. BRADY. Mr. Chair, I am prepared to close after the gentleman from Arizona finishes his remarks. I reserve the balance of my time.

Mr. O’HALLERAN. Mr. Chair, how much time do I have remaining?

The Acting CHAIR. The gentleman from Arizona has 1 minute remaining.

Mr. O’HALLERAN. Mr. Chair, I thank Representative TORRES SMALL, and I thank all of my colleagues for standing with the co-sponsors in support of this important amendment that has received an endorsement from the National Association of Rural Health Clinics. I look forward to joining my colleagues to vote for the Elijah E. Cummings Lower Drug Costs Now Act later today.

This sweeping legislation will lower high-cost prescription drugs, enable Medicare to negotiate prices, and save real dollars that can be reinvested for drug research and development. This bill has the potential to better the lives of countless American seniors, veterans, and families. No family should have to choose between the medication they need and putting food on the table.

I urge my colleagues on both sides of the aisle to vote in support of my amendment and H.R. 3 later today, and I yield back the balance of my time.

Mr. BRADY. Mr. Chairman, impeachment has really ruined most of these bipartisan efforts in healthcare, including the underlying bill. Democrats and Republicans were working well together. Speaker PELOSI shut it all down. Republicans were working well together. I think it would be tremendous.

I have rural areas, underserved areas. They need these GME slots, and the whole thing needs to be reformed in a positive way.

Mr. Chair, I oppose the amendment and the underlying bill, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Arizona (Mr. O’HALLERAN).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. O’HALLERAN. Mr. Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona will be postponed.

AMENDMENT NO. 6 OFFERED BY MR. KENNEDY

The Acting CHAIR. It is now in order to consider amendment No. 6 printed in part B of House Report 116-334.

Mr. KENNEDY. Mr. Chairman, as the designer of Ms. JACKSON LEE, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of title VIII, add the following new section (and update the table of sections accordingly):

SEC. 802. SENSE OF CONGRESS REGARDING THE IMPACT OF THE HIGH COST OF PRESCRIPTION DRUGS ON COMMUNITIES OF COLOR AND PERSONS LIVING IN RURAL OR SPARSELY POPULATED AREAS OF THE UNITED STATES.

It is the sense of the Congress that—

(1) the United States has the highest drug prices in the world and for millions of Americans, the cost of prescription drugs is increasing as a barrier to proper disease treatment, especially for communities of color and for persons living in rural or sparsely populated areas of the nation;

(2) the Patient Protection and Affordable Care Act (Public Law 111-148) substantially reduced the number of uninsured Americans, but over 28 million Americans remain without insurance and approximately 55 percent of uninsured Americans under the age of 65 are persons of color;

(3) without health insurance, paying retail prices for medications is invariably burdensome or financially impossible;

(4) the median net worth of Caucasian households in 2016 was 2.8 times higher than African-American households and 8.3 times higher than Hispanic households, which contributes to disparities in negative health consequences, including for example the underuse of insulin among insured adults with diabetes; and

(5) due to the high cost of prescription drugs to communities of color and for persons living in rural or sparsely populated areas of the nation, this Act should positively impact such communities and persons (and the Secretaries of Health and Human Services, Labor, and Treasury should monitor such impact).

The Acting Chair recognizes the gentleman from Massachusetts.

Mr. KENNEDY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chair, I rise today as the designee of my esteemed colleague SHEILA JACKSON LEE from Houston to offer this amendment. She was unavoidably detained at the Judiciary Committee to consider Articles of Impeachment against our President.

Mr. Chair, I am grateful for this opportunity to discuss the Jackson Lee amendment to the Elijah E. Cummings Lower Drug Prices Now Act.

Let me also express my gratitude to the chairmen of the committees of jurisdiction for their hard work in crafting this important legislation: Chairman PALLONE of Energy and Commerce, Chairman NEAL of Ways and Means, and Chairman SCOTT of Education and Labor.

The Elijah E. Cummings Lower Drug Prices Now Act levels the playing field for American patients and taxpayers by—

One, giving Medicare the power to negotiate directly with the drug companies and creating powerful new tools to force drug companies to the table to...
agree to real price reductions, while ensuring seniors never lose access to the prescriptions they need.

Two, making the lower drug prices negotiated by Medicare available to Americans with private insurance, not just Medicare beneficiaries;

Three, stopping drug companies from ripping off Americans while charging other countries less for the same drugs and limiting the maximum price for any negotiated drug to be in line with the average price in countries like ours;

Four, creating a new, $2,000 out-of-pocket limit on prescription drug costs for Medicare beneficiaries;

Five, reinvesting in the most transformational improvement to Medicare since its creation—delivering vision, dental, and hearing benefits—and turbocharging the search for new cures.

High drug prices are harmful. Medical cost-of-pocket expenses result in high rates of bankruptcies, and 10 to 25 percent of patients either delay, abandon, or compromise treatments because of financial constraints.

Survival is also compromised. For example, in chronic myeloid leukemia, the 8- to 10-year survival rate is 60 percent in Europe where treatment is universally affordable, but the 5-year survival rate is only 60 percent in the United States.

The high out-of-pocket expenses discourage patients from seeking care or purchasing drugs. In a recent survey, one-third of insured persons in Ms. JACKSON LEE’s home State of Texas delayed or did not pursue care because of high out-of-pocket expenses.

The Jackson Lee amendment is simple and straightforward. The Jackson Lee amendment improves the bill by expressing the sense of Congress regarding the harmful impact of the high cost of prescription drugs on communities of color and persons living in rural or sparsely populated areas of the United States.

According to the Center for American Progress, the negotiation authority provided in H.R. 3 could save some diabetics more than $700 on an annual supply of certain types of insulin. Moreover, negotiations could bring down the net price for other types of drugs that are particularly needed in minority and poor communities—including treatments for cancer and multiple sclerosis—by thousands every month.

Reform is desperately needed, and nearly one in four Americans currently taking prescription drugs find them difficult to afford. Some people struggling to afford medication for chronic illnesses even turn to drug rationing in desperation, which can be lethal. In fact, a recent study found that one in four patients with diabetes rations their insulin in response to rising prices.

The American public overwhelmingly agrees that it is time to allow the government to negotiate with pharmaceutical companies: 85 percent of Americans support this tactic to reduce prices for Medicare and private insurance.

Mr. Chairman, I am grateful for the opportunity to explain the Jackson Lee amendment. I urge our colleagues to agree to the amendment, and I reserve the balance of my time.

The Acting CHAIR. The gentleman from Oregon is recognized for 5 minutes.

Mr. WALDEN. Mr. Chairman, I recognize the serious impact prescription drug prices have on all Americans. We all have come to the same problem: drug prices are too high. We all want to come together to find a way to lower drug prices.

Where we separate is our proposal versus the amendment. I urge our colleagues to put a cap on what seniors pay, and, for the first time, in Medicare part D, reduce their insulin costs but not end the kind of incredible innovation in America we see today. It would not cost $88,000 Americans their jobs, and it would not reduce this innovation that is producing two-thirds of the world’s cures.

Unfortunately, H.R. 3 would do that. H.R. 3—the underlying bill that is a very disappointing partisan bill—would cost patients cures to their diseases. We know that.

It is not my conclusion. These are the people who innovate in this space. These are Congressional Budget Office analysts and the Council of Economic Advisers. There has not been a single piece of evidence presented on this floor that says that H.R. 3 will do anything but reduce investment and outcomes of all drug prices.

In fact, a colleague of mine and I were talking during the last amendment debate. In effect, we are trading $1 trillion in private-sector investment in new innovation in America for medical cures for $100 million—which in this case, the Peters amendment—in taxpayer money.

So you are trading $100 million for $1 trillion, and $1 trillion is private-sector investment coming in, because we know a lot of these new paths that our innovators pick to go down to find a cure just simply end up being a dry hole and all that money is lost. So it takes a lot to find a cure, but we stand on the cusp of something big and bold, and that is cures for diseases where there is none today. We do have a problem in America trying to figure out how to pay for that.

I am going to be retiring at the end of this Congress, and I know my colleague is going to the Senate at the end of this Congress if voters in Massachusetts have their way, but together, we still, as a country, have to come together and figure out with precision medicine that may produce a cure for you and you only: How are we going to pay for that?

We don’t have a lot of answers. I don’t think giving the government the biggest club in history to take 95 percent of revenues if you don’t agree with what the government wants to pay for something is the right approach. That is what H.R. 3 does. We know it takes $1 trillion out of the pipeline of investment in innovation in America and costs 80,000 jobs in innovation.

But in terms of the Jackson Lee amendment which was so ably brought and described by Mr. KENNEDY, I share the concern about what the costs of medicines are putting as a burden on people, especially in rural areas. My district would stretch from the Atlantic to Ohio—we could put a lot of Massachusetts in my district—and our people are suffering.

So I look forward to a day when, after our substitute becomes law, we continue to work together on these other issues.

I hope my friend will support our substitute because I think it is all bipartisan: 198 Democrats have supported provisions in our substitute amendment. There isn’t a single partisan poison pill in our substitute amendment. I think that is why it is attracting support on both sides of the aisle.

Mr. Chairman, I urge our colleagues to vote yes and agree to the amendment, and I yield back the balance of my time.

Mr. KENNEDY. Mr. Chairman, I urge our colleagues to agree to the amendment. I yield back the balance of my time.

Ms. JACKSON LEE. Mr. Chair, thank you for this opportunity to discuss the Jackson Lee Amendment to the Elijah E. Cummings Lower Drug Prices Now Act.

Let me also express my thanks to the chairman of the committees of jurisdiction for their hard work in crafting this critically important legislation: Chairman PALLONE of Energy and Commerce; Chairman NEAL of Ways and Means; and Chairman SCOTT of Education and Labor.

The Elijah E. Cummings Lower Drug Prices Now Act levels the playing field for American patients and taxpayers by:

1. Giving Medicare the power to negotiate directly with the drug companies and creating powerful new tools to force drug companies to the table to agree to real price reductions, while ensuring seniors never lose access to the prescriptions they need.

2. Making the lower drug prices negotiated by Medicare available to Americans with private insurance, not just Medicare beneficiaries.

3. Stopping drug companies from ripping off Americans while charging other countries less for the same drugs and limiting the maximum price for any negotiated drug to be in line with the average price in countries like ours.

4. Creating a new, $2,000 out-of-pocket limit on prescription drug costs for Medicare beneficiaries; and

5. Reinvesting in most transformational improvement to Medicare since its creation—delivering vision, dental and hearing benefits—and turbocharging the search for new cures.

High drug prices are harmful. Medical costs and out-of-pocket expenses result in high inflation, which can be lethal. In fact, a recent study found that one in four patients with diabetes rations their insulin in response to rising prices.
rates of bankruptcies, and 10 to 25 percent of patients either delay, abandon or compromise treatments because of financial constraints.

Survival is also compromised. For example, in chronic myeloid leukemia, the 8 to 10 year survival rate is 80 percent in Europe (where treatment is universally affordable), but the 5-year survival rate is only 60 percent in the United States.

The high out-of-pocket expenses discourages patients from seeking care or purchasing drugs.

And in a recent survey, one-third of insured persons in my home state of Texas delayed or did not pursue care because of high out-of-pocket expenses.

The Jackson Lee Amendment is simple and straightforward.

The Jackson Lee Amendment improves the bill by expressing the Sense of Congress regarding the harmful impact of the high cost of prescription drugs on communities of color and persons living in rural or sparsely populated areas of the United States.

According to the Center for American Progress, the negotiation authority provided in H.R. 3 could save some diabetics more than $700 on an annual supply of certain types of insulin.

Moreover, negotiation could bring down the net price for other types of drugs that are particularly needed in minority and poor communities—including expensive treatments for cancer and multiple sclerosis—by thousands per month.

Reform is desperately needed and nearly 1 in 4 Americans currently taking prescription drugs find them difficult to afford.

Some people struggling to afford medication for chronic illnesses even turn to drug rationing in desperation, which can be lethal.

In fact, a recent study found that 1 in 4 patients with diabetes ration their insulin in response to rising prices.

The American public overwhelmingly agrees that it is time to allow the government to negotiate with pharmaceutical companies: 85 percent of Americans support this tactic to reduce prices for Medicare and private insurance.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Massachusetts (Mr. KENNEDY).

The amendment was agreed to.

AMENDMENT NO. 7 OFFERED BY MR. GOTTHEIMER

The Acting CHAIR. The amendment is now in order to consider amendment No. 7 printed in part B of House Report 116-334.

Mr. GOTTHEIMER. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

SEC. 712. STUDY ON HIGH-RISK, HIGH-REWARD DRUGS.

(a) IN GENERAL.—Not later than 180 days after the enactment of this Act, the Secretary of Health and Human Services shall conduct a study to identify—

(1) diseases or conditions that lack a treatment approved by the Food and Drug Administration and in which development of a treatment for such diseases or conditions could fill an unmet medical need for the treatment of a serious or life-threatening disease or condition or a rare disease or condition; and

(2) appropriate incentives that would lead to the development, approval, and marketing of such treatments.

(b) REPORT TO CONGRESS. RECOMMENDATIONS.—Not later than one year after the date of enactment of this Act, the Secretary shall submit to the Congress a report that includes—

(1) findings from the study under subsection (a); and

(2) recommendations regarding legislation necessary to create appropriate incentives identified pursuant to subsection (a)(2).

The Acting CHAIR. Pursuant to House Resolution 758, the gentleman from New Jersey (Mr. GOTTHEIMER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey, Mr. GOTTHEIMER.

Mr. GOTTHEIMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in support of my amendment to H.R. 3, the Elijah Cummings Lower Drug Costs Now Act of 2019.

My amendment will ensure continued innovation and research to further the development of lifesaving medicines for rare diseases, including cancer, Alzheimer’s, HIV and rare disorders.

The challenge now is that, at best, only 1 out of every 20 clinical trials result in a cure. This, of course, means that manufacturers invest billions before they can find a medicine that can go to market and save lives. They don’t just bet on the winners; they have to also bet and take a lot of risks that don’t turn out to succeed and get to market.

America has the best medical innovators in the world. When our health is on the line, we can’t stop talking those risks to make sure that we find those cures. We can’t risk falling behind.

My amendment provides investment in qualified clinical trials for drug applications that address unmet medical needs to treat rare and life-threatening diseases, diseases that may go unaddressed without extra incentives. My amendment requires HHS to conduct a study to identify diseases without an FDA-approved treatment and where the development of a treatment would fill an unmet medical need for these rare diseases.

My amendment also requires HHS to identify appropriate incentives that would encourage investment in the development of these treatments, treatments that will save lives of the children, adults, and seniors of our families.

The Congressional Budget Office and other studies have identified that there is an unmet medical need and exploring ways to further incentivize getting treatments to market.

In fact, a study in unmet medical needs is especially timely with the consideration of this underlying bill, H.R. 3, because we believe it would crush development and hope for new treatments.

We are not alone. We have come to this conclusion based on others’ factual evaluation of the bill. There is no shortage of scientific evidence that H.R. 3 will lead to fewer cures. In fact, independently, the Council of Economic Advisers estimates as many as
100 new treatments will be lost over the next decade under the partisan H.R. 3.

I think the most disturbing, Mr. Chairman, is that the California Life Sciences Association, the great innovators in America, who come up with these new cures that we all are counting on, predicts an 88 percent reduction in the number of drugs brought to market by small and emerging companies. And that is only in California, apparently.

The bipartisan Congressional Budget Office, another source here, our third independent source, estimates that, under H.R. 3, we will have nearly 40 fewer drugs over, roughly, the next two decades; and then, after that, you would see an annual—every year—reduction of 10 percent in the number of drugs entering the market in the later years.

That is what has led so many of us Republicans to oppose H.R. 3. We support the goal of getting drug prices down. We think there are other ways to do that, and we are open to working on those issues.

No President has ever leaned further forward on this matter and taken the pharma companies’ CEOs head on than President Trump. But even he, after reading through the bill, said it goes too far. As you can’t sacrifice innovation and lifesaving cures for what else is in the bill.

H.R. 3 will undoubtedly lead to an increase in patients with unmet medical needs, fewer drugs. Republicans believe the value of fostering innovation is essential, that is why we led on 21st Century Cures, and passed it into law, led by my friend from Michigan, Mr. Upton, and my friend from Colorado, Diana Degette, a bipartisan effort.

But we know there are diseases out there that need a cure. This is why our bipartisan solution to lower drug prices, the substitute amendment, H.R. 19, will lower costs, but also promote innovation, and promote it from the private sector side. We want that private venture capital money to continue to flow into this pipeline.

H.R. 3, we are told, the independent analysis tells us, a trillion dollars in private sector money will leave this sector because the punishment is so harsh.

Can you imagine, you are working your whole life, you have gone to college, you have got this great degree, this big brain, you are coming up with a solution to ALS or something, you finally get it done. It goes through all the trials. It is perfected. It works. You get a patent.

And then the government says, We are going to set the price, and if you don’t agree to that price, we are going to take 95 percent of the revenues for whatever else you sell this.

By the way, Congressional Research Services warned Congress, and we have had other constitutional experts tell us for sure, H.R. 3 is so punitive and so unfair, it would violate the Fifth Amendment of the Constitution and the Eighth Amendment of the Constitution.

So the underlying bill, as we have been told, is unconstitutional. We all stand down here and take an oath of office to uphold the Constitution. We are being told by our own Congressional Research Service it likely upends, is in violation of the Constitution. We have other experts, our legal experts, is. I appreciate the gentleman’s amendment. I do. We know there are unmet needs that need to be dealt with. I think it makes a lot of sense.

Mr. Chairman, I reserve the balance of my time.

Mr. GOTTHEIMER. Mr. Chairman, I thank the ranking member for his thoughtful comments and his thoughts about what I think is clearly an unmet need and one we need to continue to invest in, so I thank him for his leadership, too, sir.

Before I finish, let me just say that I urge all my colleagues to vote “yes” on this amendment because we need to keep making those investments to keep our leadership as a country when it comes to R&D innovation. It is one of the reasons why our country is so great and why so many lives have been saved and so many families and children helped.

We need to make sure that we get drug prices down overall, which is why this legislation is so important, to make sure we have competition, more development of generics in the marketplace and, of course, overall, the best quality healthcare in the world. It is critical for our country.

Mr. Chairman, I yield back the balance of my time.

Mr. WALDEN. Mr. Chairman, may I inquire how much time I have remaining?

The Acting CHAIR (Mr. CARTWRIGHT). The gentleman from Oregon has 30 seconds remaining.

Mr. WALDEN. Mr. Chairman, I yield myself such time as I may consume.

Again, I appreciate the gentleman’s hard work on this issue. I know we share a common goal of getting drug prices down and meeting unmet needs of cures. But, tragically, the Democrat bill, H.R. 3, is a very partisan bill.

We are told by the California Life Sciences Association that, if enacted, you would see an 88 percent reduction in the number of drugs brought to market by small and emerging companies in California alone. That is their estimate. These are the people who do this work. They also estimate we would lose 60,000—that is a lot—60,000 biotech and R&D jobs nationwide. That is what H.R. 3 does.

So, if you are for cutting jobs in America in biotechnical research, and if you are for 88 percent fewer drugs coming to market from small and emerging innovators in California, then I guess you are going to vote for H.R. 3. I am not going to. I think we can do better.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from New Jersey (Mr. GOTTHEIMER).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. GOTTHEIMER. Mr. Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New Jersey will be postponed.

AMENDMENT NO. 8 OFFERED BY MRS. AXNE

The Acting CHAIR. It is now in order to consider amendment No. 8 printed in part B of House Report 116-334. Mrs. AXNE, Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of title VII, add the following:

Subtitle D—Reducing Administrative Costs and Burdens in Health Care

SEC. 731. REDUCING ADMINISTRATIVE COSTS AND BURDENS IN HEALTH CARE.

Title II of the Public Health Service Act (42 U.S.C. 202 et seq.) is amended by adding at the end the following:

“PART E—REDUCING ADMINISTRATIVE COSTS AND BURDENS IN HEALTH CARE

SEC. 281. ELIMINATING UNNECESSARY ADMINISTRATIVE COSTS AND BURDENS.

“(a) Reducing Administrative Burdens and Costs.—The Secretary, in consultation with providers of health services, health care suppliers of services, health care payers, health professional societies, health vendors and developers, health care standard development organizations and operating rule entities, health care quality organizations, health care accreditation organizations, public health entities, States, patients, and other appropriate entities, shall, in accordance with subsection (b), establish a goal of reducing unnecessary administrative burdens and costs based on the health care system, including the Medicare program under title XIX of such Act, and the Medicaid program under title XIX of such Act, and the private health insurance market, by at least half over a period of 10 years from the date of enactment of this section:

“(2) develop strategies and benchmarks for meeting the goal established under paragraph (1);

“(3) develop recommendations for meeting the goal established under paragraph (1) and take action to reduce unnecessary costs and administrative burdens based on recommendations identified in this subsection.

“(b) Strategies, Recommendations, and Actions.—

“(1) IN GENERAL.—To achieve the goal established under subsection (a)(1), the Secretary, in consultation with the entities described in such subsection, shall not later than 1 year after the date of enactment of this section, develop strategies and recommendations and take actions to meet such goal in accordance with this subsection. No strategies, recommendation, or action shall undermine the quality of patient care or patient health outcomes.

“(2) STRATEGIES.—The strategies developed under paragraph (1) shall address unnecessary costs and administrative burdens.
strategies shall include broad public comment and shall prioritize—

"(A) recommendations identified as a result of efforts undertaken to implement section 282 of this Act;

"(B) recommendations and best practices identified as a result of efforts undertaken under this part; and

"(C) a review of regulations, rules, and requirements of the Department of Health and Human Services that could be modified or eliminated to reduce unnecessary costs and administrative burdens imposed on patients, providers, payers, and other stakeholders across the health care system; and

"(D) projects from stakeholders in rural or frontier areas on how to reduce unnecessary costs and administrative burdens on the health care system in those areas.

"(5) RECOMMENDATIONS.—The recommendations developed under paragraph (1) shall include—

"(A) actions that improve the standardization and automation of administrative transactions;

"(B) actions that integrate clinical and administrative functions;

"(C) actions that advance the development and adoption of open application programming interfaces and other emerging technologies to increase transparency and interoperability for better patient, and other caretakers;

"(D) actions that advance the development and adoption of open application programming interfaces and other emerging technologies to increase transparency and interoperability for better patient, and other caretakers;

"(E) actions to be taken by the Secretary and actions that need to be taken by other entities; and

"(F) other areas, as the Secretary determines appropriate, to reduce unnecessary costs and administrative burdens required of health care providers.

"(4) CONSISTENCY.—Any improvements in electronic processes proposed by the Secretary under this section shall leverage existing information technology definitions under Federal Law. Specifically, any electronic processes should not be construed to include a facsimile, a proprietary payer portal that does not meet standards specified by the Secretary, or an electronic form image.

"(5) ACTIONS.—The Secretary shall take action to establish a goal established under subsection (a)(1), and, not later than 1 year after the date of enactment of this section, and biennially thereafter, submit to Congress, and the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the development of the goal, strategies, recommendations, or actions described in this section.

"(7) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to authorize, or require the Federal Government to inhibit or otherwise restrain efforts made to reduce waste, fraud, and abuse across the health care system.

"SEC. 282. GRANTS TO STATES TO DEVELOP AND IMPLEMENT RECOMMENDATIONS TO ACCELERATE STATE INNOVATION IN HEALTH CARE ADMINISTRATIVE COSTS.

"(a) GRANTS.—

"(1) IN GENERAL.—Not later than 6 months after the date of enactment of this section, the Secretary shall award grants to at least 15 States, and one coordinating entity designated as provided for under subsection (e), to enable the Secretary to establish a multi-stakeholder commission to reduce administrative costs and burden within and across States. Not less than 3 of such grants shall be awarded to States that are primarily rural, frontier, or a combination thereof. The Secretary shall ensure the composition of the commission includes appropriate private-public multi-stakeholder commissions for the purpose of reducing health care administrative costs and burden within and across States. Not less than 3 of such grants shall be awarded to States that are primarily rural, frontier, or a combination thereof. The Secretary shall ensure the composition of the commission includes appropriate private-public multi-stakeholder commissions for the purpose of reducing health care administrative costs and burden within and across States.

"(2) ENTITIES.—For purposes of this section, the term ‘State’ means a State designated entity, or a multi-State collaborative (as defined in subsection (e)).

"(3) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applications submitted by States that propose to carry out a pilot program or support the adoption of electronic health transactions and operating rules.

"(b) APPROPRIATE—

"(1) IN GENERAL.—To be eligible to receive a grant under subsection (a) a State shall submit to the Secretary an application in support of such information as the Secretary may reasonably require, including the information described in paragraph (2).

"(2) REQUIRED INFORMATION.—In addition to any additional information required by the Secretary under this subsection, an application shall include a description of—

"(A) the size and composition of the commission to be established under the grant, including the stakeholders represented and the degree to which the commission reflects important geographic and population characteristics of the State;

"(B) the relationship of the commission to the State office for cost containment and implementing the recommendations resulting from the commission, and the role and responsibilities of the State with respect to the commission, including any participation, review, oversight, implementation or other related functions;

"(C) the history and experience of the State in administrative costs, and any experience similar to the purpose of the commission to improve health care administrative processing and the exchange of health care administrative data;

"(D) the resources and expertise that will be made available to the commission by commission members or other possible sources, and how Federal funds will be used to leverage and complement these resources;

"(E) the governance structure and procedures that the commission will follow to make, implement, and pilot recommendations;

"(F) the proposed objectives relating to the simplification of administrative transactions and standardizing and automating administrative functions, and the efficiency and effectiveness of the transmission of health information;

"(G) potential cost savings and other improvements in meeting the objectives described in subparagraph (F); and

"(H) the method or methods by which the recommendations described in subsection (c) will be reviewed, tested, adopted, implemented, and updated as needed.

"(c) MULTI-STAKEHOLDER COMMISSION.—

"(1) IN GENERAL.—Not later than 90 days after the date on which a grant is awarded to a State under this section, the commission shall make recommendations and plans, consistent with the application submitted by the State under subsection (b), to the Secretary, to reduce unnecessary health care administrative costs and burden across the health care system. The recommendations and plans shall comply with, and build upon, all relevant Federal requirements and regulations, and may include—

"(A) common, uniform specifications, best practices, and conventions, for the efficient, effective exchange of administrative transactions adopted pursuant to the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191);

"(B) the development of streamlined business processes for the exchange and use of health care administrative data; and

"(C) actions, incentives, requirements, tools, mechanisms, and resources to improve—

"(i) the access, exchange, and use of health care administrative information through electronic means;

"(ii) the implementation of utilization management protocols; and

"(iii) compliance with Federal and State laws.

"(2) USE OF FUNDS FOR IMPLEMENTATION.—A State may use amounts received under a grant under this section for one or more of the following:

"(A) The development, implementation, and use of shared data infrastructure that supports the electronic transmission of administrative data.

"(B) The development and provision of training and educational materials, forums, and activities as well as technical assistance to effectively implement, use, and benefit from electronic health care transactions and operating rules.

"(C) To accelerate the early adoption and implementation of administrative transactions and operating rules designated by the Secretary and that have been adopted pursuant to the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191), including transactions and operating rules described in section 1173(a)(2) of the Social Security Act.

"(D) To accelerate the early adoption and implementation of additional or updated administrative transactions, operating rules, and related data exchange standards that are being considered for adoption under the Health Insurance Portability and Accountability Act of 1996 or are adopted pursuant to such Act, or as designated by the Secretary, including the electronic claim attachment.

"(E) To conduct pilot projects to test approaches to implement and use the electronic health care transactions and operating rules in practice under a variety of different settings. With respect to the electronic attachment transaction, priority shall be given to pilot projects that test and evaluate methods and mechanisms to most effectively incorporate patient health data from electronic health records and other electronic sources with the electronic attachment transaction.

"(F) To assess barriers to the adoption, implementation, and effective use of electronic health care transactions and operating rules, as well as to explore, identify, and plan options, approaches, and resources to address barriers and make improvements.

"(G) The facilitation of public and private initiatives to reduce administrative costs and accelerate the adoption, implementation, and effective use of electronic health care transactions and operating rules for State programs.
“(E) COORDINATING ENTITY.—

(1) FUNCTIONS.—Not later than 6 months after the date on which the Secretary submits the report required under paragraph (3), the Secretary shall designate a coordinating entity under this subsection for the purpose of

(A) providing technical assistance to States relating to the simplification of administrative transactions and operating rules, increased standardization, and the efficiency and effectiveness of the transmission of health care information;

(B) evaluating pilot projects and other efforts conducted under this section for impact and best practices to inform broader national use;

(C) using consistent evaluation methodologies to compare return on investment across efforts conducted under this section;

(D) compiling, synthesizing, disseminating, and adopting lessons learned to promote the adoption of electronic health care transactions and operating rules across the health care system; and

(E) making recommendations to the Secretary and the National Committee on Vital and Health Statistics regarding the national adoption of efforts conducted under this section.

(2) ELIGIBILITY.—The entity designated under paragraph (1) shall be a qualified nonprofit entity that—

(A) focuses its mission on administrative simplification;

(B) has demonstrated experience using a multi-stakeholder and consensus-based process for the development of common, uniform specifications, operating rules, best practices, and conventions, for the efficient, effective exchange of administrative transactions that includes representation by or participation from health plans, health care providers, vendors, States, relevant Federal agencies, and other health care standard development organizations;

(C) has demonstrated experience providing technical assistance to health plans, health care providers, vendors, and States relating to the simplification of administrative transactions and operating rules, increased standardization, and the efficiency and effectiveness of the transmission of health care information;

(D) has demonstrated experience evaluating and measuring the adoption and return on investment of administrative transactions and operating rules;

(E) has demonstrated experience gathering, synthesizing, and adopting common, uniform specifications, operating rules, best practices, and conventions for national use based on lessons learned to promote the adoption of electronic health care transactions and operating rules across the health care system;

(F) has a public set of guiding principles that ensure processes are open and transparent, and supports nondiscrimination and conflict of interest policies that demonstrate a commitment to open, fair, and nondiscriminatory practices;

(G) builds on the transaction standards issued under Health Insurance Portability and Accountability Act of 1996; and

(H) allows for public review and updates of common, uniform specifications, operating rules, best practices, and conventions to support administrative simplification.

(1) PERIOD AND AMOUNT.—A grant awarded to a State under this section shall be for a period of 5 years, and shall not exceed $50,000,000 for such 5-year period. A grant awarded to the coordinating entity designated by the Secretary under subsection (2) shall be for a period of not more than 5 years, and shall not exceed $15,000,000 for such 5-year period.

(2) REPORTS.—

(1) STATES.—Not later than 1 year after receiving a grant under this section, and biennially thereafter, a State shall submit to the Secretary a report on the outcomes experienced by the grantee.

(2) COORDINATING ENTITY.—Not later than 1 year after receiving a grant under this section, and at least biennially thereafter, the coordinating entity shall submit to the Secretary and the National Committee on Vital and Health Statistics a report of evaluations conducted under the grant under this section and recommendations regarding the national adoption of efforts conducted under this section.

(3) SECRETARY.—Not later than 6 months after the date on which the States and coordinating entity submit the report required under paragraphs (1) and (2), the Secretary, in consultation with the National Committee on Vital and Health Statistics, shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the outcomes achieved under the grants under this section.

(4) GAO.—Not later than 6 months after the date on which the Secretary submits the final report under paragraph (3), the Comptroller General of the United States shall conduct a study, and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report on the outcomes of the activities carried out under this section which shall contain a list of best practices and recommendations to States concerning administrative simplification.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $250,000,000 for the fiscal-year period beginning with fiscal year 2020.

The Acting CHAIR. Pursuant to House Resolution 758, the gentlewoman from Iowa (Mrs. AXNE) and a Member opposed each will control 5 minutes. The Chair recognizes the gentlewoman from Iowa.

Mrs. AXNE. Mr. Chair, I yield myself such time as I may consume. Mr. Chair, as a mom, I have spent hours in doctors’ offices with sick kids. Nothing is more frustrating than when a doctor has to spend more time looking at their computer screen than helping our children.

I have taken time off work only to end up sitting in waiting rooms because a doctor is running behind. And that is a mountain of paperwork that they must do for 90 years and every single person that they see. And I have seen doctors who are frustrated at their computers trying to find the information they need.

I have also heard from my constituents in Iowa that when they go to the doctor’s office, they don’t want to feel like it is an oil change, a quick “check under the hood” and then a mountain of forms. And it is not the doctor’s fault. They have to comply with all of these administrative rules and codes.

Parents like myself, those doctors, and everyone in the healthcare industry, know that something has to change. And that is why I am offering my amendment today.

My goal is to create a grants program to help reduce all this excessive and unnecessary paperwork on doctors working in healthcare work. It will help doctors spend more time with their patients, including children like mine and those across Iowa. It will save money, because it makes required medical administration more efficient. My amendment will reduce the time crying kids have to wait for their parents to fill out that paperwork before they go into the doctor’s office. And my amendment will cut red tape and Federal spending.

My amendment cuts Federal healthcare administrative work by 50 percent in 10 years. I spent 10 years working for the State of Iowa, and I focused on making government more efficient, so I absolutely know how to cut it, and I think it is important that we look at that.

As an efficiency expert and a mom of two boys, I am proud to introduce this amendment today. Health administrative costs are out of control. We spend $500 billion on all types of duplicate administration every year. My amendment creates $250 million in grants for States each year, because when excess administrative work costs nearly $250 billion per year, that is 1,000 times more. In other words, if we reduce administrative waste by more than 0.1 percent, these grants would already pay for themselves. And this amendment is going to cut away more waste than 0.1 percent.

I have the opportunity to travel all 16 counties in my district every month, and I have met with doctors, nurses, and physician assistants, they have all told me how exasperating and unnecessary all that extra work is.

In 2016 doctors said they are spending almost twice as much time on administrative work than they are with their patients. That is just wrong. And that same study also found that when a doctor is in the exam room, more than one-third of that time is spent on desk work.

Our rural and small communities are struggling to hire enough doctors, and I am already working on attracting doctors to our State, but we also need to protect and keep the doctors that we have, and doctors want to help patients, not do paperwork.

The Centers for Medicare and Medicaid Services released new guidance to help reduce documentation burdens and ensure doctors have more time with their patients. That was the first time in 25 years that we have updated these regulations with the specific purpose of reducing paperwork. My amendment creates grant programs to get that done.
Look, I get it, Mr. Chair, if you are filling out 30 pages of paperwork, you probably won’t like this amendment if you like doing that. If your favorite place is a doctor’s waiting room and you want to spend more time there, I will understand you not wanting to support my amendment. Or if you always dreamed of being treated like you are a computer code and not a patient, then you can vote “no” on this amendment.

But I am pretty confident you are like me and you hate those things. So vote “yes” if you want doctors to focus on your kids. Vote “yes” if you want shorter wait times and more time with your doctor. Vote “yes” for all that. While you are also saving Federal Government money. And by the way, if you are going to miss the waiting room, I would be happy to sign you up for a “Highlights” magazine subscription to come to your home.

Mr. Chairman, I reserve the balance of my time.

Mr. BRADY. Mr. Chairman, I claim the time in opposition to the amendment, even though I am not opposed to it.

The Acting CHAIR. Without objection, the gentleman from Texas is recognized for 5 minutes.

Mr. Chairs, I want to start, before I leave to go to a doctor’s appointment, and it was her dad that stayed by her side. You see, she has diabetes, and she struggled every day to figure out how they are going to keep affording insulin and her meters, and different meters with different insurances happen almost every single year.

And they are telling me these stories, and in the middle of the roundtable, the young woman and her mother had to leave to go to a doctor’s appointment, and it was her dad that stayed for the rest of it. And as I am going around saying thank you for coming and sharing your story today, I shook the dad’s hand, and he looked at me and he said, “Please do everything you can to fight for my daughter and fight to make sure that she is going to be able to afford the care that she needs.”

He told me he is very worried about when she turns 26, and if she is not on their insurance what does that look like. Is she going to be able to keep affording it? And he told me that he wanted to be able to walk his daughter down the aisle one day at her wedding, not her funeral.

I will never forget that conversation, and I will never stop fighting to make sure that we lower the costs of these lifesaving medications that so many folks across our country and in my district need and rely on.

It is why I am so proud to support the Elijah E. Cummings Lower Drug Costs Now Act, which puts the bipartisan drug pricing reform that has been supported by Senator Grassley, by President Trump, and Members of both parties alike. It is requiring drug companies to disclose pricing information on prescription drugs when they advertise directly to consumers like us and folks in my district.

However, H.R. 3 is currently missing a bipartisan drug pricing reform that has been supported by Senator Grassley, by President Trump, and Members of both parties alike. It is requiring drug companies to disclose pricing information on prescription drugs when they advertise directly to consumers like us and folks in my district.

We have all seen the TV commercials that promote prescription drugs. What we may not realize is that pharmaceutical companies spend billions on this advertising. Last year, they spent over $6 billion, and a lot of that was actually to encourage people to get expensive, brand-name drugs.

My amendment would require TV advertisements for prescription drugs to come to the list price in a typical course of treatment. With this transparency, we can all be empowered to make informed choices.
and bring down costs to our healthcare system.

When drug companies use advertising to boost demand for drugs whose prices just keep going up, the American people deserve to know what these drugs cost. My amendment will ensure that we are given the complete picture of the prescription drug options we see on TV.

Mr. Chair, I urge my colleagues today to support this amendment, support this bill, and I reserve the balance of my time.

Mr. BRADY. Mr. Chair, I would like to claim the balance of time in opposition, even though I support the amendment.

The Acting CHAIR. Without objection, the gentleman from Texas is recognized for 5 minutes.

Mr. BRADY. Mr. Chair, this is a good amendment. It would require H.R. 3 include a provision requiring each drug ad on TV to include the list price of the drug.

I support this policy: Republicans do, as well. It is just a simple way to increase openness in healthcare, transparency that patients are, I think, searching for.

In fact, this bipartisan approach is already included in the Republican bill in front of us today, H.R. 19. I don’t know why it was rejected in the initial Democrats’ bill. I think perhaps it was written in secret. It was all partisan measures.

We know, at the end of the day, it is deader than a doornail. But I think, after that is done, after impeachment—I don’t know how many years that thing goes on and wastes our lives. But after all that foolishness is done, I hope our Democrat friends will come back to the negotiating table so we can work on more commonsense, bipartisan ideas like this one.

Despite my strong opposition to H.R. 3—it is such a cruel and false choice to force choice between lower drugs and lifesaving cures for Alzheimer’s, ALS, Parkinson’s, and so many cancers; that is just wrong—I do support this amendment. I urge my colleagues to support it, too.

And I hope the gentlewoman from Iowa will continue to demonstrate her support for more openness by also supporting the bipartisan H.R. 19 when it comes to a vote later today.

Let’s vote.

Mr. Chair, I yield back the balance of my time.

Ms. FINKENAUER. Mr. Chair, may I check the balance of my time?

The Acting CHAIR. The gentlewoman from Iowa has 1/2 minutes remaining.

Ms. FINKENAUER. Mr. Chair, I yield myself the balance of my time.

I am happy to hear that my colleagues across the aisle will be supporting this important amendment, and I would like to end with another story that I heard at another roundtable from one of our farmers in our district who came to our Waterloo roundtable and came with his wife, Heidi, who is battling MS, and was so concerned about how he was going to continue to make it with the ongoing trade war with China that has been taking his soybean markets, and the attacks on renewable fuels that have been hurting him every single day as a corn grower, as well, and the $80,000 he was going to have to pay for the MS medication that he went to his lawyer and asked his lawyer how is he going to keep the farm and make sure his wife gets what she needs. His lawyer looked at him and said: If you want to keep your farm, you should consider divorcing your wife.

That is another story that I will never forget. These are the reasons we are here today, that we fight for legislation like this, that we get these things done, and that we put our constituents and people over the politics that we continue to see here from folks who like to divide us instead of unite us.

Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Iowa (Ms. FINKENAUER).

The amendment is agreed to.

The Acting CHAIR. It is now in order to consider amendment No. 19 printed in part B of House Report 116-334.

Mrs. LURIA. Mr. Chair, I have an amendment to H.R. 3 offered by Mrs. LURIA.

The amendment is agreed to.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of section 101(b), add the following:

3) FEHBP.—Section 8902 of title 5, United States Code, is amended by adding at the end the following:

’(p) A contract may not be made or a plan approved under this chapter with any carrier that has affirmatively elected, pursuant to section 1197 of the Social Security Act, not to participate in the Fair Price Negotiation Program established under section 1191 of such Act for any selected drug (as that term is defined in such Act).

The Acting CHAIR. Pursuant to House Resolution 758, the gentlewoman from Virginia (Mrs. LURIA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Virginia.

Mrs. LURIA. Mr. Chair, I yield myself such time as I may consume.

Mr. Chair, I rise in support of my amendment to H.R. 3, the Elijah E. Cummings Lower Drug Costs Now Act of 2019. My amendment would ensure that the Federal employees benefit from the same lower drug costs as the other programs under this bill, H.R. 3.

I stand here today in strong support of this bill.

As my colleagues have noted again and again today and yesterday, governments don’t negotiate; they dictate. Taxing up to 95 percent of a drug manufacturer’s revenue if it refuses to agree with a government-mandated price is not free market negotiation.

And, as we have heard from both the bipartisan amendment the Congressional Budget Office—and the CEA, they tell us that we are going to lose drugs that will solve cures, as they just won’t happen with this bill.

Government price controls lead to lower and fewer cures; and, as the CEA said, nearly 100 cures for rare and difficult diseases like Alzheimer’s, ALS, and cancer just aren’t going to happen, or they are going to be much delayed under H.R. 3.

Mr. Chair, I would ask my colleagues to vote “no” on this amendment, and I reserve the balance of my time.

Mrs. LURIA. Mr. Chair, I yield myself such time as I may consume.

I stand here today in strong support of H.R. 3, in opposition to my colleagues.

If, in fact, we are going to offer lower prescription drug costs to those covered by Medicare and private insurance, it is the least that we can do to include our Federal employees in these cost-saving benefits.

Federal employees live in nearly every district in this country, and we must ensure that they, too, can benefit...
from lower drug prices secured by this landmark legislation. I urge my colleagues to support my amendment, as well as the underlying bill, and I yield back the balance of my time.

Mr. UPTON. Mr. Chair, I yield myself the balance of my time.

I would also just like to say that the CRS, Congressional Research Service, has found that price controls in this bill, H.R. 3, the underlying bill, may be unconstitutional under the Fifth Amendment’s Takings Clause and the Eighth Amendment Excessive Fines Clause.

So, instead of considering yet another amendment which expands radical government-mandated price controls at the expense of developing life-saving cures, our time would be better spent considering bipartisan policies such as what is in the substitute, H.R. 19.

So I would encourage my colleagues to, instead, vote for the amendment on H.R. 19 and vote against H.R. 3.

Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Virginia (Mrs. Luria).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. WALDEN. Mr. Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Virginia will be postponed.

AMENDMENT NO. 11 OFFERED BY MR. CUNNINGHAM

The Acting CHAIR. It is now in order to consider amendment No. 11 printed in part B of House Report 116–534.

Mr. CUNNINGHAM. Mr. Chair, I have an amendment.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 62, after line 2, insert the following:

(4) ORIGIN OF SECRETARY OF VETERANS AFFAIRS TO PURCHASE COVERED DRUGS AT MAXIMUM FAIR PRICES.—Section 8126 of title 38, United States Code, is amended—

(A) in subsection (a)(2), by inserting “, subject to subsection (j),” after “may not exceed”;

(B) in subsection (d), in the matter preceding the period at the end, inserting “, subject to subsection (j)” after “for the procurement of the drug”; and

(C) by adding at the end the following new subsection:

“(j)(1) In the case of a covered drug that is a selected drug, for any year during the price applicability period for such drug, if the Secretary determines that the maximum fair price of such drug for such year is less than the price for such drug otherwise in effect pursuant to this section (including after application of any reduction under subsection (a)(2) and any discount under subsection (c)), at the option of the Secretary, in lieu of the maximum price (determined after application of the reduction under subsection (a)(2) and any discount under subsection (c), as applicable) that would be permitted to be charged during such year for such drug pursuant to this section without application of this subsection, the maximum price permitted to be charged during such year for such drug pursuant to this section shall be such maximum fair price for such drug and year.

(2) For purposes of this subsection:

(A) The term ‘maximum fair price’ means, with respect to a selected drug and year during the price applicability period for such drug, the maximum fair price (as defined in section 1911(c)(2) of the Social Security Act) for such drug and year.

(B) The term ‘price applicability period’ has, with respect to a selected drug, the meaning given such term in section 1911(b)(2) of such Act.

(C) The term ‘subject to subsection (c)’ means, with respect to a year, a drug that is a selected drug under section 1911(c) of such Act for such year.”

The Acting CHAIR. Pursuant to House Resolution 758, the gentleman from South Carolina (Mr. CUNNINGHAM) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from South Carolina.

Mr. CUNNINGHAM. Mr. Chair, I rise today in support of my amendment to ensure that the VA and the veterans that it serves are able to take advantage of lower drug prices made possible by H.R. 3.

I am proud to support the underlying bill, which will result in lower drug prices for millions of Americans, but we cannot forget those who have sacrificed so much for our country. Veterans have earned our support, and they should never have to compromise on healthcare.

H.R. 3 will establish a fair price negotiation program which will enable the Secretary of Health and Human Services to negotiate with drug companies and obtain Medicare recipients as well as the privately insured. My amendment would simply allow the VA to purchase drugs at the same price if it is lower than what they would otherwise pay on their own.

1230

Put simply, everyone deserves to pay a fair price for their lifesaving medication. This is not just about fiscal responsibility. It is about moral responsibility. It is about our moral obligation to ensure that our veterans as well as the privately insured can afford the care they need.

Mr. Chairman, with this amendment, we are willing to put toward caring for our veterans, not on lining the pockets of drug companies.

The Chair recognizes the gentleman from South Carolina.

Mr. ROE. Mr. Chairman, I yield back the balance of my time.
Mr. Chairman, I oppose this amendment, and I yield back the balance of my time.

Mr. DAVID P. ROE of Tennessee. Mr. Chairman, further with this amendment, we have a system now that works, and I would encourage my colleagues to not support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. ROYCE of California. Mr. Chairman, I thank my colleagues on the Committees on Energy and Commerce, Ways and Means, and Education and Labor for their work on this historic piece of legislation, which will save lives. I also thank Chairman McGovern and my colleagues on the Rules Committee for ruling my amendment in order.

I urge all of my colleagues to vote to lower the exorbitant cost of prescription drugs for every single American.

Mr. Chairman, I yield back the balance of my time.

Mr. DAVID P. ROE of Tennessee. Mr. Chairman, I agree with my colleagues that we should do everything possible to lower prescription drug costs, but I can tell you that H.R. 3 will not do it.

One of the problems I have with this bill is to stifle the incredible innovation that I have seen in my career.

Let me give another example before I close. Mr. Chairman, I had a professor in medical school, Dr. Lemuel Diggs, my hematology professor. He spent his entire career trying to cure sickle-cell anemia. I have sat by the bedside of pregnant women and done exchange transfusions on women nearing term who have sickle-cell disease so they can deliver a baby that is well and the mother would be healthy. I have done that.

Dr. Diggs passed before we found out incredible research that has been done, that we can do alterations of the HIV virus, an attenuated virus it is called, and put that code in the genetic code and potentially cure sickle-cell disease for African Americans. We do not want to stifle this innovation.
Mr. WALDEN. Mr. Chairman, I reserve the balance of my time.

Ms. HOULAHAN. Mr. Chair, I yield myself such time as I may consume.

Mr. Chairman, I rise to offer this amendment today by my friend and neighbor, Ms. SCANLON from Pennsylvania. This commonsense amendment has two parts.

First, it would require pharmacy benefit managers, or PBMs, to pass discounts on drugs through to State Medicaid programs. PBMs are an important part of our drug pricing system, but Republicans and Democrats alike agree on the need for PBM reform. This provision is a feature of the Senate's bipartisan drug pricing bill.

According to the Pennsylvania Department of Human Services, Pennsylvania taxpayers paid $2.86 billion to PBMs for Medicaid enrollees in 2017. That is a 100 percent increase over 4 years. This stage of development is often referred to as the "window of opportunity." This is to address this issue of prescription drug pricing and transparency into what these prescription drugs should cost.

Again, this is a feature of the Republican drug pricing proposals included in Mr. WALDEN’s proposal, and it is all about increasing transparency into costs, especially PBM pricing.

This amendment invests in NIH research for new cures and treatments, especially for high-need conditions.

I am a proud cosponsor of my friend Mr. WALDEN’s Biomedical Innovation Expansion Act, which would invest $10 billion over 10 years in the NIH. As an engineer and former chemistry teacher, I know how important both basic and applied research is to advancing science and medicine. I am very pleased that this bill builds off Ms. SHERRILL’s legislation and establishes a pilot program at NIH that provides additional funding for clinical trials.

This stage of development is often costly and complicated, and this amendment would provide $900 million to this important program. With this investment, we are boosting support for an initiative that will assist the development of new cures and treatments.

Mr. Chairman, for our Medicaid beneficiaries, for the patient out there right now with a condition that has no cure, I ask that my colleagues on both sides of the aisle support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. WALDEN. Mr. Chairman, I rise in opposition to this amendment. The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. WALDEN. Mr. Chairman, I reserve the balance of my time.

Ms. HOULAHAN. Mr. Chairman, I stand here in strong support of Ms. SHERRILL’s amendment to H.R. 3 and in strong support of H.R. 3, as well.

I can say, as a freshman Member of the House of Representatives, the number one thing that all of our constituents ask of us each and every day is to address this issue of prescription drug pricing and transparency into that process.

This bill and the underlying amendment therein support and affirm both those things. I urge my colleagues on both sides of the aisle to support this bill and its underlying amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. WALDEN. Mr. Chair, we certainly support clinical trials at the National Institutes of Health. In fact, the Republicans have led on this issue. In fact, Republicans have led for decades that increasing the funding for NIH going back to about 1995 when then-Speaker Gingrich led an effort to double the funding for the NIH.

Our colleague Mr. UPTON from Michigan led the effort to dramatically increase the funding for NIH. We know this is extraordinarily important to do.

Of course, while that is important, it is kind of the basic science. The real
work that gets done takes that and then turns it into drugs eventually through a whole clinical trial process with lots more innovation and investment.

Tragically, H.R. 3 rips $1 trillion out of that innovation funding cycle. That is why, for the life of me, I can’t understand why my friends are voting for that knowing that, and how they can vote for H.R. 3 knowing that upward of 100 or more cures, lifesaving drugs, medicines never will be developed.

There are my numbers. Those are the numbers from CBO. They tell us in literally the next 20 years, 38 new drugs will never be developed, at a minimum, upward of 38. It could be more. I suppose it could be less. After that, it is 10 percent every year that don’t get developed. We think it is actually higher than that, but those are the facts. Those are facts.

I want to emphasize that the ban on spreading pricing in Medicaid offered here is not as a Democratic amendment is actually, as my friend recognizes, in H.R. 19. We agree. There are 138 Democrats who have sponsored different provisions that are bipartisan in the substitute amendment, and it should do no damage.

Why would you vote against your own stuff? I mean, it is in here. It is good policy. It is bipartisan. I hope that some will have the opportunity to be strong and vote for really good bipartisan legislation. I would argue that H.R. 19, the substitute, is the most bipartisan bill on the floor today, the only bipartisan bill on the floor today.

This comprehensive collection of bipartisan policies from both the House and the Senate are contained in the substitute. H.R. 19. We looked a lot at the work that Senator GRASSLEY and my own State Senator RON WYDEN put together in their legislation. We probably got 90 percent of that one way or the other incorporated in here.

I have learned over the years, from the time I got here as a freshman until now, you don’t get everything. Sometimes, you can make more progress by getting together and getting what you can agree on done and then continuing to work on the issues where you don’t agree, and I would say that is an issue that we face right now.

We have before us a substitute that could become law, and the President basically indicated he would sign it. It clearly has indicated he will veto H.R. 3. We have had word out of the Senate that they have no plans to take up H.R. 3. To me, it makes it a nonstarter.

I also believe it is dangerous to innovation. It will cost 80,000 jobs U.S.-wide, and 80-something percent of new drugs coming out of California won’t be developed. That is according to the people who do this work, California Life Sciences.

I don’t think you have to trade that reduction in innovation and new cures for lower prices. I think you can actually have both.

We have a common commitment here to lower drug prices. We have a common commitment here to increase investment in NIH and to stop the bad behavior of the pharmaceutical companies, to stop them from witholding samples so that generics don’t get to market or actually paying all generic brands not to come to market.

I wrote the legislation last Congress that modernized the FDA’s approval process for medical devices, generic devices, so we couldn’t get stuck—that is a bit of a pun—by another EpiPen issue. Because there was no competitor, they raised the price the way they wanted to, and they stuck it to people like my wife, who used to use an EpiPen, and many other consumers.

We now have competition in that space, and the FDA has approved more generic drugs as a result of our unani-}
AMENDMENT NO. 5 OFFERED BY MR. O’HALLERAN

The Acting CHAIR (Mr. CARTWRIGHT). The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Arizona (Mr. O’HALLERAN) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—aye 351, noes 73, not voting 12, as follows:

[Roll No. 677]

AYES—351

Abraham (OH) ................................. 1
Adams ............................ 1
Acosta-Cortez (TX) ......................... 1
Aguilar .................................. 1
Alford .................................. 1
Altmayer ................................ 1
Arnold .................................. 1
Armstrong ................................ 1
Ass ........................................ 1
Bailey .................................... 1
Balderson .................................. 1
Banks ..................................... 1
Bauer ...................................... 1
Barr ......................................... 1
Barragan .................................. 1
Bass ........................................ 1
Berman .................................... 1
Bilirakis .................................... 1
Bishop (GA) ................................ 1
Bishop (UT) ............................... 1
Blumenauer ................................. 1
Bolitho ...................................... 1
Bonta ........................................ 1
Bowser ..................................... 1
Boyce ........................................ 1
Boydstun ................................. 1
Brand ....................................... 1
Braley ....................................... 1
Braun (IN) ................................ 1
Buck ........................................ 1
Budd ......................................... 1
Burke ....................................... 1
C perpetual ......................... 1
Carter (GA) ................................ 1
Caroli ....................................... 1
Case ......................................... 1
Casten (IL) .................................. 1
Castor (FL) .................................. 1
Chabot ..................................... 1
Chen ......................................... 1
Cicilline ..................................... 1
Cicchetti ................................... 1
Cicconi ..................................... 1
Clack ....................................... 1
Clay .......................................... 1
Cline ......................................... 1
Clifford ..................................... 1
Colburn ..................................... 1
Collins (GA) .................................. 1
Collins (NY) .................................. 1
Comer ....................................... 1
Cordero ..................................... 1
Costa ......................................... 1
Courtesty ................................... 1
Cox (CA) ...................................... 1
Craig ......................................... 1

NOES—73

Adams ........................................ 1
Acosta-Cortez (TX) ......................... 1
Alfaro ....................................... 1
Armstrong .................................. 1
Ass ........................................... 1
Bailey ........................................ 1
Balderson .................................... 1
Banks ........................................ 1
Barr .......................................... 1
Barragan .................................... 1
Bass ........................................... 1
Berman ...................................... 1
Bilirakis ..................................... 1
Bishop (GA) .................................. 1
Bishop (UT) .................................. 1
Blumenauer ................................. 1
Bolitho ....................................... 1
Bonta ......................................... 1
Bowser ...................................... 1
Brand ........................................ 1
Braley ....................................... 1
Braun (IN) ................................... 1
Buck ......................................... 1
Budd ......................................... 1
Burke ....................................... 1
C perpetual ............................. 1
Carter (GA) ............................... 1
Caroli ....................................... 1
Case .......................................... 1
Casten (IL) .................................... 1
Castor (FL) .................................... 1
Chabot ...................................... 1
Chen ......................................... 1
Cicilline .................................... 1
Cicchetti ................................... 1
Cicconi ..................................... 1
Clack ....................................... 1
Clay .......................................... 1
Cline ......................................... 1
Clifford ..................................... 1
Colburn ..................................... 1
Collins (GA) .................................. 1
Collins (NY) .................................. 1
Comer ....................................... 1
Cordero ..................................... 1
Costa ......................................... 1
Courtesty ................................... 1
Cox (CA) ...................................... 1
Craig ......................................... 1

Price ....................................... 1
Quigley ..................................... 1
Radewagen .................................. 1
Reed ......................................... 1
Reese ....................................... 1
Rice (NY) .................................... 1
Rice (SC) .................................... 1
Richmond ................................... 1
Ridley ....................................... 1
Roll .......................................... 1
Rowe, David P. ........................... 1
Rogers (AL) ............................... 1
Rogers (NY) .................................. 1
Rouple ...................................... 1
Roy .......................................... 1
Roybal-Allard .............................. 1
Byrne ....................................... 1
Torres (CA) .................................. 1
Torres Small (NM) ....................... 1
Troup ....................................... 1
Turner ....................................... 1
Underwood .................................. 1
Upton ........................................ 1
Van Drew .................................... 1
Vargas ....................................... 1
Vazquez .................................... 1
Velasquez ................................... 1
Veasey ...................................... 1
Velasquez ................................... 1
Wagner ...................................... 1
Walberg .................................... 1
Walorski .................................... 1
Waite ....................................... 1
Watson ...................................... 1
Watson ...................................... 1
Watkins ..................................... 1
Woodall ..................................... 1
Yoho .......................................... 1

NOT VOTING—12

Burchett .................................... 1
Gabard ...................................... 1
Gosar ....................................... 1
Hunter ...................................... 1

NOT VOTING—12

Burchett .................................... 1
Gabard ...................................... 1
Gosar ....................................... 1
Hunter ...................................... 1

Mses. SLOTKIN, PLASKETT, Messrs. GALLEGOS, CASTRO OF Texas, CLEAVER, Ms. SANCHEZ, Mr. DOGBETT, Mses. BONAMICI, DE LAURO, Miss GONZALEZ-COLON OF Puerto Rico, and Mrs. MURPHY OF Florida changed their vote from “aye” to “no.” Messrs. BROOKS OF Alabama, SCHWEIKERT, PETERS, and SUOZZI changed their vote from “no” to “aye.” So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. McNERNEY. Mr. Chair, had I been present, I would have voted “nay” on rolcall No. 676.
Mr. WALBERG changed his vote to yea prevaled by voice vote.

The result of the vote was announced as above recorded.

AMENDMENT NO. 7 OFFERED BY MR. GOTTHEIMER

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New Jersey (Mr. GOTTHEIMER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—aye s 380, noes 11, not voting 1, as follows:

(Roll No. 679)

AYES—380

Adams (MA)            Aderholt (GA)         Aumua (American Samoa)
Adams (IN)            Agnew (MD)           Az.Nevada (NV)
Adkins (NJ)           Aguilar (CO)         Baldwin (NY)
Adriano (PR)          Aguiar (CA)          Baldwin (WI)
Adriano (PR)          Aging (GA)           Balducci (RI)
Ahmed (TX)            AH-Taylor (TX)       Barnes (CA)
Ahmed (TX)            Ainsworth (OH)      Barrow (GA)
Alderman (CA)         Akin (IL)            Bass (GA)            Bauman (CA)
Alderman (CA)         Amash (MI)           Bass (NY)            Bass (GA)            Baucus (ID)
Alford (GA)           Amash (MI)           Bass (NY)            Baucus (ID)          Bach (NC)
Alford (GA)           Amash (MI)           Bass (NY)            Baucus (ID)          Back (NC)
Allen (OH)            Amash (MI)           Bass (NY)            Baucus (ID)          Back (NC)
Allred (TX)           Amash (MI)           Bass (NY)            Baucus (ID)          Back (NC)
Alvarez (CA)          Amash (MI)           Bass (NY)            Baucus (ID)          Back (NC)
Alvarez (CA)          Amash (MI)           Bass (NY)            Baucus (ID)          Back (NC)
Alvarez (CA)          Amash (MI)           Bass (NY)            Baucus (ID)          Back (NC)
Alvarez (CA)          Amash (MI)           Bass (NY)            Baucus (ID)          Back (NC)
Alvarez (CA)          Amash (MI)           Bass (NY)            Baucus (ID)          Back (NC)
Alvarez (CA)          Amash (MI)           Bass (NY)            Baucus (ID)          Back (NC)
Alvarez (CA)          Amash (MI)           Bass (NY)            Baucus (ID)          Back (NC)
vote on the amendment offered by the gentleman from South Carolina (Mr. CUNNINGHAM) on HR 984. The vote was on the amendment, and the vote was recorded. The amendment was defeated by a vote of 192-234, with 192 votes recorded.

The Acting CHAIR (Mr. PAYNE). The Acting Chair requests a recorded vote. A recorded vote was ordered.

The Acting CHAIR (Mr. PAYNE). The vote was taken by electronic device, and there were—yes 234, noes 192, by a recorded vote.

[Roll No. 680]

aye—234

Adams, F. T. (MS)  ... Veasey, V. (TX)  ... Torres Small (NM)  ... Vargas...
Mr. PAYNE, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 3) to establish a fair price negotiation program, protect the Medicare program from excessive price increases, provide patients with access to new therapies, and for other purposes, and, pursuant to House Resolution 758, he reported the bill, as amended by that resolution, back to the House with sundry further amendments adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment reported from the Committee of the Whole? If not, the Chair will put them en bloc.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered engrossed and read a third time, and was read the third time.

MOOTION TO RECOMMIT

Mr. UPTON. Mr. Speaker, I have a motion to recommit the bill.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Upton moves to recommit the bill H.R. 3 to the Committee on Energy and Commerce with instructions to report the same back to the House forthwith with the following amendment:

At the end of title VIII, insert the following new section (and update the table of sections accordingly):

SEC. 1. EFFECTIVE DATE CONDITIONED ON CERTIFICATION.

Notwithstanding any other provision of this Act, none of the provisions of this Act shall go into effect unless the Secretary of Health and Human Services certifies that the implementation of such provisions are not projected to result in fewer new drug applications with respect to unmet medical needs and life saving cures.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan is recognized for 5 minutes in support of his motion.

Mr. UPTON. Mr. Speaker, here is the beef: Tomorrow marks the third anniversary of the enactment of 21st Century Cures, a bill that passed this House at 392-26. In looking back at that legislation now, 3 years later, we have made wonderful strides in finding the cures for the diseases that have impacted every family, be it cystic fibrosis, Alzheimer's and pancreatic cancer, just to name a few.

And just last week, a number of us met with a young girl who had been in a trial for SMA. That is often a fatal disease known as spinal muscular atrophy. She was in a wheelchair, barely able to talk. But after 15 days on this trial, she could actually move her head and her neck for the first time in more than a decade, all really because of what we did on 21st Century Cures. The CBO/CEA and Scott Gottlieb, in today's “Wall Street Journal” writes that H.R. 3, the underlying bill: "The price-control approach would increase uncertainty and reduce returns from biotech investment, raising the cost of capital for these invaluable endeavors."

You know, we are on the cusp of gene therapies for so many diseases. It is like MS, literally, finding cures to solve blindness. But let's not stop. Let's build on what we did.

The language in this motion to recommit assures that cures will not be slowed down, because we have the requirement that unless the Secretary of HHS certifies the implementation of such provisions are not projected to result in fewer new drug applications. That is what this amendment is about.

We want to make sure that we have the resources to develop the cures that all of us want for the thousands of diseases where we don't have a cure.

Mr. Speaker, I would yield to the gentleman from Texas to talk about personal story, that many of us did not know until this bill came up in the last couple of days.

Mr. Speaker, I yield to the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I rise today in staunch opposition to H.R. 3. I can add to what my colleagues have said with statistics and legalese, but I would rather offer you my personal experience.

I was diagnosed with Stage 4 lung cancer. I was told that the average life expectancy was 16 months. That was 16 months ago. By the grace of Almighty God and American biotech ingenuity, I am still here, and I will get to spend another Christmas with my family.

I was prescribed a rigorous regimen of an immunotherapy wonder-drug called Keytruda, which had only just been approved for my regimen in May of 2017. Keytruda's discovery is as a result of significant financial investment by the private sector, not the government.

Today, I feel great. My last CAT scan showed nothing in my liver and lymph nodes, and the primary tumor had shrunk to about the size of a raisin.

Now, 5 years ago, my diagnosis would have cost upwards of $700,000. Today, I am beating it. Millions of Americans are diagnosed with life-threatening illnesses every year. And thanks to medical innovation in the United States, miraculous outcomes like mine are not uncommon either.

If H.R. 3 becomes law, stories like mine would be rare. If these socialist policies had been implemented earlier, I probably would not be here. For too many in this Chamber, this has become part of their political agenda, but for me and my family and millions of Americans, this is a matter of life or death.

H.R. 3 will not save American lives. It will end them. I urge my colleagues to think of their loved ones who will face deadly diseases in the future. Many cures are on the horizon. We cannot stop. We cannot slow down. We cannot stifle research and development of new cures by onerous government control. Too many lives hang in the balance.

Mr. Speaker, I beg my colleagues to support this motion to recommit, and let's take action that will actually save lives.

Mr. UPTON. Mr. Speaker, I yield back the balance of my time.

Ms. SCHRIER. Mr. Speaker, I rise in opposition to the motion.

The SPEAKER pro tempore. The gentleman from Washington is recognized for 5 minutes.

Ms. SCHRIER. Mr. Speaker, I am so glad that my colleague from Texas, Mr. WRIGHT, is well and I am so glad that he could afford the treatment that he needed.

But we have people suffering from the cost of prescription drugs now, and intentionally holding up this bill hurts them. We absolutely must remain the leader in the world in innovation, but the thing is, we can reduce drug prices and still have money for research.

The money U.S. food drug companies made in 2015 by charging Americans high prices was nearly double what was needed to fund their global R&D. An H.R. 3 uses the savings to reinvest billions in the research and clinical trials needed to get cures faster.

I am so excited about H.R. 3. The Elijah Cummings Lower Drug Costs Now Act. I am the first pediatrician ever elected to Congress, and currently the only female doctor here. I am also a patient with type 1 diabetes. My life depends on insulin, so the high cost of prescription drugs affects me and people like me every day.

I have driven over 7,000 miles this year traversing my district talking to people about what matters to them. And you know what the biggest thing is? The cost of prescription drugs. Because it doesn’t matter if you are a Democrat or Republican if you cannot afford your medication.

I understand this issue both as a doctor and a patient, because it is not theoretical for me or for my patients. When we talk about the cost of insulin, I have felt that personally. I have seen the price of my insulin go from $40 a bottle to $300. That is the price for a bottle that holds 10 milliliters, 2 teaspoons.

Before being elected to Congress, I worked for nearly 20 years as a pediatrician in the suburbs of Seattle, just 3 hours from the Canadian border. Mostly, I sent electronic prescriptions, but when patients asked for paper ones, I knew it was because they were going to Canada to fill it. EpiPens are $800 here; $50 there. In Canada, insulin costs $50.

Right now, we pay three to four times what our colleagues overseas pay, and that is why we must use the negotiating power of Medicare to bring prices down. Our districts are alike.
And we need to take on this out-of-control pricing. The people who sent us here asked us to do it. Let’s deliver today. I encourage my colleagues to vote “no” on this MTR and “yes” on H.R. 3.

Mr. Speaker, I yield to the gentlewoman from Delaware (Ms. BLUNT ROCHESTER), my colleague, a champion of this bill.

Ms. BLUNT ROCHESTER. Mr. Speaker, I thank the gentlewoman for yielding.

I respect my Committee on Energy and Commerce colleagues, but I cannot support this motion to recommit. What we have today is an opportunity to live up to our promise.

Democrats promised. Republicans promised. Even the President promised to lower prescription drug costs.

Let’s not get this confused or mixed up. Colleagues, I want to just make it plain: The Elijah E. Cummings Lower Drug Costs Now Act, H.R. 3, is about three things: Fairness, hope, and legacy.

Fairness: Is it fair that the United States pays 2, 3, or 60 times more for the same drug as other countries?

Is it fair that in a capitalist country our own government can’t negotiate? We can negotiate for planes, but we can’t negotiate for insulin?

The Congressional Budget Office says that H.R. 3 will lower out-of-pocket costs and premiums for those on Medicare and it will reduce premiums for 180 million Americans who have private insurance. American households will save $120 billion over 10 years.

Let me put it another way: These same Americans will see their cash wages increase by $116 billion. It is about fairness. H.R. 3 is about hope.

As AARP has shared, it gives seniors hope that with savings from this bill, we will modernize and expand Medicare and cap Part D out-of-pocket costs. The $2,000 cap could be the difference between a lifesaving pill and somebody’s rent.

Hope: With the savings generated from this bill, we can expand Medicare coverage to include hearing, vision, and dental.

Hope: We can accelerate the great American tradition of innovative research for scientific breakthroughs and cures for the National Institutes of Health.

And with H.R. 3, we will provide patients like David Mitchell, who testified before our committee about his personal experience with cancer. And what he said is that it taught him something: Drugs don’t work if people can’t afford them. In other words, if you can’t afford it, you don’t have it.

So, lastly, this will provide us a legacy.

Ms. SCHRIER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. UPTON. Mr. Speaker, on that I demand the yeas and nays.

The vote was taken by electronic device, and there were—yeas 196, nays 226, not voting 8, as follows:

Mr. WALDEN. Mr. Speaker, on that I demand the yeas and nays.

The vote was recorded as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill. The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALDEN. Mr. Speaker, on that I demand the yeas and nays.

The vote was recorded as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill. The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.
December 12, 2019

CONGRESSIONAL RECORD — HOUSE

We congregate here today to honor the memory of those who lost their lives and those who were wounded during the course of this egregious attack. Those who wear the uniform inspire the best within us because they are truly the best among us. They are our sons and daughters, fathers and mothers. Last Friday, three of them were taken from us, and we shall not forget their names, or those who have been impacted by that terrible attack.

I request all present, both on the floor and in the gallery, to rise for a moment of silence; and I am honored to be joined by my colleagues.

YEAS—230

LEGISLATIVE PROGRAM

(Mr. SCALISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCALISE. Mr. Speaker, I rise for the purpose of inquiring of the majority leader the schedule for next week. I yield to the gentleman from Maryland (Mr. HOYER), my friend.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, on Monday, the House will meet at noon for morning-hour debate and 2 p.m. for legislative business. Members are advised that no votes are expected in the House on Monday. Again, no votes on Monday, but we will do legislative business. We will be debating suspension bills, and the votes will be rolled until the following day.

On Tuesday, Wednesday, Thursday, and Friday, the House will meet at 9 a.m. for legislative business. Let me stress that so that every Member understands. We normally go in at noon for a schedule like this on Tuesday, Wednesday, and Thursday, but we will be going in at 9 a.m. on those days, as well as Friday.

Members are advised that the first votes of the week on Tuesday are expected between 9 and 10. Again, I want to emphasize that, although we do not have any votes on Monday night, we expect Tuesday to be a full workday, so Members really ought to come into town on Monday.

We will consider several bills, Mr. Speaker, under suspension of the rules. The complete list of suspensions will be announced by the close of business tomorrow.

As Members know, the current continuing resolution expires on December 20. The House will consider some appropriation measures. Hopefully, and my expectation is, they are making progress in the Appropriations Committee on coming to a resolution on the 12 appropriation bills.

It is my hope that we will consider those appropriation bills on the floor on Tuesday, perhaps a series of minibuses packaged together, as opposed to all of government, for the remainder of the fiscal year.

I would urge all of my colleagues on the Appropriations Committee to do so.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.
everything they can in the next 24 hours, frankly, to bring this matter to a close and agreement so that the staff will have an opportunity to put the bills together for consideration next week.

This week, negotiators were able to reach an agreement on a new trade agreement. The Republican whip has been asking me about that agreement. I have assured him we wanted to get to yes, and we have gotten to yes. We are pleased at that, this trade agreement with Canada and Mexico.

It is possible that the USMCA trade agreement could be brought to the floor next week. The only reason it is possible and not assured is the administration is working on submitting implementing legislation to the Congress. My presumption is they will have that legislation to us in the relatively near term. It will be, therefore, available for consideration next week.

This week, the House Judiciary Committee, as the House knows and the country knows, of two Articles of Impeachment. Following committee action on these articles, the Judiciary Committee will make a recommendation to the full House of Representatives: vote and determine a path forward on the floor following that recommendation.

Lastly, Mr. Speaker, as is always the case in the last week, at least the last scheduled week of a session, there may well be other types of legislation that will ripen for consideration and that may well be considered next week. We will announce those as soon as we know which, if any, bills quality for that treatment.

Mr. SCALISE. Mr. Speaker, we are encouraged by the progress that we are seeing and involved in the appropriations bills to properly fund the government.

As we have both discussed for some time now, the important job of Congress exercising its power of the purse is critical. The willingness for all sides to work together—House, Senate, Republican, Democrat, along with the White House—to get to a place where we can reach an agreement on how to properly fund our troops not for a month or two at a time but for the entire year, the value that it gives those men and women in uniform, the ability for our generals to acquire the tools that are necessary so that they can train and defend our country effectively, it is well served when we reach this agreement.

I am encouraged by the progress the gentleman reflected. Hopefully, we can get to that point where, early next week, those bills are agreed upon, finalized, passed with large bipartisan majorities, which I have no doubt we will produce, and then get those signed by the President and move to USMCA, as the gentleman talked about.

Mr. HOYER. I yield to the gentleman.

Mr. SCALISE. Mr. Speaker, I appreciate the gentleman making the comment with respect to the Defense Department and the importance of funding them, and I agree with that.

I want to point out that the same challenge applies to all the other agencies of government. The more quickly they can be funded, the more they can do. We know they need the next 9 months—that is, between December 20 and September 30—and the more they are able to do and then get those signed by the President and move to USMCA, will produce, and then get those signed by the President, which I have no doubt we will.

We want to get to that point where, early next week, we hope to get that approved then.

Of course, the United States-Mexico-Canada trade agreement is a critical step to show the world that we can come together, build better trade relationships with our neighbors, create over 160,000 new jobs for hardworking families, get our economy moving even stronger, allow us to sell products into countries like Canada and Mexico that we can’t sell today, and also send a message to our friends around the world that they can negotiate these better deals and pass them here at home. It tells our country the timeframe? We are, as you look at the calendar for Wednesday, Thursday, or Friday? Is there a place where the majority is looking at putting it on the calendar for Wednesday, Thursday, or Friday? Is there a place where the majority is looking at putting it on the calendar for Wednesday, Thursday, or Friday?

Mr. HOYER. Ambassador Lighthizer, I think there is broad agreement that we will get to that completed next week and then start yielding the economic benefits.

Mr. SCALISE. Mr. Speaker, I appreciate that. We stand ready to continue this work in good faith, which it has been from the beginning.

Obviously, President Trump negotiated this deal, but his trade representative, Ambassador Lighthizer, has done yeoman’s work, working tirelessly with all of us in Congress—Republican, Democrat, House, Senate—to work through the final details that we all had. Any trade deal is always complicated. It always has pieces that some like more than others. Ultimately, when it is better for the country than the current deal we are in with NAFTA, I think there is broad agreement that we will get to that completed next week and then start yielding the economic benefits.

If the gentleman had something else, I will yield.

Mr. HOYER. Ambassador Lighthizer, as I have said all along, we have received as an honest broker. I think he has dealt with us fairly and openly.

Very frankly, we believe that the agreement that has now been finalized is substantially stronger and better than it was when it was first given to us for consideration. I say that in the sense that we took the position, and I have taken this position on the floor, the gentleman knows, that enforcement was critical.

The Chamber of Commerce has said, if you have a trade agreement without effective enforcement, you don’t have a real agreement. What we were able to do was, we agreed on real enforcement, which protects workers, which protects the environment, which protects other aspects of the agreement.

We also are pleased that some of the things that were in the bill that we thought were harmful to consumers, in particular, were dropped.

But it was an honest negotiation, as the whip has pointed out. It was a hard negotiation, not so much between Mr. Lighthizer and I but between Mr. Lighthizer and some of the other interest groups, including our friends in Mexico.

We have now reached that agreement. Hopefully, we can pass this next week. Our friends in labor have endorsed this agreement. The Maryland D.C. AFL-CIO has endorsed this agreement because they have the confidence that, unlike NAFTA—for which I voted—Mr. Speaker—in which there was no successful enforcement action over the last two decades, this will have the opportunity for successful enforcement for economic reasons and for other reasons. And I hope that this will move forward.

Mr. SCALISE. Mr. Speaker, anytime we can make an agreement better for the hardworking families of this country, it will be a Christmas gift well received by families all across the Nation. I look forward to getting this done. The President has said, getting others done with other countries. We definitely have that opportunity and we will seek it.
I want to shift gears and talk about impeachment and where we are, where the committee is right now. There are a number of items that I wanted to discuss, but one that has been an issue raised in the Judiciary Committee last night continues to concern me, and that concern is that, under the rules, the minority was promised an actual day of hearings, and that has yet to happen. Multiple requests have been made, letters written to the chairman. For whatever reason, the chairman has rejected and, in appearance, violated the rules by not allowing what has historically been granted as a minority day of hearing.

I would like to ask the gentleman if he was aware of this. It has been raised in the committee multiple times, why not only that tradition but why that rule is not being followed, and I would yield.

Mr. HOYER. Mr. Speaker, let me tell the gentleman very candidly, I have not discussed with Mr. NADLER or others on the Judiciary Committee that issue. I don’t give you the rationale that was articulated by the chair or by others.

I will say, however, that the President has indicated he wants to move with dispatch on this issue. We are doing that, and we have little time left. Very frankly, there were other witnesses to come forward, and very frankly, there were a lot of witnesses who were precluded from coming forward that we thought would amplify, frankly, people who work for and with the President who may have had information to give. But I can’t specifically articulate the rationale, but we can get that for you.

Mr. SCALISE. I appreciate that. It just seems an odd break from the rule that is designed to ensure that both sides are heard, and that is why there is an opportunity for a minority day of hearing.

The opportunity was requested, and the opportunity was denied, and then the committee today is going to be voting. We are acting now to try to remove a President of the United States. Clearly, there were witnesses that we sought to bring forward that we were not allowed to bring forward, breaking from the custom and tradition of all the other impeachments that we have had. Clearly, the Nixon rules were repeated with Clinton so that both sides were treated fairly.

For whatever reason, this majority chose not to follow that custom and tradition, so the minority was not allowed to bring all the witnesses that we requested, and so the minority day of hearing was the only opportunity to present additional evidence that was sought.

And so if the jury, in essence, today is going to give a verdict, which they are, I would expect that the committee is going to pass the Articles of Impeachment.

You had over 70 percent of this committee, the Judiciary Committee, over 70 percent of the members of this jury already voted to impeach the President on various votes that have been taken on this House floor. So if the jury doesn’t want to hear the other side’s argument, it begs the question: Was the jury rigged?

Mr. HOYER. Will the gentleman yield?

Mr. SCALISE. Mr. Speaker, I yield to the gentleman.

Because, of course, fairness, but also out of the actual rules of the House, that opportunity is in the rules for the minority to have a day of hearings, and it was denied. That means that the evidence that we submitted to the jury who is voting to remove a President was also denied.

And why both sides weren’t able to be heard, why the chairman did not want both sides to be heard, I think begs a lot of questions.

Mr. Speaker, I yield to the gentleman on this.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

First of all, of course, this is not the jury in the sense of a petit jury that is going to decide guilt and innocence. It is, from a lawyer’s standpoint, more analogous to a grand jury, which simply decides whether or not there is probable cause to believe the President abused his power in the exercise of his authority and, secondly, in the second Article, refused to cooperate with the Congress exercising its constitutional responsibility of oversight.

Secondly, let me say to the gentleman, as the gentleman knows, the President was given the opportunity to appear with counsel and to call such witnesses as he wanted to call—I believe that is correct—but to appear and defend against the allegations that are incorporated in the Articles of Impeachment, and the President chose not to appear.

The President chose not to have counsel present. Mr. Cipollone, counsel to the White House, in fact, responded to the offer to appear and said: We have chosen not to do so.

So to say that the respondent in this case—I won’t call him a defendant. But the respondent in this case, the President of the United States, chose not to respond, chose not to appear, chose not to produce evidence in his defense. One could conclude that perhaps they decided they didn’t have any, but I won’t conclude that, but that could be one conclusion drawn.

But I will tell the gentleman, first of all, this is not a jury that is deciding guilt or innocence; it is a jury deciding probable cause whether or not there is cause to believe.

And, of course, we had extensive hearings at which many witnesses testified, some of whom worked for the administration, with the administration, in the White House, who testified to the facts, which most constitutional experts believe, if believed, constitute an abuse of power.

But, again, I will say to the gentleman, the central reality is the President refused to appear.

Mr. SCALISE. Mr. Speaker, the President, like any other person who is requested to provide information, did comply.

When you look at the Articles of Impeachment, at the beginning of all of this, of course, there was the Mueller investigation for 22 months, which alleged many things. And, ultimately, the results turned out there were no crimes committed by the President, as we had looked into when we were in the majority and knew that years ago, but for whatever reason, others wanted to continue making assertions. Those assertions turned over time.

So, instead of dropping it there, then you had the whistleblower complaint and the allegations of all of these things that happened on a phone call.

The only problem is the President then released the transcript of the phone call. And not only did those things not get reflected in the transcript, but the two people who actually participated, who should be listened to the most, both said there was nothing wrong with the call.

President Zelensky was asked was there any pressure applied. He said no. He got the money. He got the money, and he also got the Javelin missiles. He thanked President Trump on the phone call for the aid that allowed him to push back Russia.

As I will point out, President Trump said he would sell 360 Javelin missiles to Ukraine so they could defend themselves, pushing back against Russia. President Obama and Vice President Joe Biden sold zero Javelin missiles to Ukraine to help them push back from Russia.

So all of this assertion of one President not allowing Ukraine to get the aid they need to stand up to Russia turned out to be true. President Obama is the one who didn’t allow Ukraine to have the tools they need. He sold them zero.

They asked: Please sell us the Javelin missiles so we can defend ourselves against Russian aggression. And President Obama and Vice President Biden said no.

Why? That is a good question, and maybe somebody needs to open an investigation into that.

But in the meantime, President Trump said yes. He actually sold them 360 Javelins. President Zelensky, on the call, thanked him.

Was there pressure applied? Actually, there were thanks involved, President Zelensky thanking President Trump for allowing him the tools to stand up to Russia. He said: We may buy more. But he thanked him for the ones that he sold.

There was no quid pro quo. There were no investigations. They asked for help, and President Trump said: Absolutely. We will help you stand up to Russia.

And the facts are there.

Then you look at the catchall Articles of Impeachment. It wasn’t the bribery and the quid pro quo that were alleged for months, because there was
none, and so that is not in the Articles of Impeachment. So you see these catchall phrases like “abuse of power,” “obstruction of Congress.” Then you read what they allege to be obstruction of Congress: it is the President exercising his rights.

The different Federal agencies that were asked for information—this is the obstruction of Congress; these Federal agencies all responded. They responded to the committee. They said: Here. Let’s have a conversation about how to get this information that you want without violating the executive privileges that every President has been afforded.

These are letters right here: White House, December 1, 2019; December 6, 2019; October 15, 2019, Office of the President:

Including invoking privileges that are held by the President in no way manifests evidence of obstruction; otherwise warrants, offered to negotiate about what information you want.

Secretary of State, October 1, 2019, sent a response to the committee.

Department of Energy, October 18, 2019, sent a response to the committee. Never heard back from the committee, so clearly the committee must have been okay with the response.

The Office of the Secretary of Defense, the Secretary of Defense on October 15, 2019:

The Department is prepared to engage in the process consistent with longstanding practice and provide the responsive information should there be resolution of this matter.

The Secretary of State, Secretary of Defense said: Here. What do you need? Let’s talk and work through it.

They didn’t get a response from the committee. The committee didn’t say: No. We want more. The committee didn’t say: We disagree with you—which means, by the way, there is a third branch of government. That is, the judicial branch.

If the two branches disagree, historically, in all these impeachments—by the way, you don’t have to wonder about it. You can go back and look at history: Nixon, Clinton. Go back to Andrew Johnson.

The White House and the legislative branch negotiated what kind of information they wanted, and if there was a disagreement—and sometimes there is—you go to the courts and you say: Let’s resolve it.

There were some people who the committee asked to come and testify before the committee. They issued subpoenas. In some cases, they withdrew those subpoenas. So that person wasn’t out of compliance: they weren’t asked to come. But in some cases, they went to the courts, and the courts are actually still working to resolve that difference. The courts haven’t worked it out.

That is an obstruction of Congress, to actually send a response to a question?

The legislative branch asked the executive branch a question. The executive branch, in letter after letter after letter, responds. The committee didn’t then go back and say: No. You didn’t give me what I wanted.

These were all responses. They might not have gotten the answer they wanted, but they got an answer. And if they didn’t agree with the answers, the gentleman from Maryland (Mr. HOYER) knows, historically, how that works—

You ask again. Maybe you ask for something different. May be you say: You know what, you have to give that to me, and if you don’t, I am going to go to the courts and make it happen.

They didn’t do any of that. They didn’t do any of that. They just filed Articles of Impeachment: Impeach the President. We don’t like the answer.

They gave us answers, answer after answer. And instead of saying, “Well, we disagree with your answer. This is what you need to send,” they just said, “Let’s impeach the President.”

For that’s what was the objective all along, as we know, in this whole sham. It has always been about impeachment, not about facts.

So when you have a process, if you don’t want to follow the process: you don’t want to actually go and try to get answers to questions, you just want to end at a conclusion of impeachment, that is where we are.

And that is why you see these two articles that are crimes. All the alleged crimes were debunked. They are not in the Articles of Impeachment. And so we end up with abuse of power and obstruction of Congress.

Then you look at the things that are alleged, and there are actual answers from the different Federal agencies to the questions that were asked. The committee never went back and followed up. They just said: We are going to impeach the President because that is what we were going to do from the beginning.

Seventy-one percent of the members of the committee had already voted to impeach the President before the call with President Zelensky.

So why didn’t the majority go through the normal process? Why didn’t the majority allow us, the minority, our own day of hearings to counter some of these false allegations? I think the American people have felt it out. Because it was never about getting to the facts. If that was the case, they would have worked with the executive branch to get those answers to those questions.

They didn’t. They would have worked with us to allow us to have the minority day of hearing that the rules of the House allow us, but they didn’t. And so this is where we are.

Mr. Speaker, I yield to the gentleman.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, my friend articulates many things that have no basis in fact and believes, in my view, that if he says it enough times that people will believe them. To that extent, I think he mirrors the President of the United States, who does the same thing.

First of all, the rules have been followed. Secondly, the evidence that has been produced is overwhelming and has not been controverted.

John Bolton, when talking about this deal, which we believe is an abuse of power, said that this was the equivalent of a drug deal. That is John Bolton.

My friend has talked for many weeks about how the Mueller report found nothing.

First, let me read from the Mueller report something that was not part of an article but certainly informs us as to the intent and the feelings of the President of the United States.

The Mueller report said this: “Our investigation found multiple acts by the President that were capable of exerting undue influence over law enforcement investigations, including Russian interference and obstruction investigations.”

“The incidents were often carried out through one-on-one meetings in which the President sought to use his official power outside of usual channels.”

“These actions,” the Mueller report said, “ranged from their efforts to remove the special counsel and to reverse the effect of the Attorney General’s recusal, to the attempted use of official power to limit the scope of the investigation, to direct and indirect contacts with witnesses and the potential influence of their testimony.”

“The special counsel did not reach conclusions because”—and this is critical, and the whip constantly ignores this when he says the Mueller report found nothing.

“The special counsel,” it says, “did not reach conclusions because Department of Justice guidelines prohibit indicting a sitting President. Therefore, the Mueller report makes clear, however, that it does not exonerate the President by saying this. If we had confidence”—the whip may want to hear this.

The Mueller report said: “If we had confidence after a thorough investigation of the facts that the President clearly did not commit obstruction of justice, we would so state. But, based upon the facts and the applicable legal standards, we are unable to reach that judgment that the President did not in fact, participate in obstruction of justice.”

But because DOJ, for whom the counsel worked—not a special prosecutor, the special counsel did not, if you say it—essentially refused to make a judgment that he thought he was unable to make. But he made it clear that they could not find that the President did not obstruct justice.

Let me say something else. There are a number of people who thought the Mueller report and the Mueller investigation had great effect:
Paul Manafort, pled guilty to lying; Roger Stone, convicted; Michael Cohen, the President’s counsel, convicted, in jail; Michael Flynn, convicted of lying, the former security adviser appointed by President Trump, convicted; Rick Gates, the deputy campaign manager for President Trump, convicted; George Papadopoulos, who the President claimed was his foreign policy adviser—or one of his foreign policy advisers—convicted, pled guilty, served a short period of time, and now is a candidate for Congress on the Republican ticket of California. They all think that the Mueller report had some consequences. That is the context in which we see this crowd. No wonder so many of them didn’t want to testify.

And when Mr. Sondland testified the first time and then, after that, he saw some of these convictions, he amended his testimony.

He came in and said, oh, yes, there may have been some discussion about a so-called quid pro quo or a bribery or extortion. He didn’t say those words. Those are my words. He talks about obstruction of Congress and how there was no back and forth, and he says, well, they could have gone to court.

As a matter of fact, we have gone to court time after time after time. And guess what, Mr. Speaker, the court has said that Congress is entitled to that discovery. Now, they keep appealing it. And in addition, you could not have a presidential pardon if you didn’t announce it in public, then there wouldn’t be the $391 million that you needed to defend your country and to defend freedom in Ukraine, which this Congress had, in a bipartisan way, sent to the President of the United States and that the Defense Department and others had certified reforms contemplated by that legislation had been effected, and they recommended the payment of that money.

And in addition, you could not have a meeting with the White House if this didn’t happen.

So my friend continues to say no wrongdoing; nothing; no crimes; no obstruction; no impeachable offense; nothing; no crimes; no obstruction. There was no obstruction. There was no obstruction. There was no obstruction. And when Mr. Sondland testified the second time, he said there was no obstruction.

Certainly, I believe there was a quid pro quo that, if you didn’t start an investigation, if you didn’t announce that in public, then there wouldn’t be the $391 million that you needed to defend your country and to defend freedom in Ukraine, which this Congress had, in a bipartisan way, sent to the President of the United States and that the Defense Department and others had certified reforms contemplated by that legislation had been effected, and they recommended the payment of that money.

And in addition, you could not have a meeting with the White House if this didn’t happen.

So my friend continues to say no wrongdoing; nothing; no crimes; no obstruction; no impeachable offense; nothing; no crimes; no obstruction. There was no obstruction. There was no obstruction. There was no obstruction. And when Mr. Sondland testified the second time, he said there was no obstruction.

Mr. HOYER. Will the gentleman tell me where he did that?

Mr. SCALISE. I am going to go through a few points because the gentleman made a lot of assertions that are not accurate, and I think it is important to go through them.

The Department of Justice did not say that a President can’t be removed. The Attorney General made that clear, that the President can be indicted.

And what the Attorney General said was——

Mr. HOYER. Will the gentleman tell me where he did that?

Mr. SCALISE. The Department of Justice, he said there was no obstruction. There was no obstruction. That is what the Department of Justice said.

Again, if there was, you would have put those findings from the Mueller report in this document. And there is no finding in there, no mention of the Mueller report.

Then the gentleman opened up by saying the rules have been followed. The rules have been followed. That is what the gentleman from Maryland said. The only problem is, just today, yet another rule has been broken.

House rules, clause 2(1)(i) of rule 11, provides that, once the demand is made for a minority day of hearing, minority members shall be entitled—”shall” means it has to happen—call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon.
Then you look at something equally alarming that has come out that deserves real attention in this Congress, and that is the Horowitz report: 17 listed abuses of the FISA process.

The gentleman knows, I supported the FISA process to combat terrorists. It is a controversial program, a program that has got a very narrow scope to allow the United States to protect our national security, but it also has a very strict requirement of oversight from agencies. The FBI and the CIA have the ability to go unchallenged and ask the judge for the ability to surveil people.

The judge trusts that they are giving him the full information. And we saw abuses listed in the Horowitz report of the FISA process. Even more, Mr. Durbin is but one of many who have now been conducting his own criminal investigation.

And what the Attorney General talked about this week is that they know that there are people in those intelligence agencies who were spying on the Trump campaign. I mean, imagine Federal agencies—FBI, CIA—spying on the campaign of a candidate for President.

Republican or Democrat, we should equally be alarmed that that happened. I hope it gets rooted out. I hope whoever did that and abused their power goes to jail. But it happened, and it is being investigated in a criminal way.

But Horowitz, himself, pointed out where there were abuses of the FISA process. And you know what, that is coming back up to this Congress early next year for renewal. Parts of that program are going to come back up again, important tools to combat terrorism, but tools that now have been identified to have been abused. We need to work together to clean that up so that doesn’t happen again. But that happened, and it was used against the Trump campaign.

I haven’t heard the disdain and outrage from both sides. I am surely outraged. Our side is surely outraged. I hope that we are all outraged that that happened.

But when we talk about those reports, again, if there were all of those things that the gentleman asserts in the Mueller investigation and, ultimately, report, I am curious that not one of them. I am curious that not one of those—there is not any mention of the Mueller report in these Articles of Impeachment that we will be facing on the House floor next week.

I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

I think I am speaking English. Let me repeat. What the Mueller report said was the Department of Justice policy was that they could not indict a sitting President of the United States. It went on to say, as I quoted, that did not mean they could not assert that there was no obstruction of justice. And if they thought they could assert that, they would have asserted it.

And Attorney General Barr then mischaracterized the Mueller report before it was released to put, in my opinion, the President’s spin on the Mueller report, which, very frankly, the gentleman’s side of the aisle has continued to spin all the time.

Mr. Stone falls into that category. Mr. BARR said that there was no obstruction. He was wrong. He mischaracterized, misstated, and misled the American people. And Mueller said in his report that was not what he found.

Collusion is not a crime. Conspiracy is a crime.

But there were, in addition to the six people I have talked about, 10 Russians indicted for participating in trying to undermine the integrity of the elections in our country on behalf of Mr. Trump.

Now, the gentleman indicates that the Mueller report has not been mentioned. The Mueller report is not the gravamen or the central—what we lawyers say “gravamen”—but the central tenet has been delivered.

The central tenet is, on July 25 and, frankly, leading up to that and succeeding that, the President of the United States involved himself in a way to enrich himself in terms of the Russia-Ukraine relationship—not the 2016 election, the 2020 election.

The evidence has not been rebutted that that was the fact; and, in fact, people close to the President of the United States confirmed it.

What the articles say is there was an abuse of power, which is what almost every constitutional scholar says was the central concern of our Founding Fathers when they included the impeachment provision in the Constitution of the United States to be a check on authoritarian power serving its own interests, not the people’s interest.

That is what the central claim here is.

And with respect to the other Article of Impeachment, it does not mention the Mueller report because what was focused on—although Mueller focused on the obstruction of justice evidence, not the charge, but the evidence.

What we are focusing on is the biggest attempt to prohibit the Congress of the United States from exercising one of its legitimate constitutional responsibility of oversight from getting information, either in testimony or in documents. And almost every scholar of past Presidents—including President Nixon and including President Clinton and the extraordinary discovery that was exercised against President Obama on a regular basis—found that this President has stonewalled more than any other President and with less justification than any other President, because most Presidents referred to executive privilege.

This President went much more broadly than those who dealt with him.
personally, but simply wanted to preclude information from getting to the Congress so that it could make decisions based upon that evidence.

And, of course, the other suit that we have is a President who said he was going to release his tax information to the American people. He has fought in every forum to prevent that from happening, notwithstanding the legislation, which was not adopted by us—it is very old legislation—which says the tax writing committee can get that information.

And I would suggest the American people ought to have that information so they can determine for themselves whether this President is acting for his benefit or for their benefit, which is his constitutional responsibility.

Mr. SCALISE. Mr. Speaker, I thank the gentleman, but when the gentleman talks about stonewalling, acting as if President Trump is the only President in history to seek alternatives to a question that is asked by Congress—

Mr. HOYER. I didn’t say that. Don’t mischaracterize what I said. I did not say that.

Mr. SCALISE. The gentleman said that this President has tried to defy more than any other President. Those were roughly the words he said.

Mr. HOYER. That is accurate.

Mr. SCALISE. Let’s keep in mind, President Obama, it took us 6 years to get to the bottom of the Fast and Furious scandal, and we still didn’t get all of the information we wanted. For 6 years, President Obama fought various ways in the court.

Was that impeachable? Of course, we didn’t try to impeach the President. Every President, I am sure, including George Washington, had differences with Congress. We have multiple branches of government.

So the legislative branch has powers. When we exercise those powers in regard to the executive branch, the executive branch also has an equal opportunity to have a discussion, first of all, to see if we can come to an agreement.

Again, if you go back to the Clinton impeachment or you go back to the Nixon impeachment, both sides reached an agreement. Your majority never tried to go reach an agreement with the White House on how to get access to whatever it is you might have wanted to get access to.

What is a fair process?

Allowing the President to have his legal counsel in the room to ask questions to witnesses, that was denied. But that negotiations didn’t happen. It did happen in Nixon. It did happen in Clinton. And so you had a fair process of back and forth, where, ultimately, they agreed on rules of the game during an impeachment. It didn’t happen here.

So if your majority asked, through various committees, for information from the White House, the White House has the ability to exercise other rights.

Again, letter after letter. The gentleman used the term “stonewalling.” It is not stonewalling to respond to the committee and say: Okay, these are the things that we can get you. Here, look, DOD, we will work with you. You need DOD to work with DOD, but they said: Call us.

Didn’t call them. Agency after agency, the Secretary of State responded. All of these agencies sent letters in response. That is not stonewalling. That is complying with the law. You might not have liked the answer.

And, again, if you didn’t like the answer—I think we all know when you pull out the Constitution, there is not just two branches of government—you could have gone to the third branch of government and said: Courts, make them comply because they are not.

You didn’t do that. So then you just rushed to impeach the President because going on in Ukraine that raised concerns. You had the Ambassador, the White House, the Department of State, the Secretary of State responded. The Ukraine Ambassador to the United States wrote an op-ed against can-

Sondland, who has been brought up, Mr. Stone’s case, Mr. Gates testified before him. Donald Trump was President back then. Barack Obama was President. Joe Biden was Vice President when Russia did try to interfere with our election.

In fact, the articles are not listed in the Articles of Impeachment.

The gentleman talked about Russia. Yes, we know Russia tried to meddle in our election in 2016. I think people on the gentleman’s side might think Donald Trump was President back then. Barack Obama was President. Joe Biden was Vice President when Russia did try to interfere with our election.

I think it is a good question to ask, but go ask President Obama and Vice President Biden. Don’t go impeaching Trump because Russia tried to interfere with the 2016 election.

There were, absolutely, things that were going on in Ukraine that raised concerns. You had the Ambassador, the Ukrainian Ambassador to the United States wrote an op-ed against candidate Trump. They were trying to interfere with the election against Donald Trump when he was a candidate for President. I don’t know if you think you should be concerned about that by the gentleman’s side.

But again, just go impeach Donald Trump because so many on the gentleman’s side didn’t like the fact that he won in 2016 and are afraid he is going to win again in 2020.

Again, that is not why you impeach a President.

So when you talk about these facts, it is important to point out all of the other sides.

Sondland, who has been brought up multiple times, Sondland testified under oath. He asked the President: Is there anything you need to access to?

The President responded to him—he said this under oath. The President said: “I want nothing, no quid pro quo.” That was Sondland’s testimony.

So, again, as these people are being brought up, let’s look at the whole context:

When the rules are being brought up, I haven’t heard a response from the gentleman when I read him a House rule that is, today, being violated.

In committee, they took a vote to violate House rules. The committee doesn’t have that power. The House has that power, and it hasn’t exercised it. There is still a rule that is being broken today, not allowing the minority to have a day of hearing, trying to hide the facts from the American people.

If they were so serious about impeach the President, have this overwhelming evidence, then let both sides present their case. But, no, that House rule, today, is being violated. And there are many examples of that.

I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

The irony is that the reason we got cooperation in the Nixon case and in the Clinton case is because those administrations cooperated. This administration has absolutely not cooperated.

The gentleman has those letters, and he put them down as if they mean something. They are further evidence of delay. The committee requested legitimately.

What the gentleman didn’t say—he said we ought to go to court. Mr. Speaker, I wonder if the gentleman knows what happened when we went to court, because we have gone to court five or six times. We haven’t lost a case yet. We have not lost a case yet where the court has said that Congress is entitled to that information.

So these letters are fine, but they are delay and dissemble as we throw them on the table, as if they mean something.

The gentleman says the Russians interfered in our election. They did. The irony is, one of the reasons that the Obama administration didn’t get more involved in that is because there was knowledge by some that they were interfering on behalf—or suspicion of—Donald Trump because there are a lot of the evidence we have heard.

Mr. Stone’s case, Mr. Gates testified about the knowledge that the President had about WikiLeaks and of the President’s invitation for WikiLeaks to release information.

Sondland changed his testimony. We have gone to court. The administration has refused to cooperate.

The gentleman ignores those facts. They are, even facts, and they are facts that are generally accepted across the land, even by those who are supporters of the President.

So we are going to have this discussion. They are going to have this discussion in the Senate. But the President chose not to come to the House to defend against the allegations. His counsel said that they weren’t going to participate. They had the opportunity: they did not take it. We will see what happens from there.
Mr. SCALISE. Mr. Speaker, I would not discount things like this letter from the Secretary of Defense, who, on October 7, 2019, received a subpoena and on October 15, 2019, responded. That is not delay, and that is not obfuscation.

A week later, they responded and said that the Department is prepared to engage in the process, consistent with longstanding practice, and provide the responsive information should there be a resolution to this matter.

It is 1 week later. That doesn't sound like somebody trying to run away from a request or a subpoena. A week later, the majority got a response. The gentleman might not have liked the response, but there was not a follow-up. We are going to work with you, Department of Defense.

The Secretary of Defense sent this a week after the majority's request, and the majority is going to impeach a President because they didn't like this answer? He is obstructing.

Again, I go back to Fast and Furious, one example: President Obama, 6 years we fought to get the information—6 years. We didn't try to impeach him for that. It doesn't mean he was breaking the law or committing high crimes and misdemeanors.

Maybe he delayed a lot longer than we would have liked. Six years is a lot longer than it should have taken to get answers to real questions about people who worked for him for 6 years, we waited and worked and went and got those answers. That is the legal process.

And maybe we should work together, if we think that is too long, to try to speed it up.

But that was 6 years. This was 1 week after the subpoena the Secretary of Defense himself sent the majority this letter and said: Call us and work with us to get you this information.

The majority didn’t follow up. They just said: Nope, we don't like it. That is too late. It is delaying.

A week later, the majority got an answer, and they didn’t like the answer, so the majority said: Let's impeach the President of the United States.

There is letter after letter like this from other agencies—the Department of Energy. We can go down the list. But this wasn't 3 years later. The majority got an answer. Yes, maybe the majority could raise questions then and go to the courts, but the majority didn’t.

The majority got an answer a week later. That is delaying to the point the majority would impeach a President of the United States?

And my friend doesn't think those conversations happened during Nixon? My friends don't think those conversations with the White House happened during Clinton, where there were things that they didn't feel that they had to give that were subpoenaed and they went back and forth, but they came to an agreement.

Mr. Speaker, it means you have to sit down and work with people that I might not like.

It has been clear on the other side that there are some on the majority side that hate this President and who don’t want him to be President. We understand. We have elections for that.

We had an election in 2016, and he was duly elected. They then the majority alleged that he conspired with Russia, but he didn't. They then tried to interfere on President Obama’s and Joe Biden’s watch. It was their watch when it happened. President Trump didn’t have any involvement in that. And the Mueller Report made that clear.

But then the majority kept on making assertion after assertion, just like in these two Articles of Impeachment, and the majority comes up with abuse of power.

To quote Professor Turley, one of the witnesses from last week: The only abuse of power is by this majority trying to remove a President from office for exercising his rights under the law. A week after the majority’s request, their subpoena, a week after, they got a letter from the Secretary of Defense himself, and that is enough to impeach a President?

Mr. Speaker, I yield to the gentleman.

Mr. HOYER. Mr. Speaker, we could go, I guess, all day on this. But the fact is, let me say, with that letter, the gentleman says 1 week. The fact of the matter is this President has been defying Congress for years in terms of giving it information it constitutionally had the right to have. He has not responded. In fact, we have gone to court, and we have won every case. It is not like the court said: Oh, well, they have the right to do this; they can talk back and forth for days, years, and months.

The court said: No, they are entitled to that information.

Don’t send me a letter; send me the information.

For my friend to pretend that that was just 1 week’s delay—it has been years of delay to responding to information requested legitimately by the Congress of the United States.

After months of going to the court, the courts have come to a conclusion over and over and over again that the Congress is entitled to that information.

Two courts have now decided that we are entitled to personal financial information. We haven’t gotten it.

Why? Because he appeals again. Why? Because that is his modus operandi, as I said. He did it in the private sector, and he is doing it in the public sector.

What surprises me is that—I am not wishing it, but my friend may be in charge someday again, and my friend is going to be very upset with the precedent that the gentleman is arguing for. And this is not in time in terms of not cooperating with the Congress of the United States in conducting its constitutional duties.

As I said, we could go on and on on this. We are going to have additional hearings. I would repeat again, from a USA Today editorial: “Trump has met the impeachment investigation with outright and unprecedented defiance,”’ quoting letters. But we will have to dispose he didn’t appear and he instructed people who have information, like John Bolton, like Secretary Pompeo, and like so many others: Don’t appear. Don’t testify. Don’t provide information. That is obfuscation and refusal to cooperate. But we will have an opportunity to deal with these in the future.

I would hope that, at this point in time, Mr. Whip, we might cease and desist so our friends could have an opportunity to say what they want to say. But I am prepared to proceed if my friend is so disposed.

Mr. SCALISE. Mr. Speaker, I just hope the gentleman isn’t asserting that the President of the United States, like any other American has the right, should be allowed to have the right to appeal a decision. Ultimately, the courts at some level will resolve any issue before them. Courts do that, and that is the legal right of every American.

Mr. HOYER. Will the gentleman yield?

Mr. SCALISE. I yield to the gentleman from Maryland.

Mr. HOYER. Of course he is.

Mr. SCALISE. By the way, if the President is victorious in the courts, it would the gentleman recognize that he did lose that case, or would the gentleman say that was obfuscation, following the legal process?

Again, President Obama, for 6 years on Fast and Furious—just one case, 6 years.

The gentleman hasn’t been in the majority for a year yet, and somehow that is so long, a week later response is so long that the majority should impeach a President, when, just on Fast and Furious, we didn’t get questions we wanted answered from the White House, and in some cases it took 6 years. Some of that went through the courts.

We won some of those cases, by the way. We didn’t win all of them, but we surely did win some of those cases.

But when we won a case against the President, meaning he violated some component of the law, we didn’t impeach him for it, but we got the information and eventually. It was a lot longer than we would have liked.

But the President, just like President Obama, had the legal right to appeal decisions that he might not have agreed with in courts like the Ninth Circuit, which has one of the highest reversal rates of any circuit in the country.

So, if a circuit got it wrong and ultimately somewhere up higher they get it right, is that somehow something we should impeach a President for? But we will have to exercise their Article III powers to go to a judicial branch to get an answer to a question?
Mr. Speaker, I yield to the gentleman from Maryland.

Mr. HOYER. This could go on forever.

Of course not. I didn’t make that assertion. Don’t put it in my mouth.

My friend quotes one witness, one constant claim, Mr. Speaker, that somehow the Democrats were just out for revenge, and you will create a king, not a President, if you do this. The executive power will be unchecked not only from us. No one ran for Congress to impeach the President of the United States, whether or not—and I never asserted that the President would have voted against one of these articles. So when you assert, Mr. Speaker, that somehow the Democrats were just out for revenge, and you will create a king, not a President, if you do this, I yield to the gentleman from Maryland.

Mr. Speaker, I yield to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. The good news is they didn’t bring impeachment against President Obama because he did nothing to warrant such an action. How profoundly different that is.

Mr. SCALISE. Mr. Speaker, I yield back the balance of my time.

IN HONOR OF KALEB WATSON, CAMERON WALTERS, MOHAMMED HAITHAM—VICTIMS OF PENSACOLA SHOOTING

(Mr. SCHNEIDER asked and was given permission to address the House and to revise and extend his remarks.)

Mr. SCHNEIDER. Mr. Speaker, I rise today to join with a grieving nation to honor the lives of three Navy sailors whose lives were tragically cut short in the heinous act of terrorism at the Naval Air Station in Pensacola, Florida.

Kaleb Watson of Coffee County, Alabama, and a recent graduate of the U.S. Naval Academy, was 23 years old, and an aspiring pilot.

Mohammed Sameh Haitham was an all-star athlete and always anxious to help others. His 20th birthday would have been next week.

Cameron Walters of Richmond Hill, Georgia, was 21 and hoped to become an airman. According to Cameron’s father, nothing made him prouder than to be able to wear the uniform of a United States sailor.

When confronted with the mortal threat of an active shooter, these sailors charged the gunman, an action that is credited with saving countless lives.

Mr. Speaker, Naval Station Great Lakes is in my district. Each year, more than 40,000 pass through Great Lakes to become sailors in the United States Navy. Cameron Walters and Mo Haitham were two such sailors.

The men and women who hear the call to duty and volunteer to wear the cloth of our Nation are role models for all of us. Let us take this time to recognize their commitment and let us commit ourselves to respect the heroically sacrifices of Kaleb Watson, Cameron Walters, and Mohammed Haitham will never be forgotten.

Mr. Speaker, I yield to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. This is not the way Congress’ power of impeachment because there are no impeachable offenses.

Mr. Speaker, I yield to the gentleman from Maryland (Mr. HOYER).

Mr. SCALISE. Mr. Speaker, I yield back the balance of my time.

IN HONOR OF KALEB WATSON, CAMERON WALTERS, MOHAMMED HAITHAM—VICTIMS OF PENSACOLA SHOOTING

(Mr. SCHNEIDER asked and was given permission to address the House and to revise and extend his remarks.)

Mr. HOYER. The good news is they didn’t bring impeachment against President Obama because he did nothing to warrant such an action. How profoundly different that is.

Mr. SCALISE. Mr. Speaker, I yield back the balance of my time.

IN HONOR OF KALEB WATSON, CAMERON WALTERS, MOHAMMED HAITHAM—VICTIMS OF PENSACOLA SHOOTING

(Mr. SCHNEIDER asked and was given permission to address the House and to revise and extend his remarks.)

Mr. HOYER. The good news is they didn’t bring impeachment against President Obama because he did nothing to warrant such an action. How profoundly different that is.

Mr. SCALISE. Mr. Speaker, I yield back the balance of my time.

IN HONOR OF KALEB WATSON, CAMERON WALTERS, MOHAMMED HAITHAM—VICTIMS OF PENSACOLA SHOOTING

(Mr. SCHNEIDER asked and was given permission to address the House and to revise and extend his remarks.)

Mr. HOYER. The good news is they didn’t bring impeachment against President Obama because he did nothing to warrant such an action. How profoundly different that is.

Mr. SCALISE. Mr. Speaker, I yield back the balance of my time.

IN HONOR OF KALEB WATSON, CAMERON WALTERS, MOHAMMED HAITHAM—VICTIMS OF PENSACOLA SHOOTING

(Mr. SCHNEIDER asked and was given permission to address the House and to revise and extend his remarks.)

Mr. HOYER. The good news is they didn’t bring impeachment against President Obama because he did nothing to warrant such an action. How profoundly different that is.

Mr. SCALISE. Mr. Speaker, I yield back the balance of my time.

IN HONOR OF KALEB WATSON, CAMERON WALTERS, MOHAMMED HAITHAM—VICTIMS OF PENSACOLA SHOOTING

(Mr. SCHNEIDER asked and was given permission to address the House and to revise and extend his remarks.)

Mr. HOYER. The good news is they didn’t bring impeachment against President Obama because he did nothing to warrant such an action. How profoundly different that is.

Mr. SCALISE. Mr. Speaker, I yield back the balance of my time.

IN HONOR OF KALEB WATSON, CAMERON WALTERS, MOHAMMED HAITHAM—VICTIMS OF PENSACOLA SHOOTING

(Mr. SCHNEIDER asked and was given permission to address the House and to revise and extend his remarks.)

Mr. HOYER. The good news is they didn’t bring impeachment against President Obama because he did nothing to warrant such an action. How profoundly different that is.

Mr. SCALISE. Mr. Speaker, I yield back the balance of my time.

IN HONOR OF KALEB WATSON, CAMERON WALTERS, MOHAMMED HAITHAM—VICTIMS OF PENSACOLA SHOOTING

(Mr. SCHNEIDER asked and was given permission to address the House and to revise and extend his remarks.)

Mr. HOYER. The good news is they didn’t bring impeachment against President Obama because he did nothing to warrant such an action. How profoundly different that is.

Mr. SCALISE. Mr. Speaker, I yield back the balance of my time.

IN HONOR OF KALEB WATSON, CAMERON WALTERS, MOHAMMED HAITHAM—VICTIMS OF PENSACOLA SHOOTING

(Mr. SCHNEIDER asked and was given permission to address the House and to revise and extend his remarks.)

Mr. HOYER. The good news is they didn’t bring impeachment against President Obama because he did nothing to warrant such an action. How profoundly different that is.

Mr. SCALISE. Mr. Speaker, I yield back the balance of my time.
MESSAGE FROM THE SENATE

A message from the Senate by Mr. Byrd, of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 2333. An act to direct the Comptroller General of the United States to conduct an assessment of the responsibilities, workload, and vacancy rates of Department of Veterans Affairs suicide prevention coordinators, and for other purposes.

The message also announced that pursuant to Public Law 98–183, as amended by Public Law 103–419, the Chair, on behalf of the President pro tempore and upon the recommendation of the Majority Leader, appoints the following individual to the United States Commission on Civil Rights:

Gail Heriot from California.

SCOTTS BLUFF NATIONAL MONUMENT—100TH YEAR ANNIVERSARY

(Mr. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Nebraska. Mr. Speaker, I rise today to recognize the 100th anniversary of the Scotts Bluff National Monument’s official designation. Having grown up in Gering, Nebraska, I am proud of the monument and the uniquely American story of the role it played in our westward migration. As one of the highest points in Nebraska, dominating the landscape, it stood as an unmistakable part of the Oregon Trail. When I look at the monument, I can’t help but think of the brave pioneers of the Oregon Trail.

Stunning sights and Oregon Trail landmarks, such as Scotts Bluff Monument, must have been a source of awe on the arduous journey west. It had to have served as motivation to keep going and a relief to know they were well on their way.

Scotts Bluff was named for Hiram Scott, a fur trader who died nearby in 1829. The monument’s name comes from early economic activity in our region, the monument is still important to our regional economy, drawing 150,000 people from across America and around the world each and every year. I thank the great folks who dedicate their time and hard work to keep the park in great condition so others may enjoy it for generations to come. It is with great pleasure I join with all Nebraskans to celebrate the centennial of this Oregon Trail icon.

STARFISH EQUINE RESCUE

(Mr. VAN DREW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VAN DREW. Mr. Speaker, today, I want to recognize a nonprofit organization in my district providing a home and a future for horses who have experienced abuse and neglect. Starfish Equine Rescue works to rehabilitate and ultimately adopt unwanted, abused, and neglected horses.

Since 2012, this organization has been rescuing horses in most deplorable conditions and giving them a second chance at life. Starfish Equine Rescue works hard to bring these horses back to health and identify caring and supportive homes in south Jersey and in surrounding states.

In addition to rescuing horses from abuse and neglect, Starfish Equine rescues horses that were slated for slaughter and are saved. And this is a practice that I have joined with Representative Schakowsky and other House colleagues in opposing under H.R. 961, which I hope someday will be the law of the land.

The volunteers at Starfish and the adoptive homes of these once vulnerable horses have provided a great service to south Jersey and into the future. We are proud of them. May God bless them.

IN RECOGNITION OF BO BIGGS OF LUMBERTON, NORTH CAROLINA

(Mr. BISHOP of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP of North Carolina. Mr. Speaker, today, I am proud to recognize my friend, Mr. Bo Biggs of Lumberton, North Carolina, on the occasion of his ascension to the chairmanship of the Golden LEAF Foundation, and in doing so, to acknowledge the significance to North Carolina of the organization he now leads.

Bo is an indefatigable servant of his community and state in business, professional, and civic leadership. Bo’s life of service includes Antioch Baptist Church of Lumberton, the Lumberton Rotary Club, of which he is past president, the Lumberton Area Chamber of Commerce, the North Carolina Association of Certified Public Accountants, the FreeEnterprise Foundation, the Retail Merchants Association, and still others.

Time and again, Bo has invested himself in the State of North Carolina and its citizens, and that is why I am honored to recognize his new role with an organization that is committed to the same. I have seen firsthand the impact of Golden LEAF in North Carolina. It promotes cutting edge agriculture, creates new jobs, and provides scholarships for future leaders.

The Golden LEAF Foundation has a 20-year history of investing in Carolinians with over 60,000 jobs created $624 million in new payroll stimulated in economically distressed areas.

IN MEMORY OF J. DOYLE CORMAN

(Mr. KELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KELLER. Mr. Speaker, on behalf of the people of Pennsylvania’s 12th Congressional District, I rise to offer our condolences on the passing of former State representative J. Doyle Corman.

Senator Corman represented the 34th senatorial district, including areas within Pennsylvania’s 12th Congressional District from 1977 to 1998. While in the State Senate, Senator Corman championed lowering state transporta-
minute and to revise and extend his remarks.)

Mr. GUEST. Mr. Speaker, on December 13 through December 15, First Baptist Church of Jackson will present Carols by Candlelight, a much-loved Christian tradition in Mississippi that shares the good news of the birth of our Savior, Jesus Christ, through a magnificent Christmas concert.

This year, Carols by Candlelight celebrates its 50th anniversary with more than 325 choir members, 60 orchestra members, and hundreds of volunteers. They will present five live performances for more than 16,000 people while many more will watch online.

Mr. Speaker, I congratulate First Baptist Jackson on achieving this special milestone.

May God bless this 50th anniversary performance of Carols by Candlelight.

’Soli Deo Gloria.’ To God alone be the glory.

FAIR PRICES, BETTER CURES

The SPEAKER pro tempore (Mr. Breyer). Under the Speaker’s announced policy of January 3, 2019, the gentleman from Nebraska (Mr. FORTENBERRY) is recognized for 60 minutes as the designee of the minority leader.

Mr. FORTENBERRY. Mr. Speaker, I want to share the doctor recently for a common ailment, and he prescribed an antibiotic.

I said, Well, Doc, let’s check the price on that before we go any further. He said, Oh, don’t worry about it. It is only $6.

Well, guess what? It was $6 dollars in 2001; and now the list price is $300.

It would be so beneficial to lower costs, to affect tens of millions of Americans. We didn’t have that choice when we discussed how we move forward, ensuring that we upon layers of management and bureaucracy that have driven the price upward, while being fair to the manufacturer and without undermining America’s system of innovation that is so significant to the world in producing lifesaving drugs.

Nonetheless, we have added this problem, or this middle management, if you will, to the way in which we dispense drug prices. That is part of the problem of why they have gone up so fast, especially around drugs like this.

Again, not necessarily a brand-new formula. No extraordinary innovation has happened over the last number of decades, some changes, some modifications and improvements, but no way to justify these price increases.

I think this would be a good idea that actually could unite us, to get us away from the large philosophical differences when we discuss how we move forward, ensuring that we upon fair prices and better cures without undermining the good, innovative, leading industry in the United States, but an industry that has a real problem, that really ought to be rallying around solutions that I am suggesting here.

That is just one idea, but I am hopeful it is a start because this idea actually pulls a thread. It is specific enough to affect tens of millions of Americans. It would be so beneficial to lower costs, yet without infringing upon the dynamics of a good market system that we have.

I think this is an answer. Perhaps, this could be a good start.

Besides this one-line solution, Mr. Speaker, another obvious solution here should be the acceleration of generic drugs. Drug companies, however, have a long history of slow-walking generic drug approval through legal maneuvering, very high prices, patented prices, and patent extensions.

I have been given a unique responsibility in helping to lead the House Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, which has oversight responsibility for the Food and Drug Administration. Through our focused efforts,
the FDA is reforming the generic approval process. Cracking dawn harder on pharmaceutical companies that are exploiting loopholes to modify patents for not-so-unique drugs is one way to grow generics. Currently, even a small nationalization could be enough to get it approved by the Patent and Trademark Office.

In 2018, an analysis found that patent protection for 76 percent of the 100 best-selling drugs was extended at least once. This is a significant cost driver.

According to the FDA, the Food and Drug Administration, when generic competition exists, prices are often 80 percent to 85 percent less than brand-name drugs. With 90 percent of generic prescriptions available for less than $20 for patients with insurance, that translates into very real savings for families across this country.

The Government Accounting Office says that generics can save the United States $50 billion a year—get well over $1 trillion in a 10-year window.

We could spend another hour speaking about the financial difficulties that we are having. We have a good, strong, growing economy. Many people are finally, thankfully, finding access to meaningful work, and there is an appropriate upward pressure on wages in this country.

But what erodes that? The escalating cost of healthcare. For people who are in need of lifesaving drugs, this is fundamentally unfair.

Again, our efforts at trying to move generics faster to market, identify solutions and not political anger.

Another important piece of legislation allows the pharmacist to tell a patient about therapeutically equivalent, but less costly drugs as an alternative treatment allows the pharmacist to tell a patient about therapeutically equivalent, but less costly drugs as an alternative.

One of the things that we have seen today, there were two very large bills debated, but unfortunately, in this political environment, one is a Democratic bill, and one is a Republican bill, and no consensus exists.

But after the smoke clears, I hope that reasonable people will make way and will make a pathway for the right solutions and not political anger.

This system is sick. Our government deserves better. We should see real savings for families across this country.

Mr. Speaker, I yield back the balance of my time.

AND STILL I RISE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2019, the gentleman from Texas (Mr. GREEN) is recognized for 60 minutes as the designee of the majority leader.

Mr. GREEN of Texas. Mr. Speaker, and still I rise, with love of country at heart and my mnemonic notes in hand. I rise today, Mr. Speaker, remembering something from my childhood. My grandfather was a minister, and he reminded the grandchildren that there is no one so blind as he who chooses not to see. 20/20 vision, but the person who chooses not to see is the blindest of all. No one is so blind as those who choose not to see.

I bring this to the attention of those who are listening for a specific reason. I cannot impose understanding. I cannot cause people to say that they understand that which they already understand but choose not to acknowledge.

What I can do is this: I can encourage us to open our eyes and see what is happening to our country. I rise today, Mr. Speaker, remembering something from my childhood. My grandfather was a minister, and he reminded the grandchildren that there is no one so blind as he who chooses not to see. 20/20 vision, but the person who chooses not to see is the blindest of all. No one is so blind as those who choose not to see.

I bring this to the attention of those who are listening for a specific reason. I cannot impose understanding. I cannot cause people to say that they understand that which they already understand but choose not to acknowledge.

What I can do is this: I can encourage us to open our eyes and see what is happening to our country, the country that I assume we all love. I encourage us to see what is happening to public discourse, to pay attention to things that are happening in the public arena that are greatly different than the things we have been accustomed to.

Mr. Speaker, I don’t believe that we should have, in our public discourse, the Chief Executive Officer saying things that we don’t want our children to repeat. The Chief Executive Officer is to be a leader in many ways.

We tell our children: One day you can grow up and be the Chief Executive Officer. You can be the head of state. And we want people to look up to the Chief Executive Officer, to the head of state.

□ 1600

I don’t think most of us would have our children go to a public rally and engage in some of the discourse that we have seen, some of the scatology, the profanity that seems to become a part of this discourse and is almost commonplace now from the Chief Executive Officer.

My dear friends, there is something happening to us. While it may not happen all in 1 day or 1 week or 1 month of time, it can become commonplace.

Have you not noticed how on the various talk shows people are using a level of discourse that we would find unacceptable, that I find unacceptable that is not commonplace some years ago, not so very long ago? I am hearing more profanity being used.

I am not a perfect servant. I am not a perfect person. I don’t claim to be perfect. But I can say to you that I want to live in a country where children are proud to grow up and say they want to be like that person who happens to be the Chief Executive Officer.

I bring this to the attention of those who are listening for a specific reason. I cannot impose understanding. I cannot cause people to say that they understand that which they already understand but choose not to acknowledge.

What I can do is this: I can encourage us to open our eyes and see what is happening to public discourse, to pay attention to things that are happening in the public arena that are greatly different than the things we have been accustomed to.

Mr. Speaker, I don’t believe that we should have, in our public discourse, the Chief Executive Officer saying things that we don’t want our children to repeat. The Chief Executive Officer is to be a leader in many ways. We tell our children: One day you can grow up and be the Chief Executive Officer. You can be the head of state. And we want people to look up to the Chief Executive Officer, to the head of state.

□ 1600

I don’t think most of us would have our children go to a public rally and engage in some of the discourse that we have seen, some of the scatology, the profanity that seems to become a part of this discourse and is almost commonplace now from the Chief Executive Officer.

My dear friends, there is something happening to us. While it may not happen all in 1 day or 1 week or 1 month of time, it can become commonplace.

Have you not noticed how on the various talk shows people are using a level of discourse that we would find unacceptable, that I find unacceptable that is not commonplace some years ago, not so very long ago? I am hearing more profanity being used.

I am not a perfect servant. I am not a public servant. I am not a perfect person. I don’t claim to be perfect. But I can say to you that I want to live in a country where children are proud to grow up and say they want to be like that person who happens to be the Chief Executive Officer.

I bring this to the attention of those who are listening for a specific reason. I cannot impose understanding. I cannot cause people to say that they understand that which they already understand but choose not to acknowledge.

What I can do is this: I can encourage us to open our eyes and see what is happening to public discourse, to pay attention to things that are happening in the public arena that are greatly different than the things we have been accustomed to.

Mr. Speaker, I don’t believe that we should have, in our public discourse, the Chief Executive Officer saying things that we don’t want our children to repeat. The Chief Executive Officer is to be a leader in many ways.

We tell our children: One day you can grow up and be the Chief Executive Officer. You can be the head of state. And we want people to look up to the Chief Executive Officer, to the head of state.

□ 1600

I don’t think most of us would have our children go to a public rally and engage in some of the discourse that we have seen, some of the scatology, the profanity that seems to become a part of this discourse and is almost commonplace now from the Chief Executive Officer.

My dear friends, there is something happening to us. While it may not happen all in 1 day or 1 week or 1 month of time, it can become commonplace.

Have you not noticed how on the various talk shows people are using a level of discourse that we would find unacceptable, that I find unacceptable that is not commonplace some years ago, not so very long ago? I am hearing more profanity being used.

I am not a perfect servant. I am not a public servant. I am not a perfect person. I don’t claim to be perfect. But I can say to you that I want to live in a country where children are proud to grow up and say they want to be like that person who happens to be the Chief Executive Officer.

I bring this to the attention of those who are listening for a specific reason. I cannot impose understanding. I cannot cause people to say that they understand that which they already understand but choose not to acknowledge.

What I can do is this: I can encourage us to open our eyes and see what is happening to public discourse, to pay attention to things that are happening in the public arena that are greatly different than the things we have been accustomed to.

Mr. Speaker, I don’t believe that we should have, in our public discourse, the Chief Executive Officer saying things that we don’t want our children to repeat. The Chief Executive Officer is to be a leader in many ways.

We tell our children: One day you can grow up and be the Chief Executive Officer. You can be the head of state. And we want people to look up to the Chief Executive Officer, to the head of state.

□ 1600

I don’t think most of us would have our children go to a public rally and engage in some of the discourse that we have seen, some of the scatology, the profanity that seems to become a part of this discourse and is almost commonplace now from the Chief Executive Officer.

My dear friends, there is something happening to us. While it may not happen all in 1 day or 1 week or 1 month of time, it can become commonplace.

Have you not noticed how on the various talk shows people are using a level of discourse that we would find unacceptable, that I find unacceptable that is not commonplace some years ago, not so very long ago? I am hearing more profanity being used.

I am not a perfect servant. I am not a public servant. I am not a perfect person. I don’t claim to be perfect. But I can say to you that I want to live in a country where children are proud to grow up and say they want to be like that person who happens to be the Chief Executive Officer.

I bring this to the attention of those who are listening for a specific reason. I cannot impose understanding. I cannot cause people to say that they understand that which they already understand but choose not to acknowledge.

What I can do is this: I can encourage us to open our eyes and see what is happening to public discourse, to pay attention to things that are happening in the public arena that are greatly different than the things we have been accustomed to.

Mr. Speaker, I don’t believe that we should have, in our public discourse, the Chief Executive Officer saying things that we don’t want our children to repeat. The Chief Executive Officer is to be a leader in many ways.

We tell our children: One day you can grow up and be the Chief Executive Officer. You can be the head of state. And we want people to look up to the Chief Executive Officer, to the head of state.

□ 1600
I mention all of these things because I know that this level of ugly discourse is going to be something that we are going to have to live with for a lot longer than we choose, unless we choose to do something about it. I ask you just to pay attention to what is happening to our society. Pay attention to the words that are being said and the way people are being demeaned by the Chief Executive Officer, who sets the standard, who is a standard-bearer. Pay attention to what is going on.

I beg that, please, let’s open our eyes and see how a single person is corrupting the discourse, not only, by the way, at rallies and among those who are on talk shows but also here in the Congress of the United States of America.

I arrived here in 2005. Since then, the discourse in Congress has changed to the extent that we are hearing things that I thought we would never hear in the Congress in terms of scatology, profanity, demeaning commentary.

Now, I am not saying don’t speak truth. Speak truth. But what I am saying is what we are saying to hurt people just to be harmful, to let people somehow be demeaned just to demean people, I find that unacceptable.

I just beg that we would not be so blind as those who choose not to see. I think that society is not lost overnight, but the genesis of the loss is discourse, public discourse that degrades to the extent that the humanity of every person is lessened, where people at some point conclude: Those people, they don’t belong. Those people, they don’t count.

Every human being means something and counts. We ought not allow ourselves to allow things to happen to babies in cages. We ought not allow ourselves to conclude that certain religions are unacceptable. What can happen to one religion can happen to any religion. Every child is precious. We ought to respect the humanity of every person and accord a certain amount of decency to all people. I cannot believe some of the things that we are now tolerating.

There was a time in this country when we would not tolerate having a person acknowledge that, among racists and bigots, there were some very fine people or nice people. There was a time when we wouldn’t tolerate that, but we do now. There was a time when certain tropes that are being used and propagated, we wouldn’t tolerate it, but we do now.

My comment to America, to our country, and to the people who care is, at some point, the level of hate is going to become a bigger problem than we care to deal with, unless we deal with it now. We should. We should deal with it. We cannot allow it to become something that future generations will have to contend with. It is easy to believe that this is a temporary condition until it is no longer a temporary condition.

“Irreparable harm” is a term that we use in law. At some point, this becomes irreparable harm. At some point, there are some people who will suffer to the extent that they can’t recover.

I know of people in the Latino community who live with a great degree of apprehension. People born in this country, Americans, live with a great degree of apprehension because of what happened in El Paso.

I know of people who are of a certain faith, members of this country, who live with apprehension because of what happened in Charlottesville.

We ought not allow the discourse, this incitive discourse, to create circumstances where people are harmed. We are seeing it happen, but I think that some of us choose not to see the harmful impact that it is having on our society.

My message is very simple today. I beg, let’s take a look, just open our eyes and let’s look at what is happening to our country. If we can do this, we can change this.

This ought not be the case in the greatest country in the world. There is no one so blind as he who chooses not to see. I hope that understanding will begin to prevail and decide that we will not tolerate the level of hateful discourse that we are suffering and that many people suffer from because there are other persons who hurt them after being exposed to this incitive discourse, this inciting language, this weaponization of hate. People are hurting.

I don’t say these things because I want to make sure I personally am protected. I come to this podium to bring these words and this message because I know of the suffering in various communities.

Those who are suffering from anti-Semitism, I know about it. Those who are suffering from racism, I know about it. Those who are suffering from the various insidious forms of hate related to who you happen to be, I know about it. The homophobia, the Islamophobia, the xenophobia, all of the various phobias that are harmful to people, I know.

I have constituents, and I know that they expect me to do this. They expect someone to say that people are quietly suffering. They expect us to do this. They send us to Congress to do this. We ought not tolerate this level of hate because we perpetuate it, and we ought to do something about it.

In the beginning was the word. This is the word. I am talking about it now. But there is much more that we can do, and I pray that we will become, each of us, a committee of one to do something about the hate that is being perpetrated among people in this country that is causing harm to other people in this country.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Members are reminded to refrain from engaging in personalities toward the President.

EXPLANATORY MATERIAL STATEMENT ON INTELLIGENCE AUTHORIZATION MEASURES FOR FISCAL YEARS 2018, 2019, AND 2020, SUBMITTED BY MR. SCHIFF, CHAIRMAN OF THE HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The following is the explanation of the Damon Paul Nelson and Matthew Young Pollard Intelligence Authorization Act for Fiscal Years 2018, 2019, and 2020 (hereinafter, “the Act”).

This explanation reflects the result of negotiations and disposition of issues reached between the House Permanent Committee on Intelligence (HPSCI) and the Senate Select Committee on Intelligence (SSCI) (hereinafter, “the Agreement”). The explanation shall have the same effect with respect to the implementation of the Act as if it were a joint explanatory statement of a conference committee.

The explanation comprises three parts: an overview of the application of the annex to accompany this statement; unclassified congressional direction; and a section-by-section analysis of the legislative text.

PART I: APPLICATION OF THE CLASSIFIED ANNEX

The classified nature of U.S. intelligence activities prevents the HPSCI and SSCI (collectively, the “congressional intelligence committees”) from publicly disclosing many details concerning the conclusions and recommendations of the Agreement. Therefore, a classified Schedule of Authorizations and a classified annex have been prepared to describe in detail the scope and intent of the congressional intelligence committees’ actions. The Agreement authorizes the Intelligence Community (IC) to obligate and expend funds not altered or modified by the classified Schedule of Authorizations as requested in the President’s budget, subject to modification under applicable reprogramming procedures.

The classified annex is the result of negotiations between the congressional intelligence committees. The differences between the congressional intelligence committees’ respective versions of the bill for the National Intelligence Program (NIP) for Fiscal Years 2018, 2019, and 2020. The Agreement also makes recommendations for the Military Intelligence Program (MIP) and the Information Systems Security Program (ISSP), consistent with the National Defense Authorization Act for Fiscal Year 2020, and provides certain direction for these two programs. The Agreement applies to IC activities for Fiscal Year 2020.

The classified Schedule of Authorizations is incorporated into the bill pursuant to Section 5102 of Subdivision 1. It has the status of law. The classified annex supplements and adds detail to clarify IC activities and levels found in the bill and the classified Schedule of Authorizations. The congressional intelligence committees view direction and recommendations, whether contained in this explanation or in the classified annex, as requiring compliance by the Executive Branch.

PART II: SELECT UNCLASSIFIED CONGRESSIONAL DIRECTION

Unclassified Direction related to Subdivision 1 of the Act relates to Fiscal Year 2020. Unclassified Direction related to Subdivision 2 was included in Fiscal Year 2019.

The term “Committees” refers to both SSCI and HPSCI.
UNCLASSIFIED DIRECTION RELATED TO
SUBDIVISION 1
Plans for Operations During Government Shutdowns by All Elements of the Intelligence Community

The Committees have an active interest in the impact of government shutdowns on the intelligence mission. Office of Management and Budget (OMB) Circular A-11, Section 124, outlines how agencies are supposed to plan for operations during government shutdowns, and Section 124.2 provides that agencies must share those plans with OMB. Additionally, Section 322 of the Intelligence Authorization Act for Fiscal Year 2014 requires the Office of the Director of National Intelligence (ODNI), the Central Intelligence Agency (CIA), the National Geospatial-Intelligence Agency, the Office of the Under Secretary of Defense (Comptroller), and the Office of the Under Secretary of Defense (CIO) to share those plans with specified congressional committees, including the congressional intelligence committees.

These requirements, however, omit IC elements that are not separate “agencies” for the purposes of OMB Circular A-11, Section 124. CIA, the National Geospatial-Intelligence Agency (NGA), the Defense Intelligence Agency (DIA), and the Joint Technical Intelligence Center (JTIC), are not considered agencies within the DoD for the purposes of the IAA for Fiscal Year 2014. As a result, no such reporting requirement currently exists for IC elements outside the DoD. The Committees direct the ODNI, CIA, Treasury, Energy, State, and Homeland Security. For that reason, portions of the federal government were shut down between December 2018 and February 2019, the committees had little to no insight into the effects of the shutdown on these and other important segments of the IC.

Therefore, the Committees direct IC elements within the Departments of Justice, Treasury, Energy, State, and Homeland Security to submit to the congressional intelligence committees on:

1. The effects of the shutdown on intelligence; and
2. The number of personnel in their respective elements that will be furloughed.

Program Manager-Information Sharing Environment Review.

Section 1016 of the Intelligence Reform and Terrorism Protection Act of 2004 (IRTPA) created a Program Manager-Information Sharing Environment (PM-ISE), administered from within the ODNI, to better facilitate the interagency sharing of terrorism-related information, in the same day as the host department’s issuance of any plan for a government shutdown—the number of personnel in their respective elements that will be furloughed.

Therefore, the Committees direct the ODNI, in consultation with appropriate Federal departments, agencies, and components, with 180 days of enactment of this Act, to conduct a review of the PM-ISE’s terrorism information sharing mission, associated functions, and organizational role within the ODNI and provide findings and recommendations on the future of the PM-ISE to Congress.

Leveraging Academic Institutions in the Intelligence Community

The Committees encourage the DNI and the Director of the DIA to ensure that IC elements continue to forge tighter partnerships with leading universities and their affiliated research centers to enhance the awareness of domestic and international challenges, leverage subject matter experts from higher education in a manner that uses cutting edge technologies and methods, and bolsters the recruitment of top-notch, diverse, and technically proficient talent into the IC’s workforce.

The Committees further believe that IC-sponsored academic programs such as the Intelligence Community University for Academic Excellence (IC-CAE) should work closely with educational institutions that offer interdisciplinary courses of study and leadership opportunities in national and international security; geopolitical affairs, international relations and national security; international courses of study in the culminating, language, politics, and religions of major world regions; foreign language instruction; computer and data science; or cybersecurity.

The DNI shall ensure that such programs are facilitated via the streamlining of the security clearance process for graduating students from such universities who receive offers of employment from IC elements, provide for the temporary exchange of faculty and IC professionals, including as visiting fellows, and technical training opportunities for students, faculty, and academic.

Therefore, the Committees direct all IC agencies to support the IC-CAE effort by tracking faculty profiles who have graduated from IC-CAE-designated institutions, promptly reporting those numbers to the office in charge of IC-CAE implementation, and providing IC personnel’s efforts to recruit from such institutions.

Access to Sensitive Compartmented Information Facilities.

The Committees remain concerned about impediments to appropriate cleared personnel being able to perform work for government entities and the effects of these impediments on IC access to cutting-edge facilities. For example, businesses without access to a Sensitive Compartmented Information Facility (SCIF), which includes many small businesses and non-traditional government contractors, find it difficult to perform classified work for the IC. Construction and accreditation of SCIF spaces may be cost-prohibitive for small businesses and non-traditional government contractors.

Additionally, SCIF construction timelines often exceed the period of performance of a contract, thus making it infeasible for small non-traditional government contractors to use the use of co-working space environments. Additionally, public and private entities are finding it difficult to innovate and collaboration hubs currently produce an agile, neutral, but largely unclassified, development environment.

Therefore, the Committees direct the ODNI to submit a report to the congressional intelligence committees on:

1. Processes and procedures necessary to build, certify, and maintain certifications for multi-use sensitive compartmented facilities not tied to a single contract and where multiple companies can securely work on multiple programs across security levels;
2. Analysis of the advantages and disadvantages of issuing DoD Contract Security Specification (DD Form 254s) for facilities" as opposed to contracts";
3. Options for classified co-use and shared workspace environments, such as co-location, co-working, co-incubation, co-labs, and accelerator environments;
4. Procurement and public, private, government and other innovations that can operate at different classification levels; and
5. Any other opportunities to support companies with appropriately cleared personnel but without effective access to a neutral SCIF.

Inclusion of Security Risks in Program Management Plans Required for Acquisition of Major Systems in the National Intelligence Program.

Section 5305 of Subdivision 1 of the Act directs the DNI to include in the annual Program Plans for major system acquisitions submitted to the congressional intelligence committees pursuant to section 102A(q)(1)(A) of the National Security Act of 1947 (50 U.S.C. 3024(q)(1)(A)). The Committees are increasingly concerned with the threats to IC acquisitions The Joint Explanatory Statement accompanying the Intelligence Authorization Act for Fiscal Year 2017 directed updates to Intelligence Community Directive 731, Supply Chain Risk Management, and Committee leadership has engaged senior industry representatives about the threats to the national security industrial base posed by adversaries and competitors, including China. Over the past few years, the Department of Defense has been elevating security as a "fourth pillar" (to complement cost, schedule, and performance) in reviewing defense acquisitions, embodied in the Under Secretary of Defense for Intelligence’s "Deliver Uncompromised" initiative.

Section 5305 of the Act extends that focus to IC, requiring the annual Program Management Plans to include security risks in major system acquisitions, in addition to cost, schedule, and performance. The Committees fully support section 5306 of Subdivision 1’s implementation in accordance with applicable federal ethics laws, regulations, and policies.

Intelligence Community Public-Private Talent Exchange.

The Committees fully support section 5306 of Subdivision 1’s implementation in accordance with applicable federal ethics laws, regulations, and policies.

Exclusion of Scope of Protections for Identities of Covert Agents.

Section 5307 of Subdivision 1 of the Act removes temporal and geographic limitations on the definition of "covert agent", as that term was defined by Section 506 of the Intelligence Identities Protection Act of 1982, P.L. 97–200 (Jun. 23, 1982) (IIPA). The Committee continues to find it unpromising to exclude covert agents. The Committee recognizes the limitations on the IIPA unauthorized disclosures of certain kinds of classified identity information—those generally involving persons who have not been recognized as covert agents for a period of five years—on grounds that such disclosures are generally less harmful to national security, and therefore undeserving of IIPA protections. The Committees believe that the experience with IIPA has proven otherwise. With the benefit of experience, the Committees have concluded that any disclosure of currently classified identity information without notification or recency of the activities of the person whose information is disclosed, can risk serious harm to national security. That being the case, the Committees believe that the provisions of IIPA present a basis, under appropriate circumstances, for prosecution under the IIPA.
The Committees wish to stress, however, that the change does not imply any enhanced risk of IIPA liability for journalists.

In the thirty-seven years since enactment, the IIPA has never been used to prosecute members of the media. In fact, prosecutors have never charged violations of the IIPA in only two cases that involved the disclosure of classified information. If an individual’s relationship with a covert agent definition have a relationship with covert agents. Similarly, David Garrow would have charged violations of the IIPA in only members of the media. In fact, prosecutors the statute has never been used to prosecute this day to report aggressively on intelligence matters.

The IIPA’s enforcement history also reflects the evolution of Section 601(c), which seems to be the most important provision which some have interpreted to expose traditional journalists to the risk of liability under the statute. But in the Committees’ view, that provision does not cover responsibly investigating and reporting news in the public interest. There is a high burden for conviction under Section 601(c). It requires a prosecution beyond a reasonable doubt, among other things, that a defendant engaged in a “pattern of activities”: a series of acts with the common purpose or objective of concealing the identity of covert agents. Such conduct entails “engaging in a purposeful enterprise of revealing covert identities” or being in the “business of naming intelligence agents having the IIPA put it in 1982. H.R. Rep. No. 97–580, at 9 (1982).

Further regular news gathering and publication—including on abuses of power, violations of law and civil liberties, and other controversial activity—does not require, or even typically involve, such conduct. Indeed, as the Conference illustrated the point:
The reporters who have investigated the activities of Wilson and Terpel, former CIA employees who allegedly supplied explosives and terrorist training to Libya, would not be covered even if they revealed the identity of covert agents if their pattern of activities was intended to investigate illegal or controversial activities, and not to identify covert agents. Similarly, David Garrow would not be within the scope of the statute even though, in a letter, he gave the identity of covert agents in his book, “The FBI and Martin Luther King, Jr.: from ‘Solo’ to Memphis.” His intent presumably was to explain what he wrote in a letter to Martin Luther King and not to identify and expose covert agents.

H.R. Rep. No. 97–580, at 10. The same holds true for traditional, responsible journalists today. Even after amendments made by the Act, their work does not risk liability under the revised IIPA.

Furthermore, section 5303 has no effect on what information may be withheld under the Freedom of Information Act, 5 U.S.C. § 552 (FOIA) which provides the the expanded “covert agent” definition have a relationship with the United States government that is already classified. If an individual’s relationship with the government is classified, it may be withheld under FOIA. Consequently, even before passage of section 5303, identifying information for all of the individuals covered by the proposed expansion could have been withheld under FOIA’s (b)(1) exemption for national security information. In general, when justifying withholding under the FOIA, the government must identify covert agents, agencies should use (b)(1) classification exemptions, not (b)(3) exemptions

Section 5303 is not intended to—and does not—affect Congress’ authority to oversee the Intelligence Community or to—and does not—affect the protections afforded to whistleblowers to disclose violations of law and waste, fraud, and abuse to Inspectors General or other Federal agents.

Intelligence Community Community Cooperation with the Government Accountability Office.


CONGRESSIONAL RECORD — HOUSE H10239

Advisory Degree Program Eligibility.

The Committees are concerned that students enrolled in, or who have graduated from, Associate Degree programs have insufficient opportunities to gain employment in the Intelligence Community. Therefore, the Committees ask the ODNI to submit a report to the congressional intelligence committees on how to expand the number of opportunities for students pursuing or having earned an Associate Degree eligible for IC academic programs. The Committees also direct the ODNI to make information about these academic programs publicly available.

Increasing Data Security.

The Committees are aware the IC faces challenges while trying to balance mission
and enterprise needs with IT modernization, including the migration of data and applications to the cloud. With this in mind, the Committees encourage the IC to identify and utilize cloud applications and services in support of the intelligence posture of data and workloads and reduce cyber risks.

The Committees further recommend that:
1. IC elements identify, develop, and implement tools for bi-directional data migration and division interoperability between data center and cloud environments;
2. The IC elements, where feasible, develop and implement mechanisms to reduce the risk of unencrypted data and applications being stored on cloud storage services in order to limit the risk of potential data exfiltration; and
3. IC elements prioritize shifting resources towards automation as a way to respond more quickly to cyber threats.

*Anonymous Annual Survey Regarding Workplace Climate*

IC elements obtain mission-critical information from the results of anonymous, annual surveys of their employees, on issues related to workplace climate and retention. As necessary as they are to the elements’ own activities, survey results are also vital to the Committees’ continuing oversight of elements’ workplace climate and retention issues, and to propose legislative and other remedies where appropriate.

The need for reliable information is especially urgent in a context subject to sexual harassment and discrimination, given that—established policy and legal protections notwithstanding—an employee may fear that directly raising concerns about such matters risks exposing the employee to retaliatory personnel, security clearance, or other actions. The anonymous survey affords the elements, the Committees, a mechanism for inquiring further about the extent of this well-documented chilling effect against reporting; and about the effectiveness (or not) of ongoing efforts to improve and enhance sexual harassment, discrimination, and other illegal and/or inappropriate activities at the workplace.

Therefore, the Committees direct that no later than 180 days after enactment of this Act, the DNI must certify in writing to the IC's congressional intelligence committees that:

1. At least once a year, each element of the IC submits a survey to its employees regarding workplace climate and retention matters, and employees completing such surveys the option to remain anonymous;
2. Such survey includes questions regarding employees' experiences with sexual assault, harassment, including sexual harassment, and related retaliation, including, at a minimum, the questions covering the following topics:
   a. Have you witnessed sexual harassment or sexual assault?
   b. Did you report it?
   c. If not, why not?
   d. Have you experienced sexual harassment or sexual assault?
   e. Did you report it?
   f. If not, why not?
   g. Have you experienced retaliation for reporting harassment, discrimination, or sexual assault?
   h. Did you report it?
   i. If not, why not?
   j. Have you faced retribution for taking leave for family, medical, or other personal reasons?
   k. Did you fear retribution for taking leave?
3. Each element includes in its survey questions regarding the job series, position, age, gender, race or ethnicity, field, and location at the time of the survey’s completion;
4. Each element tracks employees’ respective job series, position, age, gender, race or ethnicity, field, and location at the time of the survey’s completion; and
5. Each element reports the results of its survey annually to the congressional intelligence committees.

*Report to Congress on the Representation of Women and Minorities in the Workplace*

The Committees strongly support IC efforts to identify, recruit, and retain a diverse and highly qualified workforce—including, in particular, its efforts to increase the number of women within elements of the IC of women and minorities.

This is a data driven exercise. Bolstering and adjusting IC workforce diversity programs depends on Committees regularly obtaining current, detailed, and reliable information, and about specific matters relevant to the broader subject of workforce diversity including an assessment of the promotion of women and minority employees. However, some elements may produce such information only from time to time; others may make regular submissions to the Committees but include only general information.

Therefore, the Committees direct that every six months, the head of each element of the IC shall submit to the Committees a written report that shall include, at a minimum:

1. The total number of women and minorities hired by that element during the reporting period and a calculation of that figure as a percentage of the agency’s total hiring for that period;
2. The distribution of women and minorities at that element by grade level and by job series in the element’s total workforce during the reporting period, together with comparisons from the immediately preceding two years;
3. The number of women and minorities who applied for promotion at the element and the final number selected for promotion during the reporting period;
4. The proportion of the total workforce of the element occupied by each group or class protected by law, as of the last day of the reporting period;
5. The numbers of minorities and women serving in positions at the element requiring advanced, specialized training or certification, as well as the proportion of the workforce those groups occupy; and
6. To the extent that such element deploys civilian employees to hazardous duty locations, the proportion of minority and minority employees who departed government service subsequent to a deployment undertaken by an employee in the previous two years.

*Report on Geospatial Commercial Activities for Basic and Applied Research and Development*

The Committees direct the Director of the National Geospatial-Intelligence Agency (NGA), in coordination with the DNI, the Director of the Central Intelligence Agency (CIA), and the Director of the National Reconnaissance Office (NRO), within 90 days of enactment of this Act, to submit to the congressional intelligence and defense committees a written report that shall include, at a minimum:

1. A description of NGA’s efforts to integrate new automation technologies into its operations and the technologies developed at NGA for the purpose of assisting the efforts of the private sector and academia, on a need-driven and limited basis—consistent with the protection of sources and methods, as well as privacy and civil liberties—access to data in the possession of the Agency for the purpose of assisting the efforts of the private sector and academia in basic research, applied research, data transfers, and the development of automated and semi-automated information and associated algorithms. Such report shall include:
   a. Identification of any additional authorities that the Director of NGA would require to conduct any such activities, together with access to relevant data on a need-driven and limited basis, consistent with applicable laws and procedures relating to the protection of sources, methods, privacy and civil liberties; and
2. Market research to assess the commercial and academic interest in such data and determine likely private-sector entities and institutions of higher education interested in public-private partnerships relating to such data.

*NRO Contracting Restrictions*

The Committees continue to be very concerned that NRO imposes unnecessary contracts and procurement restrictions that discourage a contractor from contacting or meeting with a congressional intelligence committee or intelligence committee Member, or any of their respective staffs. Therefore, the Committees direct NRO to remove all restrictions that impact contractors from contacting or meeting with the congressional intelligence committees or member offices in all current and future contracts to include pre-coordination with executive branch agencies.

*Enhancing Automation at the National Geospatial-Intelligence Agency*

The Committees strongly support efforts to leverage commercial advances in automation of imagery such as electro-optical, infrared, Wide Area Motion Imagery (WAMI), Full Motion Video (FMV), and Synthetic Aperture Radar (SAR) products to reduce manual processing and improve information flow to warfighters. However, the Committees are very concerned that NGA does not dedicate adequate resources to integrate new automation technologies, which have resulted in years of research into the issue, but limited operational gains during day-to-day imagery processing.

Therefore, the Committees direct NGA, within 90 days of enactment of this Act, to brief congressional and defense committees on an updated plan to reduce manual processing of imagery such as electro-optical, infrared, WAMI, FMV, and SAR products to improve information flow to users. The briefings shall also address:

1. NGA’s strategy to leverage commercial advances;
2. The various GEOINT automated exploitation development programs across the National System for Geospatial-Intelligence, and the associated funding and specific purpose of said programs;
3. Any similar efforts by government entities outside the National System for Geospatial-Intelligence of which NGA is aware; and
4. Which of these efforts may be duplicative.

*Rapidly Organic Software Development*

The Committees are concerned that NGA is developing software solutions that are otherwise available for purchase on the commercial market. This practice often increases the time it takes to deliver new capabilities to the warfighter; increases the overall cost of the solution through expensive operational and maintenance costs; and undermines the U.S. software industrial base.

Therefore, the Committees direct NGA, within 90 days of enactment of this Act, to brief the Committees, to identify all NGA developed software programs and explain why they are being developed organically instead of leveraging commercially available products.

*Critical Skills Recruiting for Automation*

Although cutting edge sensors have provided the IC and Department of Defense with expanded awareness and wide area motion imagery (WAMI), intelligence analysts are unable to keep pace with the volume of data being generated. Thus, a fundamental challenge for the intelligence enterprise processes, organizes, and presents data. For that reason, the
Committees fully support the NGA’s efforts to attract, recruit, and retain a highly competent workforce that can acquire and integrate new data automation tools.

Therefore, the Committees direct the NGA, within 90 days of enactment of this Act, to brief the congressional intelligence and defense committees on NGA’s efforts to recruit critical mathematicians, computer scientists, and software engineers that possess critical skills needed to support NGA’s objectives in automation.

Cost-Effective Sensitive Comparted Information Facility

The Committees have become aware of several major impediments to companies performing work for agencies and organizations like the NGA, IC, and national laboratories without ownership of a SCIF find it very difficult to perform classified work. Additionally, these small businesses are challenged with basic obstacles such as becoming aware of classified work opportunities because it is difficult to obtain access to the IC’s and DoD’s classified marketplaces such as the Acquisition Resource Center (ARC). Construction and accreditation of SCIF spaces costs prohibitive for small businesses and non-traditional government contractors. Additionally, the timeline often exceeds the period of performance of a contract.

A modern trend for innovative and non-traditional government contractors is the decreased use of classified workspace environments. Additionally, public and private entities are partnering to create emerging regional innovation hubs to help identify technology solutions and products in the open sector that can be utilized by the IC and DoD. These innovation hubs currently produce an agile, neutral, but largely unclassified development environment.

Therefore, the Committees direct the DNI, within 90 days of enactment of this Act, to brief the congressional intelligence committees on the following:

1. Steps necessary to establish new ‘Common SCIFs’ in areas of high demand;
2. What approaches allow for SCIF spaces to be certified and accredited outside of traditional contract arrangements;
3. Analysis of the advantages and disadvantages of issuing Department of Defense Contract Title—Certification of Facility (DFARS) to “Facilities,” as opposed to “Contracts”;
4. Options for classified co-use and shared workspace environments such as: incubation, catalyst, and accelerator environments;
5. Pros and cons for public, private, government, and non-government owned classified neutral facilities; and
6. Any other opportunities to support those without ownership of a SCIF effective access to a neutral environment.

Improving Use of the Unclassified Marketplaces

Another area where the Committees have become aware of major impediments for companies to perform work for agencies and organizations like the NRO is the lack of unclassified marketplaces such as the Acquisition Resource Center (ARC). Instead of posting data to unclassified marketplaces, unclassified NRO postings often refer to the classified side for technical yet unclassified information. If the NRO is serious about embracing commercial innovation, unclassified marketplace postings should remain on the unclassified side.

Therefore, the Committees direct the NRO, within 90 days of enactment of this Act, to brief the Committees on options for improving the unclassified marketplace process.

Satellite Servicing

No later than one year after the date of the enactment of this Act, the DNI, in consultation with the Secretary of Defense, shall jointly provide the to the congressional intelligence and defense committees a briefing detailing the costs, risks, and operational benefits of leveraging commercial satellite servicing capabilities for national security satellite systems. The briefing shall include the following:

1. A prioritized list, with a rationale, of operational and planned assets of the Intelligence Community that could be enhanced by satellite servicing missions;
2. The capacity and economic benefits of integrating satellite servicing capabilities as part of operational resilience; and
3. Potential strategies that could allow future, non-classified personnel to leverage commercial in-orbit servicing capabilities where appropriate and feasible.

Commercial RF Mapping and SAR

U.S. commercial companies are now offering to produce an agile, neutral, but largely unclassified side.

Therefore, the Committees direct the NRO and NGA to brief the Committees on how it will leverage these commercial companies in Fiscal Year 2020 and beyond, to include funding for, as well as testing and evaluation efforts.

Commercial Remote Sensing

The Committees support efforts to establish a list of technologies that enables the rapidly evolving commercial space-based imagery, RF sensing, and radar industry markets to promote U.S. leadership in these areas. However, the Committees also support the needs of the U.S. Government to protect both IC and DoD personnel and assets. The Committees believe there is a need to be a balance between national security interests and the promotion of U.S. innovation and leadership.

Therefore, the Committees direct the DNI, in consultation with the Secretary of Defense, to brief the Committees within 60 days of the date of enactment of the Act, on efforts that help address this balance and identify the appropriate level of involvement in the rapidly evolving U.S. commercial space-based imagery, RF sensing, and radar industries.

Deception Detection Techniques

The U.S. Government does not have sufficient security screening capabilities available to determine deception in individuals that intend to harm the United States. The polygraph has been investigated as a tool to detect deception, but the cost and time required to administer a polygraph examination is a major cause for security clearance backlogs, and limits the frequency of periodic examinations to every 5–7 years. Entities within DoD and the IC including DIA, Special Operations Command, NGA, Defense Counterintelligence and Security Agency, U.S. Air Force and others have expressed a desire to begin piloting new systems such as ocular deception detection systems. However, progress is being hindered by DoD Directive 5210.91 and ODNI Security Agent Directive 2, which direct some oversight of new deception detection technologies.

Protection of National Security Research

The Committees believe that institutions of higher learning, laboratories and companies, and universities play critical roles in advancing national security within the U.S. science and technology ecosystem that is charged with delivering advanced technologies to the warfighter in the near, mid, and long-term. The Committees understand that near-peer competitors such as China and Russia attempt to exploit and benefit from the open and collaborative global research environment created by the Reagan Administration’s National Security Decision Directive 189 on the National Policy on the transfer of Scientific, Technical and Engineering Information. This directive established that the products of “fundamental research”—defined as basic and applied research and engineering, the results of which ordinarily are published and shared”—should remain unrestricted.

The Committees are also aware that academia is not always kept apprised by the interagency of a complete picture of potential transfers. The Committees are concerned that an uncoordinated approach to national security research community, such as improper technology transfer, intellectual property theft, and cyber-attacks directly attributed to national security research and development. Elsewhere in this bill and report, the Committees include measures to promote increased information sharing across the interagency and with academia.

The Committees direct the Secretary of Defense to provide the congressional intelligence and defense committees,
within 90 days of enactment of the Act, a report
listing Chinese and Russian academic
institutions that have a history of improper
technology transfer, intellectual property
theft, cyber espionage, or operate under the
direction of their respective armed forces or
intelligence agencies. The report should be
in unclassified form, but may contain a clas-
sified annex.

**Investments in Scientific and Technological
Intelligence.**

The Committees remain interested in the
continued efforts of the DoD to improve sci-
centific and technological intelligence (S&T)
capabilities and tradecraft across the De-
fense Intelligence Enterprise (DIE). The Com-
mittees recognize S&T is critical to strategy,
with near-peer competitors by ensuring comprehen-
sive understanding of adversary capabilities and abil-
ity to inform development of joint force five-
core missions in cyberspace.

Therefore, the Committees direct the
USD(I) in collaboration with the Director of
the Defense Intelligence Agency (DIA), the
Director of National Intelligence (ODNI),
and other appropriate agencies to prepare an
analysis on the DoD’s current and planned
scientific and technological investments to
support intelligence activities. The analysis
shall evaluate the current status of S&T
investments, efforts to develop a process to ensure
standardization of defense intelligence (DIE) terms
and metrics, and a long-term plan to increase
S&T investments.

The Committees direct the USD(I), in coordi-
ation with the Joint Staff, to conduct a study on
how the DoD will continue the matura-
tion of DIE capabilities and tradecraft across the
DIE.

**Intelligence Support to Defense Operations in
the Information Environment.**

The Committees support DoD efforts to improve
capabilities and tradecraft to operate in the
information environment. The Committees are concerned about the Defense
Intelligence Enterprise’s (DIE) ability to provide operational support to
policies and procedures to more comprehensively
track, manage, and coordinate the capability and
capacity of EOD intelligence within the
DIE and the IC to support all levels of
render-safe capabilities.

Therefore, the Committees direct the
USD(I), in coordination with the ODNI, to
provide a briefing to the congressional
intelligence and defense committees within 90
days of enactment of the Act on the capa-
bility and capacity of EOD intelligence
intelligence communities; and

1. An assessment of the coordination and
integration of defense and national intel-
ligence capabilities against EOD intelligence
requirements, to include a mitigation strat-
egy to address any identified gaps or defi-
ciences, information-sharing challenges, or
any other impediments to integration of
EOD intelligence into the defense and intel-
ligence communities; and

2. An assessment of the technical skills
needed to address EOD intelligence require-
ments, while identifying gaps or defi-
ciences in current personnel hiring and
training structures, and a long-term plan to
develop proficiency of EOD intelligence
experts in the defense and intelligence
communities.

**Information-Sharing Arrangements with India,
Japan, and the Republic of Korea.**

International alliances and partnerships are
critical to the robust and sustained
functioning of the United States national security objec-
tives, built upon foundations of shared val-
ues and interest. The Committees recognize
the importance of ensuring clearance for
information sharing with international allies and partners in
support of the planning and execution of the
National Defense Strategy, as allies and third-party international partners enhance
strategic stability across the Department’s purview while increasing effectiveness of op-
erations. The Committees believe robust mecha-

nisms to share information across the “Five Eyes” alliance continue to mature through
established exercises, exchange of personnel, and virtual data sharing, but coordination
is potentially less robust with third-party partners.

The Committees support the roles and contributions of third-party partners such as
India, Japan, and the Republic of Korea, and
recognizes their ongoing contribution toward
defensive counterintelligence and security in
the Indo-Pacific region. The Committees are inter-
ested in understanding the policies and pro-
cedures governing the collaboration and in-
frastructure sharing between the United
States, the Republic of Korea, and the “Five Eyes” allies, and whether opportunities exist to strengthen
these arrangements.

Therefore, the Committees direct the
Under Secretary of Defense for Intelligence
(USD(I)), in coordination with the ODNI, to
provide a briefing to the congressional intel-
ligence and defense committees within 60
days of enactment of the Act, on the bene-
fits, challenges, and risks of broadening the
information sharing framework between India, Japan, the Republic of Korea, and the
“Five Eyes” allies.

**Transitionalizing the Function of Background In-
vestigations to the Department of Defense:**

Executive Order 13850 established back-
ground investigation functions of the Fed-
eral Government from the Office of Per-
sonnel Management (OPM), National Back-
ground Investigations Board to the DoD,
Defense Counterintelligence and Security
Agency. The Committees recognize the im-
portance of ensuring timely and efficient
investigations to overcome workforce staffing challenges of cleared indi-
viduals across the whole of government and
private sector, and to vet personnel who come into contact with the Department’s
personnel, installations, and technology. The Committees are aware of the temporary es-
establishment of the Personnel Vetting Trans-
formation Office in the OUSD(I) to manage
the transition of this activity from OPM to
provide a briefing to the congressional
intelligence and defense committees within 90
days of enactment of the Act.

The Committees are concerned about the
potential risks to personnel management and mission such a transfer may present, and
believes that appropriate pro-
tectives of civil liberties and privacy must be prioritized throughout the transition,
including the implementation of modern and
efficient vetting measures. The Committees recognize the Department’s
leadership, through sharing best practices with OPM, in
reforming the vetting process using modern
techniques such as continuous evaluation, and expects regulatory and depart-
ment’s progress in addressing the current
background investigations backlog.

Therefore, the Committees direct the
USD(I), in coordination with the Director of
the Defense Counterintelligence and Secu-

rity Agency, to provide a briefing to the
congressional intelligence and defense commit-
tees within 90 days of enactment of the Act,
on how the DoD will transfer the background
investigation mission and establish an effec-
tive personnel vetting function that provide for the security of the Department, while
maintaining the civil liberties and privacy protections of personnel under consideration to
receive a clearance.

**Joint Intelligence Operations Center Staffing.**

The Committees recognize the evolving
operational and strategic priorities of the

DoD will impact Defense Intelligence Enterprise capabilities and resources. The Committees recognize the ongoing efforts by the USD(I) to comply with direction specified by the National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232) to reduce and prevent imbalances in priorities and mitigate against insufficient or misaligned resources within the Defense Intelligence Enterprise.

While the Committees support the efforts by the USD(I) to achieve efficiencies across the Defense Intelligence Enterprise organizations, to include the Service Intelligence Centers and combatant command Joint Operations Centers, and while the Committees are concerned that the shifts in current and future resourcing lack coherence to support the global mandate of the Department.

Therefore, the Committees direct the USD(I) in coordination with DIA, to provide a briefing to the congressional intelligence and defense committees within 90 days of enactment of the Act on how the USD(I) and DIA are managing resourcing requirements to the combatant command Joint Intelligence Operations Centers to meet current and future needs of the combatant command and DoD.

China’s Biological Weapons Program.

The Committees remain interested in ensuring the Defense Intelligence Enterprise is providing timely, accurate, and effective intelligence information needed to plan and posture staffing, and resources against threats. The Committees support the DIA’s acquisition of the Modernized Integrated Database (MIDB) and are aware of a recent GAO report on long-range emerging threats facing the United States that highlighted potential threats from competitors of biological weapons using genetic engineering and synthetic biology.

Therefore, the Committees direct the USD(I) in coordination with the Director of the DIA, to provide a briefing to the congressional intelligence and defense committees within 30 days of enactment of the Act on an assessment of China’s current and projected biological weapons program, the risks presented to the joint force, and the mitigation strategies to protect U.S. military forces against said threats.


The re-emergence of great power competition will stress DIA’s ability to provide foundational military intelligence for the IC and warfighters. As such, the Committees are supportive of efforts to replace the Modernized Integrated Database (MIDB) with the Machine-assisted Analytic Rapid Repository System (MARS).

However, the Committees are concerned that MARS’s development and procurement will entail a complex and extensive transformation that will impact the DIA’s delivery of foundational military intelligence information to warfighters. The Committees direct the GAO to provide a report to the congressional intelligence and defense committees within one year of enactment of the Act that describes:

1. The envisioned users and customer base and how they will use MARS
2. An assessment of the transition plan from MIDB to MARS with input from current and historic MIDB users, as well as customers
3. An assessment of the resources necessary to fully implement MARS, to include funding and personnel implications
4. The DIA’s acquisition strategy for MARS to include the use of any rapid acquisition or prototyping authorities; and
5. The challenges DIA has identified that it will face in transitioning from MIDB to MARS and whether its migration plans are sufficient for addressing these challenges.

The Committees expect DIA’s full cooperation with the GAO study.

Update on DIA’s Strategic Approach.

In September 2018, the Defense Intelligence Agency (DIA) adopted a Strategic Approach to enhance workforce development, improve foundational military intelligence data management, protect against foundational intelligence issues and realign roles and missions. Improvements in these issue areas will enhance the Agency’s ability to support both the National Security Strategy and National Defense Strategy.

The Committees support the DIA’s initiative to improve those structures it assesses are critical to determining the information needed to prevent and, if necessary, decisively win wars, such as intelligence on foreign militaries’ capabilities. Therefore, the Committees direct DIA to provide quarterly briefings, beginning 45 days after enactment of the Act, to the congressional intelligence and defense committees on its efforts to enhance workforce development, improve foundational military intelligence data management, address perennial intelligence issues, and realign roles and missions.


The Committees direct the DIA, in coordination with the Secretary of Defense, the Secretary of Homeland Security, to provide a report to the Committees, the congressional defense committees, the House Committee on Foreign Affairs, the Senate Committee on Foreign Relations, the House Committee on Homeland Security, and the Senate Committee on Homeland Security and Governmental Affairs on the Chinese government’s influence operations and campaigns targeting democratic elections.

The report shall be divided into two sections, which respectively address influence operations and campaigns targeting: (1) recent and upcoming elections in the United States (dating back to January 1, 2017), and (2) military alliances and partnerships of which the United States is a member. The report shall also include a strategy to counter these activities. The Committees direct the Secretary of Defense to provide a report to the Committees within 30 days of enactment of the Act, and a final report within a year of enactment of the Act.

The report shall be unclassified and appropriate for release to the public but may include a classified annex. At a minimum, the report should include:

1. An assessment of China’s objectives in influence operations and campaigns targeting democratic elections and military alliances and partnerships of which the United States is a member, and how such objectives relate to China’s broader strategic aims;
2. The United States’ strategy and capabilities for detecting, deterring, countering, and disrupting such influence operations (including recommended authorities and activities) and campaigns and a discussion of the DoD’s and IC’s respective roles in the strategy;
3. A comprehensive list of specific Chinese state and non-state entities involved in supporting such Chinese influence operations and campaigns and the role of each entity in supporting them;
4. An identification of the tactics, techniques, and procedures used in previous Chinese influence campaigns;
5. A comprehensive identification of countries with democratic election systems that have been targeted by Chinese influence operations and campaigns since January 1, 2017;
6. An assessment of the impact of previous Chinese influence operations and campaigns targeting democratic elections and military alliances and partnerships of which the United States is a member, including the challenges faced by the Chinese government in their effectiveness in achieving Chinese objectives;
7. An identification of countries with democratic elections systems that may be targeted in future target Chinese influence operations and campaigns and an assessment of the likelihood that each such country will be targeted; and
8. An identification of all U.S. military alliances and partnerships that have been targeted by Chinese influence operations and campaigns since January 1, 2017, and an identification of all U.S. military alliances and partnerships that may be targeted in future Chinese influence operations and campaigns and an assessment of the likelihood that each such country will be targeted; and
9. An identification of all U.S. military alliances and partnerships of which the United States is a member, including the Chinese influence operations and campaigns targeting democratic elections and military alliances and partnerships of which the United States is a member;
10. An identification of tactics, techniques, and procedures likely to be used by the Chinese government in targeting such elections and alliances and partnerships; and
11. A comprehensive list of specific Chinese state and non-state entities involved in supporting such Chinese influence operations and campaigns and a discussion of the role of each entity in supporting such operations,

Report on the United States Alliance with the United Kingdom on the Nuclear Non-Proliferation Treaty.

The Committees direct the DNI, in coordination with the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security to provide a report to the Committees, the congressional defense committees, the House Committee on Foreign Affairs, the Senate Committee on Foreign Relations, the House Committee on Homeland Security, and the Senate Committee on Homeland Security and Governmental Affairs on the United States Alliance with the United Kingdom on the Nuclear Non-Proliferation Treaty.

The report shall be divided into two sections, which respectively address influence operations and campaigns targeting: (1) recent and upcoming elections in the United States (dating back to January 1, 2017), and (2) military alliances and partnerships of which the United States is a member. The report shall also include a strategy to counter these activities. The Committees direct the Secretary of Defense to provide an interim report within 30 days of enactment of the Act, and a final report within a year of enactment of the Act.

The report shall be classified and appropriate for release to the public but may include a classified annex. At a minimum, the report should include:

1. An assessment of Russia’s objectives in influence operations and campaigns targeting democratic elections and military alliances and partnerships of which the United States is a member, and how such objectives relate to Russia’s broader strategic aims;
2. The United States’ strategy and capabilities for detecting, deterring, countering, and disrupting such Russian influence operations (including recommended authorities and activities) and campaigns and a discussion of the DoD’s and IC’s respective roles in the strategy;
3. A comprehensive list of specific Russian state and non-state entities involved in supporting such Russian influence operations and campaigns and the role of each entity in supporting them;
4. An identification of the tactics, techniques, and procedures used in previous Russian influence operations and campaigns;
5. A comprehensive identification of countries with democratic election systems that have been targeted by Russian influence operations and campaigns since January 1, 2017.

6. An assessment of the impact of previous Russian influence operations and campaigns targeting democratic elections and military alliances and partnerships of which the United States is a member, including the views of senior Russian officials about their effectiveness in achieving Russian objectives.

7. An identification of countries with democratic election systems that may be targeted in future Russian influence operations and campaigns, and an assessment of the likelihood that each such country will be targeted.

8. An identification of all U.S. military alliances and partnerships that have been targeted by Russian influence operations and campaigns since January 1, 2017.

9. An identification of all U.S. military alliances and partnerships that may be targeted in future Russian influence operations and campaigns and an assessment of the likelihood that each such country will be targeted; and

10. An identification of tactics, techniques, and procedures likely to be used in future Russian influence operations and campaigns and an assessment of the likelihood that each such country will be targeted.

UNCLASSIFIED DIRECTION RELATED TO SUBSECTION 2

Management of Intelligence Community Workforce

The Committees repeat direction from the Intelligence Authorization Act for Fiscal Year 2019 that the National Geospatial-Intelligence Agency (NGA) should develop, and maintain a workforce appropriately balanced among its civilian, military, and contractor workforce sectors to meet the missions assigned to it in law and by the president. Starting in Fiscal Year 2019, the Committees no longer authorize position ceiling levels in the annual Schedule of Authorizations.

The Committees look forward to working with the ODNI as it develops an implementation strategy and sets standards for workforce diversity.

Countering Russian Propaganda

The Committees support the IC’s role in countering Russian propaganda and other active measures. The Committees are committed to appropriate legal authorities, financial resources, and personnel necessary to address these hostile acts. The Committees specifically find that language capabilities are important to the IC’s efforts in countering Russia’s hostile acts. The Committees encourage the IC to commit considerable resources in the future to bolstering officers’ existing Russian language skills, recruiting Russian language speakers, and training officers in Russian, in particular key technical language skills. This effort should include planning for the recruitment of new hires, and training and rotating officers through language training. The Committees expect to see these priorities reflected in future IC budget requests.

Protection of the Supply Chain in Intelligence Community Acquisition Decisions

The Committees continue to have significant concerns about risks to the supply chain in IC acquisitions. The Committees encourage the supply chain and Counterintelligence Risk Management Task Force recommendations to support continued efforts to develop and implement an actionable capability to protect critical infrastructure and ensure real-time cross-domain sharing for the IC to effectively share and analyze information on supply chain, cybersecurity vulnerabilities, and counterintelligence risks.

The report to accompany the Intelligence Authorization Act for Fiscal Year 2017 directed the DNI to review and consider changes to Intelligence Community Directive (ICD) 801 (‘‘Acquisition’’) to reflect the Joint Intelligence Community (JIC) Risk Management in 2013 and the issues associated with cybersecurity. It specifically recommended the review examine whether to: increase risk management criteria in the acquisition process to include cybersecurity; and adopt new education requirements for acquisition professionals on cyber and supply chain threats; and factor in the cost of cyber and supply chain security. This review was due in November 2017, with a report on the process for updating ICD 801 in December 2017. The report was completed on June 18, 2018.

As a follow-on to this review, the Committees direct DNI to address three other considerations: changes in the Acquisition Regulation that may be necessary; how changes should apply to all acquisition programs; and how security risks should be addressed in the acquisition process, and operational phases of acquisition.

The Committees encourage the NGA to submit a plan to implement necessary changes within 60 days of enactment of the Act.

National Geospatial-Intelligence Agency use of VERA and VSIP Authorities

The Committees encourage the use by the National Geospatial-Intelligence Agency (NGA) of Voluntary Early Retirement Authority (VERA) and Voluntary Separation Incentive Program (VSIP) offers to meet future goals of a workforce more attuned to the collection, analysis, automation of analytic processes, and establishment of development and operations (DevOps) software development processes. Therefore, the Committees direct the NGA to report to the Committees, within 120 days of enactment of the Act, on the use of VERA and VSIP incentives, to include how they have been used and acquisition cadre skilled in ‘‘DevOps’’ software development processes, as well as a plan for further use of VERA and VSIP incentives. The report should specify metrics for retooling its workforce, including how it measures data literacy and computational skills in potential hires, and an accounting of the numbers of new hires who have met these higher standards.

Report on Engagement of National Reconnaissance Office with University Community

The Committees recognize that the survivability and resiliency of United States satellites is critically important to the United States intelligence and defense communities. Therefore, the NRO, with the support of the university community in support of basic research and developing an education workforce pipeline to help advance new technologies and produce skilled professionals, can do more in this regard to focus on space survivability.

Therefore, the Committees direct the NRO to report, within 180 days of enactment of the Act, on NRO’s current efforts and future strategies to engage with university partners that are strategically located, host secure facilities, and offer a strong engineering curriculum, with a particular focus on space survivability and resiliency. This report should provide a summary of NRO’s current cooperative research and development programs, levels of funding, and program research and workforce objectives and metrics.

The Committees reinforce the requirement for all IC agencies funded by the NIP to respond in a full, complete, and timely manner to any request for information made by a member of the congressional intelligence committees. In addition, the Committees direct the DNI to issue guidelines, within 90 days of enactment of the Act, to ensure that the intent of section 501 of the National Security Act of 1947 (50 U.S.C. 3091) is carried out.

Clariﬁcation on Cooperation with Investigation of Russian Inﬂuence in the 2016 Election

The Committees continue to reinforce the obligation for all IC agencies to cooperate in a full, complete, and timely manner with the Committees’ ongoing investigations into Russian meddling in the 2016 Presidential election and cooperation with the declassiﬁcation process.

Supervisory Feedback as Part of Continuous Vetting Program

The Committees direct the DNI to review the results of ongoing pilot programs regarding the use of supervisory feedback as part of the periodic reevaluation and continuous vetting process and report, within 180 days of enactment of the Act, on the establishment of a policy for its use across the IC.

National Security Threats to Critical Infrastructure

The Committees are aware of significant threats to our critical infrastructure and industrial control systems posed by foreign adversaries. The sensitive nature of the information related to these threats make the role of the IC of vital importance to United States defensive efforts. The Committees have concerns that current IC resources dedicated to analyzing and countering these threats are neither sufficient nor closely coordinated. The Committees include provisions within this legislation to address these concerns.

Framework for Cybersecurity and Intelligence Collection Doctrine

The Committees direct the ODNI, in coordination with appropriate IC elements, to develop an analytic framework that could support the eventual creation and execution of a vision of an information-world cybersecurity and intelligence collection doctrine. The ODNI shall provide this framework, which may contain a classified annex, to the congressional intelligence committees, within 180 days of enactment of the Act.

This framework shall include:

1. An assessment of the current and medium-term cyber threats to the protection of the United States’ national security systems and critical infrastructure;

2. Antitrust and Competitive Analysis; cybersecurity concepts, to include cyberespionage, cyber theft, cyber acts of aggression, and cyber deterrence;

3. Intelligence collection requirements to ensure identification of cyber actors targeting U.S. national security interests, and
to inform policy responses to cyber-attacks and computer network operations directed against the United States;
4. The IC's methodology for assessing the impact of cyber-attacks and computer network operations incidents directed against the United States, taking into account differing levels of severity of incidents;
5. The IC could employ in response to cyber-attacks and computer network operations incidents, taking into account differing levels of severity of incidents;
6. A policy and architecture for sharing cyber-security-related intelligence with government, international partners, including existing statutory and other authorities which may be exercised in pursuit of that goal; and
7. A mechanism for changes in IC authorities, governance, technology, resources, and policy to provide more capable and agile cyber-security.

Inspector General of the Intelligence Community Role and Responsibilities.

The position of the Inspector General of the Intelligence Community (IC IG) was codified by the Intelligence Authorization Act for Fiscal Year 2010. Among other things, the IG’s statutory purposes include “conduct[ing] independent reviews investigations, inspections, audits, and reviews on processes within the Inspector General and authority of the Director of National Intelligence;” keeping the Committees fully and currently informed of significant problems and deficiencies; and leading efforts of inspectors general within the IC.

The Committees have included provisions intended to strengthen the IG’s role. The Committees insist on full cooperation from the Director, ODNI offices, as well as those of inspectors general across the IC, in ensuring that the IG’s prescribed functions are carried out to the fullest extent possible. The Committees further reiterate Congress’s intent that the IC IG is obligated to identify and inform the Committees of significant problems and deficiencies “relating to all intelligence programs and activities.

The Committees also remain seriously concerned about the undermining of protections and rights afforded to whistleblowers within the IC and the level of insight congressional committees have into handling of disclosures. Without exception, the Committees must be made aware of lawful disclosures made to any inspector general within the IC, and to those of inspectors general across the IC, in ensuring that the IG’s prescribed functions are carried out to the fullest extent possible.

The Committees further reiterate Congress’s intent that the IC IG is obligated to identify and inform the Committees of significant problems and deficiencies “relating to all intelligence programs and activities.

Space Launch Facilities.

The Committees continue to believe it is critical to preserve a variety of launch range capabilities to support national security space systems. The Committees support the mission of the Mid-Atlantic Regional Spaceport at Wallops Flight Facility. In the Intelligence Authorization Act for Fiscal Year 2017, the Committees directed a brief from the ODNI, in consultation with the DOD and the U.S. Air Force, on their plans to utilize state-owned and operated spaceports, which lever-
the use of illicit trade channels; an assessment of the adequacy of the systems and tools available to the Federal Government for combating trade-based money laundering; and a description and assessment of the current structure and coordination between Federal agencies, as well as with foreign governments, to combat trade-based money laundering. These shall be submitted in classified form with an unclassified summary to be made available to the public.

Expansions of Security Protective Service Jurisdiction of the Central Intelligence Agency.

The Committees direct the CIA, in connection with the expansion of its security protective service jurisdiction as set forth in section 6413 of Subdivision 2 of the Act, to engage in the establishment and coordination of enforcement authorities to ensure that a memorandum of understanding, akin to those in place at other agencies setting forth the method of investigations of duties and responsibilities, is in effect.

Unauthorized Disclosures of Classified Information.

The Committees are concerned by the recent reports that suggest the extent possible:

1. The number and racial and gender diversity of IC-CAE interns.
2. The number of IC-CAE academic institutions and their qualified internship candidates participating in the IC-CAE Program.
3. The number of IC elements that sponsor IC-CAE interns.


Violent extremist groups like ISIS continue to exploit the Internet for nefarious purposes: to inspire lone wolves; to spread propaganda; to recruit foreign fighters; and to plan and facilitate operations. Our future intelligence community Chief Financial Officer.

Presidential Policy Guidance.

The Presidential Policy Guidance (PPG) dated May 22, 2013, and entitled “Procedures for the Director of National Intelligence to Investigate and Authorize Disclosures of Classified Information” provides for the participation by elements of the IC in reviews of certain proposed counterterrorism operations. The Committees expect to remain fully and currently informed about the status of the PPG and its implementation. Therefore, the Committees direct ODNI, within 180 days of enactment of the Act to provide the congressional intelligence committees with a written notification thereof, that shall include a summary of the specific legal and policy justifications for the change.

Centers for Academic Excellence.

The Committees commend the commitment demonstrated by managers of the IC’s Centers for Academic Excellence (IC-CAE), IC agencies that sponsored CAE interns, and all other personnel who contributed to the inaugural edition of the CAE Internship Program in summer 2017. The Committees expect the IC-CAE Program to build on this foundation by showing measurable, swift progress, and ultimately fulfilling Congress’s intent that the Program serve as a pipeline of the next generation of IC professionals.

Therefore, the Committees direct the IC take all viable action to expand the IC-CAE Program by increasing, to the fullest extent possible:

1. The number and racial and gender diversity of IC-CAE interns.
2. The number of IC-CAE academic institutions and their qualified internship candidates participating in the IC-CAE Program.
3. The number of IC elements that sponsor IC-CAE interns.

Further, referring to the directive language found in the committee report accompanying H.R. 5515, the Fiscal Year 2019 NDAA reported by the House Armed Services Committee on December 12, 2019

December 12, 2019
making and accountability, as well as improved decision-makers’ access to reliable and timely financial and performance information. The CFO Act, as amended, requires that the chief financial officer of each department and agencies “report directly to the head of the agency regarding financial management matters.” Section 640 of Subdivision 2 of the Act directs the CFO to provide the IC with unencumbered communications between representatives of the IC and the Congress, and congressional staff. The Act permits the Director of the IC to allow subordinate agencies to authorize the sharing of classified information, without regard to existing regulations. The statute does not define “austere,” the Committees believe that utilization of this authority should be minimal. Thereafter, when the Committee’s action on the enactment of the Act, the CFO shall assist the Committees on the IC’s definition of “austere” and the IC’s regulations in place governing this authority.

Collocation of Certain Department of Homeland Security Personnel at Field Locations. The Committees support DHS I&A’s intent to integrate into operations across the breadth of the Department. Accordingly, the Committees urge the Department of Homeland Security to support the IC’s goal of providing personnel at austere locations.

Limitations on Intelligence Community Elements’ Communications with Congress. Effective oversight of the IC requires unencumbered communications between representatives of the IC and the Congress, and congressional staff. The Committees direct the Director of the IC to provide the IC with unencumbered communications with Congress. The Committees affirm the IC’s responsibility to maintain a robust outreach to Congress and congressional staff. The Committees believe that effective oversight of the IC requires unencumbered communications with Congress, including but not limited to, preclearance by the IC of remarks, briefings, discussions of agency resources or authorities requirement, and IC personnel reports to the Committees.

Intelligence Community Support to the National Vetting Center. On February 6, 2018, the President issued National Security Policy Memorandum (NSPM)-9, “Presidential Memorandum on Optimizing the Use of Federal Government Information Technology Resources for the Needs of National Security Enterprise.” The memorandum directs the DHS, in coordination with the ODNI and other agencies, to establish the National Vetting Center. The Committees believe that the establishment of the National Vetting Center is essential to fulfilling the committees’ responsibilities under the IC Act. The National Vetting Center has the potential to improve decision-makers’ access to reliable and timely financial and performance information. The National Vetting Center is critical to strengthening the federal government’s oversight of IC activities, to include its progress and any significant challenges.

Update on Status of Attorney General-Approved U.S. Person Procedures under Executive Order 13533. The Committees have ongoing concerns with the Attorney General’s procedures for handling unclassified information about persons who are categorized by the FBI as homegrown violent extremists (HVEs) who are categorized by the FBI as homegrown violent extremists (HVEs). A recent FBI report underscores this gap, highlighting the case of an individual who has been convicted and sentenced to death by a U.S. military court martial and remains incarcerated in a U.S. military facility. The Committees underscore that, despite his incarceration, this inmate openly communicates with the outside world through written correspondence and has continued to inspire extremists throughout the world. The Committees further understand that the FBI is unable to determine the full scope of this inmate’s contacts with the outside world because only a portion of his communications have been provided by the DoD.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

Naming of Federal Bureau of Investigation Headquarters. According to statute enacted in 1972, the current FBI headquarters building in Washington, D.C. must be “known and designated” as the “J. Edgar Hoover FBI Building.” That statute has aged poorly. It should be repealed. The Committees believe the FBI should be renamed the “FBI National Intelligence Center.”

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center. The Committees believe the FBI should be renamed the “FBI National Intelligence Center.”

Naming of Federal Bureau of Investigation Headquarters.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center.

Therefore, the Committees direct the FBI to work with the DoD to create a process by which the DoD provides to the FBI the full communications of individuals imprisoned in DoD facilities and who are categorized by the FBI as HVEs.

FBI National Intelligence Center.
Section 5201. Authorization of appropriations.

Section 5201 authorizes appropriations for intelligence and intelligence-related activities for Fiscal Year 2020. The amounts authorized to be appropriated under this section are in addition to cost, schedule, performance goals, and program milestone criteria.

Section 5202 provides that the details of the amounts authorized to be appropriated for intelligence and intelligence-related activities for Fiscal Year 2020 are contained in the classified Schedule of Authorizations and that the classified Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President.

Section 5203 authorizes appropriations for the Intelligence Community Management Account (ICMA) of the ODNI for Fiscal Year 2020.

Title LI—Central Intelligence Agency Retirement and Disability System

Section 5203 authorizes appropriations in the amount of $514,000,000 for the CIA Retirement and Disability Fund for Fiscal Year 2020.

Title LIII—Intelligence Community Matters

Subtitle A—General Intelligence Community Matters

Section 5301. Intelligence Community Management Account.

Section 5302 establishes a Foreign Malign Influence Response Center within the ODNI to analyze and integrate all U.S. Government intelligence pertaining to hostile foreign influence and to coordinate efforts among the IC and other countries where the Director of the Center determines appropriate, to influence U.S.-based policies, activities, or public opinion.

Section 5323 provides that the DNI, in coordination with the Secretary of Defense, shall establish an independent, non-profit Social Media Data and Threat Analysis Center (“Center”). Section 5323 further provides that this Center shall establish a central portal for social media data analysis, enabling: (1) social media companies to voluntarily share data on foreign influence operations; (2) researchers to analyze that data; and (3) information sharing between and among government and private companies. Section 5323 also requires the DNI, in coordination with the IC, to submit to Congress an annual report on trends in foreign influence and disinformation operations, including any threats to campaigns and elections, as well as an annual report to Congress on the degree of cooperation and commitment from the social media companies.

Section 5324, Transfer of National Intelligence University to the Director of National Intelligence.

Section 5324 requires the Director of the DNI to transfer to the National Intelligence University, upon submission of required joint certifications to appropriate congressional committees by the Secretary of Defense and the DNI.

Subtitle C—Inspector General of the Intelligence Community

Section 5331. Definitions.

Section 5332 requires the Director General of the Intelligence Community (IC IG) to submit to the congressional intelligence committees a recommendation on how to ensure that a whistleblower with a complaint against an Inspector General of an IC agency has equal access to adjudication, appellate review, and external review panels.

Section 5333 requires the IC IG, in coordination with the IC Inspectors General Forum, to develop recommendations applicable to Inspectors Generals for all IC elements regarding the harmonization, where appropriate, of policies and directives related to whistleblower claims and appeals processes and procedures. Section 5333 requires the IC IG to maximize transparency regarding these processes and procedures.

Section 5334, Oversight by Inspector General of the Intelligence Community over intelligence community whistleblower matters.

Section 5334 requires the IC IG, in consultation with the IC Inspectors General
Section 5335. Report on cleared whistleblower attorneys.

Section 5335 requires the IC IG to submit to the congressional intelligence committees a report on access to cleared attorneys by whistleblowers in the IC, including any recommended improvements to the limited security clearance and access to attorneys processes and such other options as the IC IG considers appropriate.

Subtitle D—Central Intelligence Agency

Section 5341. Clarification of certain authority of the Central Intelligence Agency.

Section 5341 clarifies current CIA authorites regarding a death probe, requiring the Director of the CIA to submit a report if the CIA does not modify relevant regulations, and requires a briefing on certain health care services.

Title LXV—Security Clearances

Section 5401. Improving visibility into the security clearance process.

Section 5401 requires the DNI, acting as the Security Executive Agent, to issue a policy regarding the use of each Federal agency to create an electronic portal whereby the agency and its workforce applicants can review the status of their security clearance processes. An enterprise solution that is accessible to multiple agencies may meet this objective. Any portal should have appropriate security safeguards.

Section 5402. Making certain policies and execution plans related to personnel clearances available to industry partners.

Section 5402 requires each head of a Federal agency to share security clearance policies and plans with directly affected industry partners, consistent with national security and with National Industrial Security Program (NISP) goals. Section 5402 further requires the DNI, acting as the Security Executive Agent, jointly with the Director of the NISP, to develop policies and procedures for sharing this information.

Title LXVI—Matters Relating to Foreign Governments

Subtitle A—Matters Relating to Russia

Section 5501. Annual reports on influence operations and campaigns in the United States by the Russian Federation.

Section 5501 requires the Director of the National Intelligence and Security Executive Agent to submit an annual report to the congressional intelligence committees concerning the influence operations and campaigns in the United States conducted by the Russian Federation.

Section 5502. Assessment of legitimate and illegitimate financial and other assets of Vladimir Putin.

Section 5502 expresses the sense of Congress that the United States should do more to expose the corruption of Russian President Vladimir Putin and directs the DNI to submit to appropriate congressional committees an assessment on the net worth and financial and other assets of President Putin and his family members.

Section 5503. Assessments of intentions of political leadership by the Russian Federation.

Section 5503 directs the IC to submit assessments to certain congressional committees of the current intentions of the political leadership of the Russian Federation concerning military action against members of the North Atlantic Treaty Organization (NATO), responses to an enlarged United States or NATO military presence in Eastern Europe, and potential actions taken for the purpose of exploiting perceived divisions among the governments of Russia's Western neighbors.

Subtitle B—Matters Relating to China

Section 5511. Annual reports on influence operations and campaigns in the United States by the Communist Party of China.

Section 5511 requires the Director of the National Counterintelligence and Security Center to submit an annual report to the congressional intelligence committees concerning influence operations and campaigns in the United States conducted by the Communist Party of China.

Section 5512. Report on repression of ethnic Muslim minorities in the Xinjiang region of the People’s Republic of China.

Section 5512 requires the Director of National Intelligence to submit a report to the congressional intelligence committees concerning activity by the People’s Republic of China to repress ethnic Muslim minorities in the Xinjiang region of China.

Section 5513. Report on efforts by People’s Republic of China to influence election in Taiwan.

Section 5513 requires the DNI to submit a report within 45 days of the 2020 Taiwan Presidential and Vice Presidential elections concerning influence operations by China to interfere in or undermine the election and efforts by the United States to disrupt those operations.

Subtitle C—Matters Relating to Other Eastern European and Potential Adversaries

Section 5521. Sense of Congress and report on Iranian efforts in Syria and Lebanon.

Section 5521 requires the DNI, in coordination with the Secretary of State and the Secretary of Defense, to submit a report that assesses Iran’s efforts to establish influence in Syria, Iran’s support of proxy forces, and the resulting threats to U.S. interests and allies.

Section 5522. Assessments regarding the Northern Triangle, Mexico, and Central America.

Section 5522 requires the DNI, in coordination with other IC officials, to submit a comprehensive assessment of drug trafficking, human trafficking, and human smuggling activities in the Northern Triangle and Mexico. Section 5522 further requires the DNI to provide a briefing on the IC’s collection priorities and activities.

Title LXVII—Federal Efforts Against Domestic Terrorism

Section 5601. Definitions.

Section 5601 provides definitions for terminology used throughout this Title.

Section 5602. Strategic intelligence assessment and reports on domestic terrorism.

Section 5602 requires the Director of the FBI and the Secretary of Homeland Security, in consultation with the DNI, to submit a report containing an assessment of strategic intelligence and procedures relating to domestic terrorism, and a report containing strategic intelligence assessment and data on domestic terrorism, together with required documents and materials, with annual updates for 5 years thereafter.

Title LXVIII—Reports and Other Matters

Subtitle A—Reports and Briefings

Section 5701. Strategic intelligence requirements for submission to Congress of certain reports.

Section 5701 amends or cancels numerous reporting requirements under current law.

Section 5702. Increased transparency regarding counterterrorism budget of the United States.

Section 5702 makes several findings regarding the transparency of the IC’s counterterrorism budget and directs a briefing from the executive branch on the feasibility of releasing additional information to the public concerning the IC’s efforts on counterterrorism.

Section 5702 requires a study on role of retired and former personnel of intelligence community with respect to certain foreign intelligence operations.

Section 5703 requires the DNI to conduct a study on former IC personnel providing intelligence assistance to foreign governments, and to provide a report on the findings and a plan for recommendations.

Section 5704. Collection, analysis, and dissemination of workforce data.

Section 5704 requires the DNI to provide a publicly available annual report on diversity and inclusion efforts.

Section 5705. Plan for strengthening the supply chain intelligence function.

Section 5705 requires the Director of the NCSC, in coordination with interagency partners, to submit a plan for strengthening supply chain intelligence function.

Section 5706. Comprehensive economic assessment of investment in key United States technologies by companies or organizations linked to China.

Section 5706 requires the DNI, in coordination with other designated agencies, to submit a report to the congressional intelligence committees a comprehensive economic assessment of investment in key United States technologies by companies or organizations linked to China, as well as the national security implications of Chinese-backed investments to the United States.

Section 5707. Report by Director of National Intelligence on fifth-generation wireless network technology.

Section 5707 directs the NCSC, in coordination with other agencies, to submit a report on the threat to the national security of the United States posed by adoption of fifth-generation wireless network technology.

Section 5708. Report on use by intelligence community of facial recognition technology.

Section 5708 requires the DNI to submit a report on the IC’s use of facial recognition technology.

Section 5709. Report on deepfake technology, foreign weaponization of deepfakes, and related notifications.

Section 5709 requires the DNI to submit a report on the potential national security impacts of machine-manipulated content and the use of machine-manipulated media by foreign governments to spread disinformation or engage in other malign activities.

Section 5710. Annual report by Comptroller General of the United States on cybersecurity and surveillance threats to Congress.

Section 5710 requires the Comptroller General, in consultation with the DNI, Secretary of Homeland Security, and the Sergeant at Arms, to submit a report to the Committees on cybersecurity and surveillance threats to Congress.

Section 5711. Analysis and periodic briefings regarding major initiatives of intelligence community in artificial intelligence and machine learning.

Section 5711 requires the DNI, in coordination with other appropriate IC elements, to provide briefings to the congressional intelligence committees on the IC’s major initiatives in artificial intelligence and machine learning.

Section 5712. Report on best practices to protect privacy and civil liberties of Chinese Americans.

Section 5712 requires the DNI, through the Office of Civil Liberties, Privacy, and Transparency, and in coordination with other IC
Section 5713. Oversight of foreign influence in academia.

Section 5713 requires the DNI, in consultation with other appropriate IC elements, to submit a report on the risks to sensitive research subjects posed by foreign entities.

Section 5713 further requires the report to identify specific national security-related threats to research conducted at institutions of higher education.


Section 5714 requires the DNI to submit to Congress an unclassified report on the death of Jamal Khashoggi, consistent with protecting sources and methods. The report shall include identification of those who carried out, participated in, ordered, or were otherwise complicit in, or responsible for, Mr. Khashoggi’s death.


Section 5715 requires the DNI and the Secretary of Homeland Security for the IC, in coordination with the Director of the FBI, to develop and submit a threat assessment regarding the available databases that support terrorism activities.

Section 5717. Assessment of homeland security vulnerabilities associated with critical infrastructure.

Section 5717 requires the DNI to submit an assessment of the homeland security vulnerabilities associated with critical infrastructure.

Section 5718. Study on feasibility and advisability of establishing Geospatial-Intelligence Museum and learning center.

Section 5718 requires the DNI to establish a working group composed of identified private and public sector entities to evaluate the technology platforms and standards for the pilot program, and develop a national cyber-informed engineering strategy to isolate and defend vulnerabilities.

Section 5719. Risk assessment of high-valued targets.

Section 5719 requires the DNI, within 180 days after the date on which funds are first disbursed, to submit to Congress a report that describes the pilot program’s results, provides a feasibility analysis, and describes the working group’s evaluations.

Section 5720. Identification of and countermeasures for international Mobile Subscriber Identity-Catchers.

Section 5720 requires the DNI and the Director of the FBI, in collaboration with the Under Secretary of DHS for I&A, and other appropriate domestic agencies, to undertake an effort to identify and, when appropriate, develop countermeasures against International Mobile Subscriber Identity-Catchers operated within the United States by criminals and hostile foreign governments.

Section 5721. Whistleblower disclosures to Congress.

Section 5721 requires the DNI, in coordination with the Office of Personnel Management, to conduct a review of the positions within the IC that may be appropriate for inclusion on the Executive Schedule, and the appropriate levels for inclusion.

Section 5722. Task force on illicit financing of terrorism.

Section 5722 establishes a program to provide special pay authorizations for science, technology, engineering, or mathematics positions and addition of special pay authority for cyber positions.

Section 5723. Identification of and countermeasures for international Mobile Subscriber Identity-Catchers.

Section 5726 requires the Secretary of Energy, within 180 days of enactment of the Act, to establish a two-year control systems implementation pilot program within the National Laboratories. This pilot program will partner with covered entities in the energy sector to identify new security vulnerabilities, and for purposes of researching, developing, testing, and implementing technology platforms and standards in partnership with such entities.

Section 5724. Identification of and countermeasures for international Mobile Subscriber Identity-Catchers.

Section 5724 establishes a program to provide special pay authorizations for science, technology, engineering, or mathematics (STEM) employee positions in the IC that support critical cyber missions.

Section 5725. Identification of and countermeasures for international Mobile Subscriber Identity-Catchers.

Section 5725 requires the DNI and the Director of the FBI, in collaboration with the Under Secretary of DHS for I&A, and other appropriate domestic agencies, to undertake an effort to identify and, when appropriate, develop countermeasures against International Mobile Subscriber Identity-Catchers operated within the United States by criminals and hostile foreign governments.

Section 5726. Reporting on the risks to sensitive research subjects.

Section 5726 requires the Secretary of Energy, within 180 days after the date on which funds are first disbursed, to submit a report on the feasibility of the methods studied, and a description of the working group’s evaluation results.

Subdivision 2—Intelligence Authorizations for Fiscal Years 2018 and 2019

Section 6100. Authorization of appropriations.

Title LXI—Intelligence Activities

Section 6101. Authorization of appropriations.

Section 6101 lists the intelligence activities and other elements for which the Act deems authorized appropriations for intelligence and intelligence-related activities for Fiscal Years 2018 and 2019.

Section 6102. Intelligence Community Management Account.

Section 6102 provides that the amounts that were appropriated for Fiscal Years 2018 and 2019 are deemed authorized.

Title LXII—Central Intelligence Agency

Section 6103. Intelligence Community Retirement and Disability System.

Section 6103 requires that the Central Intelligence Agency establish a retirement and disability fund for Fiscal Years 2018 and 2019.

Section 6104. Computation of annuities for employees of the Central Intelligence Agency.

Section 6104 requires the Central Intelligence Agency to establish a retirement and disability fund for Fiscal Years 2018 and 2019.

Section 6105. Retirement and Disability System.

Section 6105 requires the Central Intelligence Agency to establish a retirement and disability fund for Fiscal Years 2018 and 2019.

Section 6106. Computation of annuities for employees of the Central Intelligence Agency.

Section 6106 requires the Central Intelligence Agency to establish a retirement and disability fund for Fiscal Years 2018 and 2019.

Section 6107. Mortgage interest on religious organizations.

Section 6107 requires the Director of the National Geospatial-Intelligence Agency to designate an official to coordinate the mortgage interest on religious organizations.

Section 6108. Modification of appointment of Chief Information Officer of the Intelligence Community.

Section 6108 requires the DNI, in coordination with the Office of Personnel Management, to conduct a review of the positions within the IC that may be appropriate for inclusion on the Executive Schedule, and the appropriate levels for inclusion.

Section 6109. Supply Chain and Counterintelligence Risk Management Task Force.

Section 6109 requires the DNI to establish a task force to standardize information sharing between the IC and the United States Government acquisition community with respect to supply chain, cybersecurity, and counterintelligence risks.

Section 6110. Modifying the IC as an independent agency.

Section 6110 requires the DNI to submit a report to the appropriate heads of Federal agencies, to consider the pervasiveness of telecommunications and cybersecurity infrastructure, equipment, and services provided by United States adversaries or entities thereof.

Section 6111. Cyber protection support for personnel of the intelligence community in positions highly vulnerable to cyber attack.

Section 6111 requires the DNI to provide cybersecurity protection for personnel of the personal technology devices and personal accounts of IC personnel whom the DNI determines to be highly vulnerable to cyber attacks and information compromise.

Section 6112. Elimination of sunset authority relating to management of supply-chain risk.

Section 6112 extends certain IC procurement authorities to manage and protect supply chain risk.

Section 6113. Limitations on determinations regarding certain security classifications.

Section 6113 prohibits an officer of the IC who is nominated to a Senate-confirmed position from making a determination posing potential conflicts of interest regarding that nominee.
Section 6311. Joint Intelligence Community Council.

Section 6311 amends Section 101A of the National Security Act of 1947 (50 U.S.C. 3022(d)). It adds 3 years to the Joint Intelligence Community Council meetings and to require a report on its activities.

Section 6312. Intelligence community information technology environment.

Section 6312 defines the roles and responsibilities for the performance of the Intelligence Community Information Technology Environment (IC ITE). Section 6312 requires certain reporting and briefing requirements to the congressional intelligence committees regarding the IC’s ongoing implementation of IC ITE.

Section 6313. Report on development of secure mobile voice solution for intelligence community.

Section 6313 requires the DNI, in coordination with the Directors of the CIA and NSA, to provide the congressional intelligence committees with a classified report on the feasibility, desirability, cost, and required schedule associated with the implementation of a secure mobile voice solution for the IC.

Section 6314. Policy on minimum insider threat standards.

Section 6314 requires the DNI to develop minimum insider threat standards to be followed by each element of the IC, consistent with the National Insider Threat Policy and Minimum Standards for Executive Branch Insider Threat Programs.

Section 6315. Submission of intelligence community policies.

Section 6315 requires the DNI to make all ODNI policies and procedures available to the congressional intelligence committees. Section 6315 also requires ODNI to notify the congressional committees of any new or rescinded policies.

Section 6316. Expansion of intelligence community recruitment efforts.

Section 6316 requires the DNI, in consultation with IC elements, to submit a plan to the congressional intelligence committees as to each element’s efforts in recruitment from rural and underrepresented regions.

Title LXIV—Matters relating to the Intelligence Community

Subtitle A—Office of the Director of National Intelligence

Section 6401. Authority for protection of current and former personnel of the Office of the Director of National Intelligence.

Section 6401 amends Title 50, section 3506, to provide protection for current and former ODNI personnel and designated immediate family members, if there is a national security threat that warrants such protection.

Section 6402. Designation of the program manager-information sharing environment.

Section 6402 amends the Intelligence Reform and Terrorism Protection Act of 2004 so that the Program Manager-Information Sharing Environment (PM-ISE) is subject to appointment by the DNI, not the President.

Section 6403. Technical modification to the executive schedule.

Section 6403 amends the Executive Schedule to make the Director of the National Counterintelligence and Security Center a Level 4 position on the Executive Schedule.

Section 6404. Chief Financial Officer of the Intelligence Community.

Section 6404 amends the National Security Act of 1947 by requiring the Chief Financial Officer of the IC to directly report to the DNI.

Section 6405. Chief Information Officer of the Intelligence Community.

Section 6405 amends the National Security Act of 1947 by requiring the Chief Information Officer of the IC to directly report to the DNI.

Subtitle B—Central Intelligence Agency

Section 6411. Central Intelligence Agency submission for personnel assigned to austere locations.

Section 6411 authorizes the Director of the CIA to approve, with or without reimbursement, subsistence to personnel assigned to an austere overseas location.

Section 6412. Special rules for certain monthly workers’ compensation and other payments for Central Intelligence Agency personnel.

Section 6412 authorizes the Director of the CIA to provide enhanced Injury benefits to covered employees and dependents who suffer an injury overseas due to war, insurgency, hostile act, or terrorist activities.

Section 6413. Expansion of security protective service jurisdiction of the Central Intelligence Agency.

Section 6413 expands the security perimeter jurisdiction at CIA facilities from 500 feet to 500 yards.

Section 6414. Repeal of foreign language proficiency requirements in the Central Intelligence Agency.

Section 6414 repeals Title 50, section 3036(e), with conforming amendments to section 3036(d) of the National Security Act of Fiscal Year 2005 (Public Law 108-487).

Subtitle C—Office of Intelligence and Counterintelligence of the Department of Energy

Section 6421. Consolidation of Department of Energy functions of Intelligence and Counterintelligence.

Section 6421 amends the Department of Energy Organization Act to consolidate the offices of intelligence and counterintelligence into the DOE Office of Intelligence and Counterintelligence.

Section 6422. Repeal of Department of Energy Intelligence Executive Committee and budget reporting requirement.

Section 6422 amends the Department of Energy Organization Act by repealing the Department of Energy Intelligence Executive Committee, as well as certain budgetary reporting requirements.

Subtitle D—Other Elements


Section 6431 directs the DNI and the Under Secretary of Defense for Intelligence, in coordination with the Director of the National Counterintelligence and Security Center, to provide the committee with plans to designate the Defense Intelligence and defense committees with an implementation plan to make the Defense Security Service’s (DSS’s) Counterintelligence component an element of the IC as defined in paragraph (4) of section 3 of the National Security Act of 1947 (50 U.S.C. 3003(4)), by January 1, 2020.

Section 6431 further mandates that the plan shall not adversely affect the DSS’s personnel security functions.

Section 6432. Notice not required for private entities.

Section 6432 provides a Rule of Construction that the Secretary of the Department of Homeland Security (DHS) is not required to provide notice to private entities before issuing directives on agency information security policies and practices.

Section 6433. Establishment of advisory board for National Reconnaissance Office.

Section 6433 amends the National Security Act of 1947 to authorize the Director of the NRO to establish an advisory board to study matters related to space, overhead reconnaissance, acquisition, and other matters.

Section 6433 provides that the board shall terminate 3 years after the Director declares the board’s first meeting.

Section 6434. Collocation of certain Department of Homeland Security personnel at field locations.

Section 6434 requires the Under Secretary of Homeland Security for Intelligence & Analysis (DHS I&A) to identify opportunities for collocation of I&A field officers and to submit to the congressional intelligence committees a plan for deployment.

Title LXV—Election Matters

Section 6501. Report on cyber attacks by foreign governments against United States election infrastructure.

Section 6501 directs the DHS Under Secretary for I&A to submit a report on cyber attacks and attempted cyber attacks by foreign governments on United States election infrastructure, in connection with the 2016 presidential election. Section 6501 further requires this report to include identification of the States and localities affected and include efforts to attack voter registration data, voting machines, computer networks, and the networks of Secretaries of State and other election officials.

Section 6502. Review of intelligence community’s posture to collect against Russian efforts to influence the Presidential election.

Section 6502 requires the DNI to submit to the congressional intelligence committees, within one year of enactment of the Act, a report on the Director’s review of the IC’s posture to collect against and analyze Russian efforts to interfere with the 2016 United States presidential election. Section 6502 further requires the report to include assessments of IC resources, information sharing, and legal authorities.

Section 6503. Assessment of foreign intelligence threats to Federal elections.

Section 6503 requires the DNI, in coordination with the Director of the CIA, Director of the NSA, Director of the FBI, Secretary of State, and Secretaries of Energy and Homeland Security for Intelligence & Analysis, to conduct a study of foreign intelligence threats to United States elections and to submit a report to the Board of Directors of the IC.

Section 6504. Strategy for countering Russian cyber threats to United States elections.

Section 6504 requires the DNI, in coordination with the Secretary of DHS, Director of the FBI, Director of the CIA, Secretary of Energy, Secretary of Treasury, and Secretary of the Army, to develop a whole-of-government strategy for countering Russian cyber threats against United States electoral systems and processes.

Section 6504 further requires this strategy to include input from solicited Secretaries of State and chief election officials.

Section 6505. Assessment of significant Russian influence campaigns directed at foreign elections and referenda.

Section 6505 requires the DNI to provide a report assessing past and ongoing Russian influence campaigns against foreign elections and referenda, to include a summary of the means by which such influence campaigns have been or are likely to be conducted, a summary of findings, and responses to such Russian influence campaigns, a summary of IC activities to assist...
Section 6608. Reporting on reciprocity for security clearances.


Section 6605. Security Executive Agent.

Section 6604. Goals for promptness of determinations regarding security clearances.

Section 6603. Improving the process for security clearances.

Section 6602. Reports and plans regarding security clearances and background investigations.

Section 6601. Definitions.

Section 6600. Designation of counterintelligence officer to lead election security matters.

Section 6599. Notification of significant foreign cyber intrusions and active measures campaigns directed at elections for Federal offices.

Section 6598. Designation of counterintelligence officer to brief the congressional intelligence committees, congressional leadership, the armed services committees, the appropriations committees, and the homeland security committees (consistent with sources and methods) not later than 14 days after a determination has been made with moderate or high confidence that a significant foreign cyber intrusion or active measures campaign intended to influence an upcoming election for any Federal office has taken place by a foreign state or foreign non-state person, group, or other entity. The briefing shall provide a description of the significant foreign cyber intrusion or active measures campaign, information on an identification of the foreign state or foreign non-state person or group.

Section 6597. National counterintelligence and security clearances.

Section 6596. Section 6508 requires the DNI to designate a national counterintelligence officer within the National Counterintelligence and Security Center to lead, manage, and coordinate election security-related counterintelligence matters, including certain risks from foreign power interference.

Title LXVI—Security Clearances

Section 6601. Definitions.

Section 6602. Reports and plans relating to security clearances and background investigations.

Section 6603. Improving the process for security clearances.

Section 6604. Goals for promptness of determinations regarding security clearances.

Section 6605. Security Executive Agent.


Section 6608. Reporting on reciprocity for security clearances.

Section 6609. Intelligence community reports on security clearances.

Section 6610. The DNI to submit a report on each IC element’s security clearance metrics, segregated by Federal employees, contractor employees, and non-Federal individuals involved in money laundering and the number of clearances that take more than two weeks to reciprocally recognize and set forth the reason for any delays.

Section 6611. Information-sharing program for positions of trust and security clearances.

Section 6612. Report on protections for confidentiality of whistleblowing-related communications.

Section 6613. Annual report to Congress on the number of clearances issued to contractors.

Section 6701. Limitation relating to establishment of cybersecurity unit with the Russian Federation.

Section 6702. Assessment of threat finance relating to Russia.

Section 6703. Notification of an active measures campaign.


Section 6705. Report and annual briefing on Iranian expenditures supporting foreign military and terrorist activities.

Section 6706. The DNI to submit a report to Congress on the United States’ annual expenditures on military and terrorist activities outside the country.
Section 6706. Expansion of scope of committee to counter active measures.

Section 6706 amends a provision in the Intelligence Authorization Act for Fiscal Year 2017 to expand the scope of the interagency committee to counter active measures by the Russian Federation to add China, Iran, North Korea, and other nation states.

Subtitle B—Reports

Section 6711. Technical correction to Inspector General study.

Section 6711 amends Title 50, section 1101(d), by replacing the IC IG’s “audit” requirement for Inspectors General with employment of material access, with a “review” requirement.

Section 6712. Reports on authorities of the Chief Intelligence Officer of the Department of Homeland Security.

Section 6712 requires the Secretary of DHS, in consultation with the Under Secretary for I&I, to submit to the congressional intelligence committees a report on the adequacy of the Under Secretary’s authorities required as the Chief Intelligence Officer to organize the Homeland Security Intelligence Enterprise, and the legal and policy changes necessary to organize, and lead DHS intelligence activities.

Section 6713. Review of intelligence community whistleblower matters.

Section 6713 requires the IC IG, in consultation with IGs of other IC agencies, to conduct a review of practices and procedures relating to IC whistleblower matters.

Section 6714. Report on role of Director of National Intelligence with respect to certain foreign investments.

Section 6714 directs the DNI to submit a report on ODNI’s role in preparing analytic materials in connection with the United States Government’s evaluation of national security risks associated with potential foreign investments.


Section 6715 requires the DNI, in coordination with the Director of the CIA, Director of the NSA, Director of the FBI, and Secretary of DHS, to submit to the congressional intelligence, judiciary, and homeland security committees, within 180 days of enactment of the Act, a report known attempt by foreign governments to exploit cybersecurity vulnerabilities in United States telecommunications networks to surveil United States persons actions that the IC has taken to protect United States Government agencies and personnel from such surveillance.

Section 6716. Biennial report on foreign investment risks.

Section 6716 requires the DNI to establish an IC working group on foreign investment risks and prepare a biennial report that includes analysis, explanation and elaboration of national security vulnerabilities, foreign investment trends, foreign countries’ strategies to exploit vulnerabilities through the acquisition of critical technologies, and actions that the IC has taken to protect United States Government agencies and personnel from such vulnerabilities.

Section 6717. Modification of certain reporting requirement on travel of foreign diplomats.

Section 6717 amends a provision in the Intelligence Authorization Act for Fiscal Year 2017, to require reporting of “best estimate” of violations of certain travel requirements by accredited diplomatic and consular personnel of the Russian Federation.

Section 6718. Annual report on investigations of unauthorized disclosures of classified information.

Section 6718 requires the Assistant Attorney General for National Security at the Department of Justice to submit, in consultation with the Director of the FBI, to submit to the congressional intelligence and judiciary committees a semiannual report on the status of investigations of IC referrals of unauthorized disclosures of classified information.

Section 6719. Congressional notification of designation of intelligence officer as persona non grata.

Section 6719 requires, not later than 72 hours after a covered intelligence officer is designated as persona non grata, that the DNI, in consultation with the Secretary of State, submit to the designated committees a notification of that designation, to include the basis for the designation and justification for the expatriation.

Section 6720. Reports on intelligence community participation in vulnerabilities equities process of Federal Government.

Section 6720 requires the DNI to submit, within 90 days of enactment of the Act, to the congressional intelligence committees a report describing the Vulnerabilities Equities Process (VEP) roles and responsibilities for each IC element.

Section 6721. Inspectors General reports on classification.

Section 6721 requires each designated IG to submit to the congressional intelligence committees a report on the accuracy in the application of classification and handling markings on a representative sample of finished products, to include those with classified information, analyses of compliance with declassification procedures and a review of the effectiveness of processes for identifying topics of public or historical interest that merit prioritization for declassification review.

Section 6722. Reports on global water insecurity and national security implications and briefing on emerging infectious disease and pandemics.

Section 6722 requires the DNI to submit to the congressional intelligence committees a report on the implications of global water insecurity and critical infrastructure vulnerabilities to national security interests.

Section 6723. Annual report on memoranda of understanding between elements of intelligence community and other entities of the United States Government regarding significant operational activities policy.

Section 6723 amends a provision in the Intelligence Authorization Act for Fiscal Year 2017, instead requiring each IC element to submit an annual report to the Committees that lists each significant memorandum of understanding or other agreement entered into during the preceding fiscal year.

Section 6724. Study on the feasibility of encrypting unclassified wireline and wireless telephone calls.

Section 6724 requires the DNI to complete a study on the feasibility of encrypting unclassified wireline and wireless telephone calls between any channel in the IC.

Section 6725. Reports on intelligence community loan repayment and related programs.

Section 6725 requires the DNI, in cooperation with heads of the IC elements, to submit to the congressional intelligence committees a report establishing an IC-wide program for student loan repayment and forgiveness.

Section 6726. Repeal of certain reporting requirements.

Section 6726 repeals certain IC reporting requirements.

Section 6727. Inspector General of the Intelligence Community report on senior executives of the Office of the Director of National Intelligence.

Section 6727 directs the IC IG to submit a report to the congressional intelligence committees regarding senior executive service staffing at the ODNI.

Section 6728. Briefing on Federal Bureau of Investigation offering permanent residence to sources and cooperators.

Section 6728 directs the FBI within 30 days of enactment of this Act to provide a briefing to the congressional intelligence committees regarding the FBI’s ability to provide permanent U.S. residence to foreign individuals who served as cooperators in national security-related investigations.

Section 6729. Intelligence assessment of North Korea revenue sources.

Section 6729 requires the DNI, in coordination with other relevant IC elements, to produce to the congressional intelligence committees an intelligence assessment of the North Korean regime’s revenue sources.

Section 6730. Report on possible exploitations of virtual currencies by terrorist actors.

Section 6730 requires the DNI, in consultation with the Secretary of the Treasury, to submit to Congress a report on the possible exploitations of virtual currencies by terrorist actors.

Subtitle C—Other Matters

Section 6741. Public Interest Declassification Board.

Section 6741 permanently authorizes the Public Interest Declassification Board administered by the National Archives and Records Administration.

Section 6742. Technical and clerical amendments to the National Security Act.

Section 6742 makes certain edits to the National Security Act of 1947 as amended for technical or clerical purposes.

Section 6743. Bug bounty programs.

Section 6743 directs the Secretary of DHS, in consultation with the Secretary of Defense, to submit a strategic plan to implement bug bounty programs at appropriate...
agencies and departments of the United States Government. Section 6743 further requires the plan to include an assessment of the “Hack the Pentagon” pilot program and subsequent bug bounty programs. Section 6743 also requires the plan to provide recommendations on the feasibility of initiating bug bounty programs across the United States Government.

Section 6744. Technical amendments related to the Department of Energy.

Section 6744 provides technical corrections to certain provisions regarding the Department of Energy’s Office of Intelligence and Counterintelligence.

Section 6745. Sense of Congress on notification of certain disclosures of classified information.

Section 6745 expresses the sense of Congress that pursuant to the requirement for the IC to keep the congressional intelligence committees “fully and currently informed” in Section 502 of the National Security Act of 1947, IC agencies must submit prompt written notification after becoming aware that an individual in the executive branch has disclosed certain classified information outside established intelligence channels to foreign adversaries—North Korea, Iran, China, Russia, or Cuba.

Section 6746. Sense of Congress on consideration of espionage activities when considering whether or not to provide visas to foreign individuals to be accredited to a United Nations mission in the United States.

Section 6746 provides a Sense of Congress that, as to foreign individuals to be accredited to a United Nations mission, the Secretary of State should consider known and suspected intelligence and espionage activities, including activities constituting pre-espionage, carried out by such individuals against the United States, or against foreign allies or partners of the United States. Section 6746 further provides that the Secretary of State should consider an individual’s status as a known or suspected intelligence officer for a foreign adversary.

Section 6747. Sense of Congress on WikiLeaks.

Section 6747 provides a Sense of Congress that WikiLeaks and its senior leadership resemble a non-state hostile intelligence service, often abetted by state actors, and should be treated as such.

ADJOURNMENT

Mr. GREEN of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o’clock and 12 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, December 13, 2019, at noon.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO JAPAN, EXPENDED BETWEEN NOV. 3 AND NOV. 5, 2019

<table>
<thead>
<tr>
<th>Name of Member or employee</th>
<th>Arrival</th>
<th>Departure</th>
<th>Country</th>
<th>Per diem 1</th>
<th>Transportation</th>
<th>Other purposes</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hon. Mark Takano</td>
<td>11/3</td>
<td>11/5</td>
<td>Japan</td>
<td>922.98</td>
<td>642.27</td>
<td>308.16</td>
<td>1,873.41</td>
</tr>
<tr>
<td>Yuri Bechtermann</td>
<td>11/3</td>
<td>11/5</td>
<td>Japan</td>
<td>922.98</td>
<td>15,295.72</td>
<td>308.16</td>
<td>16,576.86</td>
</tr>
</tbody>
</table>

1 Per diem constitutes lodging and meals.
2 If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2019

<table>
<thead>
<tr>
<th>Name of Member or employee</th>
<th>Arrival</th>
<th>Departure</th>
<th>Country</th>
<th>Per diem 1</th>
<th>Transportation</th>
<th>Other purposes</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Travel to Iceland, Scotland, Norway, Sweden, Finland—July 26–August 2, 2019</td>
<td>7/27</td>
<td>7/28</td>
<td>Iceland</td>
<td>559.48</td>
<td>1,114.00</td>
<td>358.00</td>
<td>2,031.48</td>
</tr>
<tr>
<td>Hon. Robers Gallego</td>
<td>7/28</td>
<td>7/29</td>
<td>Scotland</td>
<td>559.48</td>
<td>1,114.00</td>
<td>358.00</td>
<td>2,031.48</td>
</tr>
<tr>
<td>7/29</td>
<td>7/31</td>
<td>Norway</td>
<td>559.48</td>
<td>1,114.00</td>
<td>358.00</td>
<td>2,031.48</td>
<td></td>
</tr>
<tr>
<td>7/31</td>
<td>8/1</td>
<td>Finland</td>
<td>559.48</td>
<td>1,114.00</td>
<td>358.00</td>
<td>2,031.48</td>
<td></td>
</tr>
</tbody>
</table>

1 Per diem constitutes lodging and meals.
2 If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

<table>
<thead>
<tr>
<th>Name of Member or employee</th>
<th>Arrival</th>
<th>Departure</th>
<th>Country</th>
<th>Per diem</th>
<th>Transportation</th>
<th>Other purposes</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dan Sennett</td>
<td>8/11</td>
<td>8/13</td>
<td>Australia</td>
<td>917.15</td>
<td></td>
<td></td>
<td>917.15</td>
</tr>
<tr>
<td></td>
<td>8/14</td>
<td>8/16</td>
<td>Japan</td>
<td>358.00</td>
<td></td>
<td></td>
<td>358.00</td>
</tr>
<tr>
<td>Commercial airfare</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Laura Rauch</td>
<td>8/11</td>
<td>8/13</td>
<td>Australia</td>
<td>917.15</td>
<td></td>
<td></td>
<td>21,114.00</td>
</tr>
<tr>
<td></td>
<td>8/14</td>
<td>8/16</td>
<td>Japan</td>
<td>358.00</td>
<td></td>
<td></td>
<td>917.15</td>
</tr>
<tr>
<td>Commercial airfare</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Travel to Thailand, Philippines—August 10–18, 2019</td>
<td>8/11</td>
<td>8/13</td>
<td>Philippines</td>
<td>449.55</td>
<td></td>
<td></td>
<td>449.55</td>
</tr>
<tr>
<td>Matt Rhoades</td>
<td>8/13</td>
<td>8/16</td>
<td>Thailand</td>
<td>567.20</td>
<td></td>
<td></td>
<td>567.20</td>
</tr>
<tr>
<td>Commercial airfare</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mark Morehouse</td>
<td>8/11</td>
<td>8/13</td>
<td>Philippines</td>
<td>615.65</td>
<td></td>
<td></td>
<td>615.65</td>
</tr>
<tr>
<td></td>
<td>8/16</td>
<td>8/18</td>
<td>Thailand</td>
<td>628.00</td>
<td></td>
<td></td>
<td>628.00</td>
</tr>
<tr>
<td>Commercial airfare</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Michael Hersman</td>
<td>8/11</td>
<td>8/13</td>
<td>Philippines</td>
<td>140.00</td>
<td></td>
<td></td>
<td>140.00</td>
</tr>
<tr>
<td></td>
<td>8/16</td>
<td>8/18</td>
<td>Thailand</td>
<td>140.00</td>
<td></td>
<td></td>
<td>140.00</td>
</tr>
<tr>
<td>Commercial airfare</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Katherine Quinn</td>
<td>8/13</td>
<td>8/16</td>
<td>Thailand</td>
<td>272.00</td>
<td></td>
<td></td>
<td>272.00</td>
</tr>
<tr>
<td>Commercial airfare</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shannon Green</td>
<td>8/11</td>
<td>8/13</td>
<td>Philippines</td>
<td>920.65</td>
<td></td>
<td></td>
<td>920.65</td>
</tr>
<tr>
<td></td>
<td>8/16</td>
<td>8/18</td>
<td>Thailand</td>
<td>829.18</td>
<td></td>
<td></td>
<td>829.18</td>
</tr>
<tr>
<td>Commercial airfare</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Travel to Germany, Niger, Nigeria, Mali, France—August 23–30, 2019 with CODEL Panetta</td>
<td>8/23</td>
<td>8/24</td>
<td>Germany</td>
<td>510.55</td>
<td></td>
<td></td>
<td>510.55</td>
</tr>
<tr>
<td>Hon. Austin Scott</td>
<td>8/24</td>
<td>8/26</td>
<td>Niger</td>
<td>539.67</td>
<td></td>
<td></td>
<td>539.67</td>
</tr>
<tr>
<td></td>
<td>8/27</td>
<td>8/28</td>
<td>Nigeria</td>
<td>347.21</td>
<td></td>
<td></td>
<td>347.21</td>
</tr>
<tr>
<td>Commercial airfare</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hon. Anthony Brown</td>
<td>8/23</td>
<td>8/24</td>
<td>Germany</td>
<td>510.55</td>
<td></td>
<td></td>
<td>510.55</td>
</tr>
<tr>
<td></td>
<td>8/24</td>
<td>8/26</td>
<td>Niger</td>
<td>539.67</td>
<td></td>
<td></td>
<td>539.67</td>
</tr>
<tr>
<td></td>
<td>8/26</td>
<td>8/27</td>
<td>Nigeria</td>
<td>347.21</td>
<td></td>
<td></td>
<td>347.21</td>
</tr>
<tr>
<td></td>
<td>8/27</td>
<td>8/28</td>
<td>Mali</td>
<td>735.74</td>
<td></td>
<td></td>
<td>735.74</td>
</tr>
<tr>
<td>Commercial airfare</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hon. William Timmons IV</td>
<td>9/6</td>
<td>9/7</td>
<td>Montenegro</td>
<td>643.24</td>
<td></td>
<td></td>
<td>643.24</td>
</tr>
<tr>
<td></td>
<td>9/5</td>
<td>9/6</td>
<td>Croatia</td>
<td>401.46</td>
<td></td>
<td></td>
<td>401.46</td>
</tr>
<tr>
<td></td>
<td>9/6</td>
<td>9/8</td>
<td>Italy</td>
<td>1,066.14</td>
<td></td>
<td></td>
<td>1,066.14</td>
</tr>
<tr>
<td>Commercial airfare</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Laura Rauch</td>
<td>8/23</td>
<td>8/24</td>
<td>Germany</td>
<td>616.00</td>
<td></td>
<td></td>
<td>616.00</td>
</tr>
<tr>
<td></td>
<td>8/24</td>
<td>8/26</td>
<td>Niger</td>
<td>537.00</td>
<td></td>
<td></td>
<td>537.00</td>
</tr>
<tr>
<td></td>
<td>8/26</td>
<td>8/27</td>
<td>Nigeria</td>
<td>348.00</td>
<td></td>
<td></td>
<td>348.00</td>
</tr>
<tr>
<td></td>
<td>8/27</td>
<td>8/28</td>
<td>Mali</td>
<td>243.00</td>
<td></td>
<td></td>
<td>243.00</td>
</tr>
<tr>
<td></td>
<td>8/28</td>
<td>8/29</td>
<td>France</td>
<td>1,982.00</td>
<td></td>
<td></td>
<td>1,982.00</td>
</tr>
<tr>
<td>Commercial airfare</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Committee total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>32,957.94</td>
</tr>
</tbody>
</table>

1 Per diem constitutes lodging and meals.
2 If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BUDGET, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2019

<table>
<thead>
<tr>
<th>Name of Member or employee</th>
<th>Arrival</th>
<th>Departure</th>
<th>Country</th>
<th>Per diem</th>
<th>Transportation</th>
<th>Other purposes</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hon. William Timmons IV</td>
<td>6/28</td>
<td>7/2</td>
<td>United Kingdom</td>
<td>2,390.00</td>
<td></td>
<td></td>
<td>2,390.00</td>
</tr>
<tr>
<td></td>
<td>7/0</td>
<td>7/1</td>
<td>Poland</td>
<td>443.29</td>
<td></td>
<td></td>
<td>443.29</td>
</tr>
<tr>
<td></td>
<td>6/28</td>
<td>7/2</td>
<td>United Kingdom</td>
<td>2,875.00</td>
<td></td>
<td></td>
<td>2,875.00</td>
</tr>
<tr>
<td>Hon. Richard Hudson</td>
<td>7/0</td>
<td>7/1</td>
<td>Luxembourg</td>
<td>2,784.13</td>
<td></td>
<td></td>
<td>2,784.13</td>
</tr>
<tr>
<td></td>
<td>7/0</td>
<td>7/1</td>
<td>Luxembourg</td>
<td>2,496.13</td>
<td></td>
<td></td>
<td>2,496.13</td>
</tr>
<tr>
<td></td>
<td>6/30</td>
<td>7/1</td>
<td>Ukraine</td>
<td>293.69</td>
<td></td>
<td></td>
<td>293.69</td>
</tr>
<tr>
<td></td>
<td>7/0</td>
<td>7/1</td>
<td>Hungary</td>
<td>484.00</td>
<td></td>
<td></td>
<td>484.00</td>
</tr>
<tr>
<td>Hon. Steve Cohen</td>
<td>6/28</td>
<td>7/2</td>
<td>United Kingdom</td>
<td>2,875.00</td>
<td></td>
<td></td>
<td>2,875.00</td>
</tr>
<tr>
<td></td>
<td>7/0</td>
<td>7/1</td>
<td>Luxembourg</td>
<td>1,010.00</td>
<td></td>
<td></td>
<td>1,010.00</td>
</tr>
<tr>
<td></td>
<td>7/0</td>
<td>7/1</td>
<td>Luxembourg</td>
<td>807.20</td>
<td></td>
<td></td>
<td>807.20</td>
</tr>
<tr>
<td>Hon. Gwen Moore</td>
<td>6/28</td>
<td>7/2</td>
<td>United kingdom</td>
<td>2,875.00</td>
<td></td>
<td></td>
<td>2,875.00</td>
</tr>
<tr>
<td>Alex T. Johnson</td>
<td>6/29</td>
<td>7/2</td>
<td>Netherlands</td>
<td>426.00</td>
<td></td>
<td></td>
<td>426.00</td>
</tr>
<tr>
<td></td>
<td>7/0</td>
<td>7/1</td>
<td>Hungary</td>
<td>625.00</td>
<td></td>
<td></td>
<td>625.00</td>
</tr>
<tr>
<td>Mincha Thompson</td>
<td>6/29</td>
<td>7/2</td>
<td>Luxembourg</td>
<td>1,068.33</td>
<td></td>
<td></td>
<td>1,068.33</td>
</tr>
<tr>
<td>Janice Helwig</td>
<td>7/1</td>
<td>7/1</td>
<td>Luxembourg</td>
<td>1,010.00</td>
<td></td>
<td></td>
<td>1,010.00</td>
</tr>
<tr>
<td>Francisco Hernandez</td>
<td>7/0</td>
<td>7/1</td>
<td>Luxembourg</td>
<td>1,010.00</td>
<td></td>
<td></td>
<td>1,010.00</td>
</tr>
<tr>
<td>Erika Schlager</td>
<td>7/7</td>
<td>7/1</td>
<td>Hungary</td>
<td>696.00</td>
<td></td>
<td></td>
<td>696.00</td>
</tr>
<tr>
<td>Alex T. Johnson</td>
<td>6/29</td>
<td>7/2</td>
<td>Luxembourg</td>
<td>700.00</td>
<td></td>
<td></td>
<td>700.00</td>
</tr>
<tr>
<td>Alex T. Johnson</td>
<td>8/26</td>
<td>9/3</td>
<td>Ukraine</td>
<td>1,903.34</td>
<td></td>
<td></td>
<td>1,903.34</td>
</tr>
<tr>
<td></td>
<td>8/29</td>
<td>9/4</td>
<td>Japan</td>
<td>1,903.34</td>
<td></td>
<td></td>
<td>1,903.34</td>
</tr>
</tbody>
</table>

1 Per diem constitutes lodging and meals.
2 If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2019
EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker’s table and referred as follows: 3270. A letter from the Under Secretary, Acquisition and Sustainment, Department of Defense, transmitting the DLA’s report for the third quarter FY 2020 to the Committee on Oversight and Government Reform.

3271. A letter from the Under Secretary, Acquisition and Sustainment, Department of Defense, transmitting the DLA’s report for the fourth quarter FY 2020 to the Committee on Oversight and Government Reform.


3274. A letter from the Assistant Legal Adviser, Office of Treaty Affairs, Department of State, transmitting a report concerning international agreements other than international agreements entered into by the United States to be transmitted to the Congress within the sixty-day period specified in the Case-Zablocki Act, pursuant to 1 U.S.C. 112(a)(1); Pub. L. 92-403, Sec. 1(a)(1); to the Committee on Energy and Commerce.

3275. A letter from the Director, Defense Security Cooperation Agency, Department of Defense, transmitting Transmittal No. 01-20, pursuant to the reporting requirements of Section 62(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3276. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 23-176, “Fiscal Year 2020 Budget Support Clarification Temporary Amendment Act of 2019”, pursuant to Public Law 93-199, Sec. 602(c)(1); (78 Stat. 614); to the Committee on Oversight and Reform.

3277. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 23-177, “Fiscal Year 2020 Budget Support Clarification Temporary Amendment Act of 2019”, pursuant to Public Law 93-199, Sec. 602(c)(1); (78 Stat. 614); to the Committee on Oversight and Reform.

3278. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 23-178, “Community Harassment Prevention Second Temporary Amendment Act of 2019”, pursuant to Public Law 93-199, Sec. 602(c)(1); (78 Stat. 614); to the Committee on Oversight and Reform.

3279. A letter from the Deputy Secretary, Department of Defense, transmitting the Department’s Semianual Report to the Congress for the reporting period April 1, 2019, through September 30, 2019, to the Committee on Oversight and Reform.

3280. A letter from the Chairman, Federal Maritime Commission, transmitting the Commission’s Semianual Report to Congress for the period April 1, 2019, through September 30, 2019, and the Management Report on Final Actions for the Six-Month Period Ending September 30, 2019, to the Committee on Oversight and Reform.

3281. A letter from the Office of Public and Congressional Affairs, Federal Mediation and Conciliation Service, transmitting the FY 2019 NO FEAR Act report, pursuant to 5 U.S.C. 2301 note: Public Law 107-174, 203(a) (as amended by Public Law 109-335, Sec. 604(f)); to the Committee on Oversight and Reform.

3282. A letter from the Treasurer, National Gallery of Art, transmitting the Gallery’s Inspector General’s Annual Report of 1978 for Fiscal Year 2019; to the Committee on Oversight and Reform.

3283. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration’s temporary rule — Fisheries of the Exclusive Economic Zone Off Alaska; to the Committee on Oversight and Reform.

3284. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration’s final rule — Fisheries of the Exclusive Economic Zone Off Alaska; to the Committee on Oversight and Reform.

3285. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration’s final rule — Fisheries of the Exclusive Economic Zone Off Alaska; to the Committee on Oversight and Reform.

3286. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration’s final rule — Fisheries of the Exclusive Economic Zone Off Alaska; to the Committee on Oversight and Reform.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DEFAZIO: Committee on Transportation and Infrastructure. H.R. 1620. A bill to
amend the Federal Water Pollution Control Act to reauthorize the Chesapeake Bay Program (Rept. 116-338). Referred to the Committee of the Whole House on the state of the Union.

Mr. DEFAZIO: Committee on Transportation and Infrastructure. H.R. 2548. A bill to modify eligibility requirements for certain hazardous substance programs, and for other purposes; with an amendment (Rept. 116-339, Pt. 1). Referred to the Committee of the Whole House on the state of the Union.

Mr. DEFAZIO: Committee on Transportation and Infrastructure. H.R. 2549. A bill to amend the Federal share of the fishing safety standards grants; with an amendment (Rept. 116-340). Referred to the Committee of the Whole House on the state of the Union.

Mr. THOMPSON (MS): Committee on Homeland Security. H.R. 3596. A bill to amend the Homeland Security Act of 2002 to reauthorize and improve the Chemical Facility Anti-Terrorism Standards Program, and for other purposes; with an amendment (Rept. 116-341, Pt. 1). Ordered to be printed.

Ms. JOHNSON (TX): Committee on Science, Space, and Technology. H.R. 4704. A bill to direct the President of the National Science Foundation to support multidisciplinary research on the science of suicide, and to advance the knowledge and understanding that may be associated with several aspects of suicide including intrinsic and extrinsic factors related to areas such as wellbeing, resilience, and vulnerability; with an amendment (Rept. 116-342). Referred to the Committee of the Whole House on the state of the Union.

Ms. VELAZQUEZ: Committee on Small Business. H.R. 5065. A bill to amend the Small Business Act to provide re-entry entrepreneurship counseling and training services for formerly incarcerated individuals, and for other purposes; with an amendment (Rept. 116-343). Referred to the Committee of the Whole House on the state of the Union.

Ms. VELAZQUEZ: Committee on Small Business. H.R. 5066. A bill to amend the Small Business Act to provide re-entry entrepreneurship counseling and training services for incarcerated individuals, and for other purposes (Rept. 116-344). Referred to the Committee of the Whole House on the state of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XIII, the Committees on Financial Services, Ways and Means, Agriculture, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in the case of consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 5409. A bill to amend the Internal Revenue Code to provide tax credits for energy storage technology, and for other purposes; to the Committee on Ways and Means.

By Mr. MASSIE (for himself, Ms. PINGREE, Mr. BIGGS, Mr. GOSAR, Mr. SMUCKER, Mr. BUI, Mr. WEBSTER of Florida, Mr. MOONEY of West Virginia, Mr. GROTHMAN, Mr. McCLINN, Speaker, in each case for consideration).

Mr. HOMENDE, Mr. BLUMENAUER, Mr. AMASH, Mr. GRIFFITH, Mr. ROY, and Mr. GATZI:

H.R. 5410. A bill to prohibit Federal interference with the interstate traffic of unpasteurized milk and milk products that are packaged for direct human consumption; to the Committee on Energy and Commerce.

By Mr. HARDER of California:

H.R. 5411. A bill to direct the Secretary of Health and Human Services to establish a Task Force on Local Mental Health Needs, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HARRIS of California, Mr. ROY, Mr. SCALISE, Mr. ROY, Mr. NADLER, Mr. NORTON, Ms. PRESSLEY, Ms. WATSON COLEMAN, and Mr. POCAN:

H.R. 5412. A bill to direct the National Council on Disability to conduct a review of the implementation of standards under the Americans with Disabilities Act of 1990 in the travel, tourism, and hospitality industries; to the Committee on Education and Labor, and in addition to the Committees on Energy and Commerce, the Judiciary, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in the case of consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CARRAJAL (for himself and Ms. BURZU of California):

H.R. 5413. A bill to amend title 46, United States Code, to require the Secretary of the department in which the Coast Guard is operated to promulgate regulations to secure the safety of individuals and property on board certain small passenger vessels, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. CARTWRIGHT (for himself and Mr. KHANNA):

H.R. 5414. A bill to amend the Elementary and Secondary Education Act of 1965 to require local educational agencies to implement a policy on allergy bullying in schools, and for other purposes; to the Committee on Education and Labor.

By Ms. DeLAURO (for herself and Mr. SPERRY):

H.R. 5415. A bill to provide the Food and Drug Administration with authority to conduct microbial sampling on Concentrated Animal feeding operations as necessary to facilitate an investigation, determine the root cause of an outbreak of foodborne illness, or address other public health issues; to the Committee on Energy and Commerce.

By Mr. DINGELL (for herself, Mr. TONKO, Ms. BLUNT ROCHester, and Mr. LYNCH):

H.R. 5416. A bill to establish a National Climate Bank; to the Committee on Energy and Commerce, and in addition to the Committees on Financial Services, Ways and Means, Agriculture, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in the case of consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GALLAGHER (for himself, Mr. BYRNE, Mr. WALKER, Mr. GAETZ, Mr. LAMBORN, Mr. GOODEN, Mr. GIBBS, Mr. WEIGLER of Arkansas, Mr. CLOUD, Mr. RIDDELL, Mr. WRIGHT, Mr. RUTHERFORD, Mr. CRAWFORD, and Mr. BUDD):

H.R. 5417. A bill to amend the Immigration and Nationality Act to add membership in a significant transnational criminal organization to the list of grounds of inadmissibility and to prohibit the provision of material support or resources to such organizations; to the Committee on the Judiciary, and in addition to the Committees on Foreign Affairs, Rules, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms GONZALEZ-COLON of Puerto Rico (for herself, Ms. VELAZQUEZ, Mr. SARABIA, Ms. PLASKETT, Mr. SAN NICOLAS, and Mr. SOTO):

H.R. 5418. A bill to require executive agencies to develop cost-sharing agreements for certain grants with certain non-profit organizations 25 percent, and for other purposes; to the Committee on Oversight and Reform.

By Ms. HAALAND (for herself, Ms. JAYAPAL, Ms. SCHAROWSKY, Ms. LEE of California, Ms. ESCOBAR, Mr. HUFFMAN, Ms. JACKSON, Ms. LEE, Mr. GRIJALVA, Mr. NADLER, Mr. NORTON, Ms. PRESSLEY, Mrs. WATSON COLEMAN, and Mr. POCAN):

H.R. 5419. A bill to amend the Internal Revenue Code of 1986 to require payroll tax withholding on independent contractors of certain large businesses; to the Committee on Ways and Means.

By Ms. KELLY of Illinois (for herself and Mr. DANNY K. DAVIS of Illinois):

H.R. 5420. A bill to establish the Pullman National Historical Park in the State of Illinois as a unit of the National Park System, and for other purposes; to the Committee on Natural Resources.

By Mr. LUEFTKEMEYER (for himself, Mrs. WAGNER, Mr. CLAY, Mr. SMITH of Missouri, Mr. LONG, Mr. GRAVES of California, Mr. LOCKETT of Texas, and Mr. LEE):

H.R. 5421. A bill to amend the Controlled Substances Act to list fentanyl-related substances as schedule I controlled substances; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MURPHY of Florida (for herself and Mr. LAHOOD):

H.R. 5422. A bill to amend the Internal Revenue Code of 1986 to modify certain rules applicable to qualified small issue manufacturing bonds, to expand certain exceptions to the private activity bond rules for first-time farmers, and for other purposes; to the Committee on Ways and Means.

By Mr. NEGUSE (for himself, Mr. NORTON, Mr. SUOZZI, Mr. KHANNA, Mr. LYNCH, and Mr. MALINOWSKI):

H.R. 5423. A bill to amend title 49, United States Code, to authorize owners or operators of general aviation airports to impose certain restrictions related to noise, and for other purposes; to the Committee on Transportation and Infrastructure.
MEMORIALS

Under clause 3 of rule XII.

151. The SPEAKER presented a memorial of the Legislature of the State of New Jersey, relative to Assembly Resolution No. 97, urging the President and Congress of US to enact H.R. 500 which prevents IRS from collecting taxes on amount student loan forgiveness favorable for deceased veterans; which was referred to the Committee on Ways and Means.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. McGOVERN:
H.R. 5406. Congress has the power to enact this legislation pursuant to the following:

The constitutional authority of Congress to enact this legislation is provided by Article I Section 8 of the United States Constitution.

By Mr. OLSON:
H.R. 5407. Congress has the power to enact this legislation pursuant to the following:

By Mr. CURTIS:
H.R. 5409. Congress has the power to enact this legislation pursuant to the following:

By Mr. MASSIE:
H.R. 5410. Congress has the power to enact this legislation pursuant to the following:

The Commerce Clause of the United States Constitution gives Congress the power to regulate commerce among the States, and therefore grants Congress the power to prevent federal agencies from interfering with citizens' ability to purchase, sell, or distribute unpasteurized milk across state lines.

By Mr. HARDER of California:
H.R. 5411. Congress has the power to enact this legislation pursuant to the following:

The Congressional authority on which Congress has the power to enact this legislation pursuant to the following:

The Constitutional authority on which the legislative power of Congress to enact legislation pursuant to the following:

By Mr. CARBAJAL:
H.R. 5413. Congress has the power to enact this legislation pursuant to the following:

By Mr. CARTWRIGHT:
H.R. 5414. Congress has the power to enact this legislation pursuant to the following:

By Ms. DELAURO:
H.R. 5415. Congress has the power to enact this legislation pursuant to the following:

By Ms. GONZALEZ-COLON of Puerto Rico:
H.R. 5416. Congress has the power to enact this legislation pursuant to the following:

By Mr. BAKER of South Carolina:
H.R. 5417. Congress has the power to enact this legislation pursuant to the following:

By Ms. DELAURO:
H.R. 5418. Congress has the power to enact this legislation pursuant to the following:

By Mr. CARBAJAL:
H.R. 5419. Congress has the power to enact this legislation pursuant to the following:

By Ms. KELLY of Illinois:
H.R. 5420. Congress has the power to enact this legislation pursuant to the following:

By Mr. LUETKEMEYER:
H.R. 5421. Congress has the power to enact this legislation pursuant to the following:

By Mr. REILLY:
H.R. 5422. Congress has the power to enact this legislation pursuant to the following:

By Ms. LEE of Georgia:
H.R. 5423. Congress has the power to enact this legislation pursuant to the following:

By Mr. SOTO of California:
H.R. 5424. Congress has the power to enact this legislation pursuant to the following:

By Ms. STOKES of New York:
H.R. 5425. Congress has the power to enact this legislation pursuant to the following:

By Mr. GIROUD of Nevada:
H.R. 5426. Congress has the power to enact this legislation pursuant to the following:

By Mr. CORREA (for himself, Mr. HINES, Mr. LARSON of Connecticut, Ms. DELAURO, Mr. CICILLINI, Mr. COURTNEY, Ms. PAYNE, and Mr. YOUNG):
H. Res. 79. Concurrent resolution expressing the sense of the Congress that assisted suicide (sometimes referred to as physician-assisted suicide, including the most vulnerable, at risk of deadly harm, to the Committee on Energy and Commerce.

By Mrs. HAYES (for herself, Mrs. LEE of Nevada, Mr. LANGHVIN, Mr. HINES, Mr. LARSON of Connecticut, Ms. DELAURO, Mr. CICILLINI, Mr. COURTNEY, Ms. PAYNE, and Mr. YOUNG):
H. Res. 80. Concurrent resolution recognizing the need to improve physical access to many federally funded facilities for all people of the United States, particularly people with disabilities; to the Committee on Transportation and Infrastructure.

By Mr. LOWENTHAL (for himself, Mr. BEERY, Ms. BARRAGÁN, Mr. BLUMENAUER, Ms. BONACMI, Ms. BROWNLEY of California, Mr. CARSON of Indiana, Mr. CASE, Mr. CASTEN of Illinois, Ms. CLARK of New York, Mr. CLAY, Mr. CLEAVER, Mr. CONNOLLY, Mr. CORREA, Mr. DEFAZIO, Mr. ENGEL, Ms. GABARD, Ms. HAALAND, Mr. HASTINGS, Mr. HICK, Mr. HOMES of New York, Ms. NORTON, Mr. HUFFMAN, Mr. JOHNSON of Georgia, Mr. KHANDA, Mr. KILDER, Mr. KILMER, Mrs. KIRKpatrick, Mr. FOSTER, Mr. GARNER of California, Mr. GRIFFIN of Missouri, Mr. LIPINSKI, Ms. MCCULLOM, Mr. MCGOVERN, Ms. MENG, Mr. NADLER, Ms. NAPOLITANO, Mr. PANETTA, Mr. QUIKLEY, Mr. RASKIN, Mr. ROUDA, Mr. RUSH, Ms. SCHAROWSKY, Mr. SCHNEIDER, Mr. SCOTT of Virginia, Ms. SHALALA, Mr. SMITH of Washington, Mr. SUOZZI, Ms. VELAZQUEZ, Ms. WASSERMAN SCHULTZ, Mr. WELCH, Mr. McCaINCEAUS, Ms. WILSON of Florida, Mr. WINTER, Mr. PINOGER, Mr. PHILLIPS, Mr. TONKO, Mr. KRAIJN, Mr. SOTO, Mr. TED LIU of California, Mr. KENNEDY, Mrs. DINGELL, and Mr. ENGEL):
H. Res. 762. A resolution recognizing the 4th anniversary of the adoption of the international Paris Agreement on climate change; to the Committee on Foreign Affairs, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SERRANO (for himself, Mr. NADLER, Ms. NORTON, Mr. CARSON of Indiana, and Mr. EVANS):
H. Res. 763. A resolution expressing support for the development of a national strategic plan to end deep poverty; to the Committee on Oversight and Reform.
common Defense and general welfare of the United States, as enumerated in Article I, Section 8, Clause 1. Thus, Congress has the authority not only to increase taxes, but also, to reduce taxes to promote the general welfare of the United States of America and her citizens. Additionally, Congress has the Constitutional authority to regulate commerce among the States and with Indian Tribes, as enumerated in Article I, Section 8, Clause 3.

By Mrs. MURPHY of Florida:
H.R. 5422
Congress has the power to enact this legislation pursuant to the following:
Article 1, Section 8, Clause 3, “To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.” And Article I, Section 8, Clause 18, “To make all Laws which shall be necessary and proper for carrying into the Execution of the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States of America and the several States, and with the Indian Tribes.”

By Mr. NEGUSE:
H.R. 5423
Congress has the power to enact this legislation pursuant to the following:
Article 1, Section 8
By Mr. POCAN:
H.R. 5424
Congress has the power to enact this legislation pursuant to the following:
Article 1, Section 8
By Ms. PORTER:
H.R. 5425
Congress has the power to enact this legislation pursuant to the following:
Article 1, Section 8
By Mr. SIRES:
H.R. 5426
Congress has the power to enact this legislation pursuant to the following:
Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8 of the Constitution.

By Mr. YOUNG:
H.R. 5427
Congress has the power to enact this legislation pursuant to the following:
Article 1, Section 8, Clause 1, 3, and 18.

ADDITIONAL SPONSORS
Under clause 7 of rule XII, sponsors were added to public bills and resolutions, as follows:
H.R. 218: Mr. HUIZENGA.
H.R. 587: Mr. AMODEI and Mr. WALTZ.
H.R. 588: Mr. HICK.
H.R. 779: Mr. WRIGHT, Ms. FOXX of North Carolina, and Mr. KELLER.
H.R. 921: Mr. KIM.
H.R. 961: Mr. KEATING.
H.R. 1042: Mr. ROSH of New York, Mr. MECKS, and Mr. KEATING.
H.R. 1043: Ms. GARCIA of Texas.
H.R. 1049: Mr. VRAHY, Ms. SÁNCHEZ, and Mr. YARMUTH.
H.R. 1154: Mrs. DINGELL.
H.R. 1173: Ms. JOHNSON of Texas and Mr. TAYLOR.
H.R. 1223: Mr. JEFFRIES.
H.R. 1367: Ms. SCHRIER and Mr. CASTEN of Illinois.
H.R. 1380: Mr. ROSE of New York.
H.R. 1450: Ms. JAYAPAL and Mr. CLAY.
H.R. 1550: Mr. STEIL.
H.R. 1632: Mr. SUCOZZI.
H.R. 1661: Mr. TED LIEU of California.
H.R. 1709: Ms. HERRERA BRETTLE.
H.R. 1748: Mr. KCM and Mr. SARAHANES.
H.R. 1754: Mr. RUIZ, Ms. FUDGE, Mr. ROSE of New York, and Mr. KREATING.
H.R. 1783: Ms. LOPROREN, Mr. DUNN, Mr. CRAWFORD, Mr. PAPPAS, and Ms. DEAN.
H.R. 1756: Mr. ARRINGTON.
H.R. 1973: Mr. BRENDAN F. BOYLE of Pennsylvania.
H.R. 1975: Mr. JOHNSON of Ohio, Mr. STAUBER, and Mr. BROWN of Maryland.
H.R. 1978: Ms. MOORE, Mr. HICK, Mr. CARBAJAL, Mr. McGOVERN, and Mr. ROSE of New York.
H.R. 2013: Ms. MCCOLLUM.
H.R. 2096: Mr. CISNEROS and Ms. SHERRILL.
H.R. 2117: Mrs. AXNE and Mr. STEIL.
H.R. 2214: Mrs. TORRES of California.
H.R. 2219: Mr. PANETTA.
H.R. 2416: Mr. KATKO.
H.R. 2478: Mr. THOMPSON of Pennsylvania.
H.R. 2573: Mr. GONZALEZ of Ohio, Mr. GOTTHEIMER, Mr. WALTZ, Mr. JOHNSON of Ohio, Mr. GUEST, and Mrs. LEE of Nevada.
H.R. 2599: Mr. YARMUTH and Mr. CONNOLLY.
H.R. 2616: Ms. BARRAGAN and Ms. CLARKE of New York.
H.R. 2711: Mr. VAN DREW.
H.R. 2748: Mrs. NAPOLITANO.
H.R. 2777: Ms. WILSON of Florida.
H.R. 2825: Mr. POCAN.
H.R. 2850: Ms. LEE of California.
H.R. 2861: Mr. HARDER of California, Mr. AMODEI, Mr. COSTA, and Mr. HURD of Texas.
H.R. 2996: Mr. MECKS.
H.R. 2990: Mr. ROONEY of Illinois, Mr. CLOUD, and Mr. HIGGINS of Louisiana.
H.R. 3040: Ms. SCHAOKOWSKY.
H.R. 3077: Mr. COURTNEY and Mr. STEIL.
H.R. 3114: Mr. HORFSORD.
H.R. 3121: Ms. SÁNCHEZ and Mr. GOMEZ.
H.R. 3137: Mr. COHEN.
H.R. 3192: Ms. BASS and Mr. YARMUTH.
H.R. 3212: Ms. HOULAHAN.
H.R. 3235: Ms. BLUNT ROCHESTER.
H.R. 3266: Mrs. ANNI.
H.R. 3297: Mr. CRIST.
H.R. 3316: Ms. SEWELL of Alabama and Mr. SCHEEL.
H.R. 3373: Mr. DEAN.
H.R. 3524: Mr. DEUTCH.
H.R. 3598: Ms. BROWNLEY of California.
H.R. 3623: Mr. KING.
H.R. 3637: Mr. HARDER of California.
H.R. 3689: Mr. HARDER of California.
H.R. 3778: Mr. WOODALL.
H.R. 4046: Mr. POSEY.
H.R. 4078: Mr. LARSEN of Washington, Mr. YARMUTH, and Ms. CLARKE of New York.
H.R. 4211: Mr. HASTINGS and Mr. RASKIN.
H.R. 4248: Ms. DEAN.
H.R. 4209: Mr. QUIKLEY and Mr. MCNIRNEY.
H.R. 4307: Mr. SUCOZZI.
H.R. 4347: Mr. COLE.
H.R. 4388: Mr. JOHNSON of Georgia.
H.R. 4426: Mr. BERYER, Ms. ROYBAL-ALLARD, Mr. SCHRIF, and Mr. COURTNEY.
H.R. 4493: Mr. LEE of California.
H.R. 4494: Mr. GARAMENDI.
H.R. 4508: Mr. PHILLIPS.
H.R. 4631: Mr. THOMPSON of Mississippi.
H.R. 4540: Mr. KNANNA, Mr. SCHRIF, Mr. TRONE, Mrs. DAVIS of California, and Mr. SEAN PATRICK MALONEY of New York.
H.R. 4681: Mrs. HARTZLER.
H.R. 4786: Mr. GRAVES of Louisiana.
H.R. 4832: Mr. SOTO.
H.R. 4899: Mr. BERGMAN.
H.R. 4926: Ms. WILD and Mr. JOYCE of Ohio.
H.R. 4980: Mr. CRYST.
H.R. 4995: Ms. NUNO and Ms. UNDERWOOD.
H.R. 5004: Ms. Matsu.
H.R. 5004: Mrs. RUSTOS.
H.R. 5053: Ms. DEAN.
H.R. 5068: Mr. HARDER of California.
H.R. 5104: Ms. MENG.
H.R. 5116: Mr. HOLLINGSWORTH.
H.R. 5127: Ms. BROWNLEY of California and Mr. JOHNSON of Oklahoma.
H.R. 5136: Mr. CASTEN of Illinois and Mr. PERLMUTTER.
H.R. 5156: Mr. SCHNIEDER.
H.R. 5170: Mrs. NAPOLITANO, Mr. POCAN, Mr. COURTNEY, and Ms. DELAURA.
H.R. 5172: Mr. MOONEY of West Virginia, Mr. MOLENAAR, and Mr. KILMER.
H.R. 5216: Mr. GRIJALVA.
H.R. 5231: Ms. SCHAOKSKY.
H.R. 5249: Mr. KIND.
H.R. 5267: Mr. HIGGINS of New York.
H.R. 5268: Mr. THOMPSON of Mississippi.
H.R. 5372: Ms. PORTER.
H.R. 5396: Mr. FITZPATRICK.
H.R. 5336: Mr. BUTTERFIELD, Ms. SPEER, Mr. KELLY of Pennsylvania, and Mr. FITZPATRICK.
H. Con. Res. 52: Mr. Crow and Mr. SCOTT of Virginia.
H. Con. Res. 71: Mr. CICILLINE, Mr. SHRES, Mr. DEFAZIO, Mr. GRIJALVA, Ms. TUTTA, Mr. FITZPATRICK, Mr. SOTO, Mr. CONNOLLY, Mr. BLUMENAUER, Ms. JACKSON LEE, Mr. RUTHERFORD, Ms. NORTON, Mr. SERRANO, Mrs. DINGELL, Mr. YARMUTH, Mr. MCNIRNEY, and Ms. MOORE.
H. Res. 672: Mr. BRYER.
H. Res. 737: Mr. TITPoN, Mr. COLE, Mr. PHILLIPS, Mr. HUIZENGA, Mr. STEUHL, and Mr. WRIGHT.
H. Res. 739: Mr. STAUBER.
H. Res. 742: Mr. CARSON of Indiana and Mr. HARDER of California.
H. Res. 744: Mr. SCALISE.
The Senate met at 10 a.m. and was
called to order by the Honorable CINDY
HYDE-SMITH, a Senator from the State
of Mississippi.

PRAYER
The Chaplain, Dr. Barry C. Black, of-
fered the following prayer:

Let us pray.

God of grace and glory, on Your peo-
ple, shower Your blessings. Be for us a
shield and sure defense. Lord, as we
live in this tangled world, give us the
wisdom to keep our eyes on You.

Bless our Senators. Crown their de-
liberations with Your wisdom so that
Your purposes will prevail. Lord,
quicken in our lawmakers noble im-
pulses as You sanctify their efforts
with Your mercy and might.

Be merciful to us. Forgive our faults,
and remember that we are but dust,
like a wind that blows by and is gone.
Lord, keep us from stumbling or slip-
pling.

We pray in Your gracious Name. Amen.

PLEDGE OF ALLEGIANCE
The Presiding Officer led the Pledge
of Allegiance, as follows:

I pledge allegiance to the Flag of the
United States of America, and to the Repub-
lic for which it stands, one nation under God,
indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING
PRESIDENT PRO TEMPORE
The PRESIDING OFFICER. The clerk
will please read a communication to the Senate from the President pro
temore (Mr. GRASSLEY).

The senior assistant legislative clerk
read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 12, 2019.

To the Senate:

Under the provisions of rule I, paragraph 3,
of the Standing Rules of the Senate, I hereby
appoint the Honorable CINDY HYDE-SMITH, a
Senator from the State of Mississippi, to per-
form the duties of the Chair.

CHUCK GRASSLEY,
President pro tempore.

Mrs. HYDE-SMITH thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME
The ACTING PRESIDENT pro tempore.

Under the previous order, the leadership time is reserved.

CONCLUSION OF MORNING
BUSINESS
The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore.

Under the previous order, the Senate will proceed to executive ses-
session and resume consideration of the following nomination, which the clerk
will report.

The senior assistant legislative clerk
read the nomination of Aurelia Skipwith, of Indiana, to be Director of the
United States Fish and Wildlife Service.

RECOGNITION OF THE MAJORITY LEADER
The ACTING PRESIDENT pro tempore. The majority leader is recog-
nized.

SENATE LEGISLATIVE AGENDA

Mr. MCCONNELL. Madam President, I have spoken at length about the seri-
ous impact the Democrats’ impeach-
ment obsession has had on months’
worth of important legislative prior-
ities. For months, the Republicans
have been calling for bipartisan solu-
tions to the NDAA, to the appropri-
tions process, and more, but only in
the last couple of days, here in mid-De-
cember, have our Democratic col-
leagues gotten sufficiently serious
about these must-pass bills.

In the meantime, while we have wait-
ed on the House Democrats to act, the
Senate has made good use of our floor
time to complete the American peo-
lace’s business with respect to nomina-
tions. Last week alone, the Senate con-
fmmed two executive branch nomi-
ations and put eight impressive jurists
in seats on Federal district courts.

This week, we have considered yet
another slate of the President’s well-
qualified nominees. The Senate will
consider today John Sullivan, of Mary-
land, to serve as Ambassador to the
Russian Federation; Stephen Hahn, of
Texas, to serve as Commissioner at the
Food and Drug Administration; and
Aurelia Skipwith, of Indiana, to be Di-
rector of the U.S. Fish and Wildlife
Service.

Already this week, we have con-
firmed two more outstanding jurists to
the Court of Appeals for the Ninth Cir-
cuit—Patrick Bumatay, of California,
and Lawrence VanDyke, of Nevada. Mr.
Bumatay is a graduate of Yale and
Harvard Law School. He clerked for the
Eastern District of New York and the
Tenth Circuit, practiced in the private
sector, and served in a variety of roles
with the Department of Justice. Mr.
VanDyke graduated from Montana
State University and Harvard Law
School. His career has included a clerk-
ship with the DC Circuit, time as a
State solicitor general, and service as
Deputy Assistant Attorney General at
the Department of Justice. Both of
these jurists are well qualified, and
both have widespread respect from
legal peers. Now they are the 49th and
50th circuit judges to have been nomi-
nated by President Trump and con-
firmed by the Senate in the last 3
years.

As I have said before, these kinds of
milestones are emphatically not par-
tisan achievements. It is not one party
or the other that benefits when our
Federal courts consist of men and women who understand that a judge’s job is to follow the law, not to make the law. The entire country benefits from that. Our constitutional system benefits from that as well. If a judge’s applying our laws and other Constitution as the document says, politics sit aside. And the magic of our system is that it is a threat to one’s particular agenda, it is the agenda that needs to change, not the judiciary the Framers intended.

On another matter, as I said, the Democrats’ fixation on impeachment has pushed critical governing priorities right into the eleventh hour. Just yesterday, after months of delays and hostage-taking, the House Democrats finally approved an NDAA conference report. Next week, the Senate will pass it and send this overdue legislation to President Trump. Yet, of course, we need to follow up Defense authorization with Defense appropriations so that we actually supply the funding our servicemembers need to carry out their missions. Our commanders need to plan for the future.

It is not just defense funding that has been hampered by the Democrats’ impeachment obsession and reluctance to do anything bipartisan. All Federal funding has been jeopardized by the House’s procrastination. That includes critical domestic programs with implications for every one of our colleagues and all of our constituents. Even today, at this late date, the Democratic leadership is still threatening to potentially tank the whole process and force another continuing resolution.

Look, the story is the same as it has been for months—partisan policy demands, poison pills. It is exactly the playbook the Speaker of the House and the Democratic leader had explicitly promised months ago, in writing, they would not use in order to sabotage appropriations. Even now, at the eleventh hour, the Democratic leadership is still threatening to potentially tank the whole process and force another continuing resolution.

Let me say that again. Last summer, the Speaker of the House and the Senate Democratic leader explicitly promised in writing that they would not use poison pills or changes to Presidential transfer authorities to sabotage the appropriations process. Yet, even in mid-December, they are still using those tactics to jeopardize all of our programs.

It doesn’t have to end this way. I know earnest discussions are still underway as our colleagues in both Chambers work to fix this. I urge the Democratic leadership to let the committees do their work, to let the Congress do its work and to let us proceed with legislation on a bipartisan basis next week.

On a related matter, while we hold out hope for a breakthrough in appropriations, we also know there has been one major casualty of Speaker PELOSI’s impeachment obsession—Congress’s ability to pass the President’s USMCA this year.

It was more than a year ago that President Trump first signed the draft agreement with the leaders of Canada and Mexico—more than 12 months ago. That is how long the House Democrats have dragged their heels on the USMCA and have kept 176,000 new American jobs on hold. The Speaker’s action was so belated that the administration is still—in the process of writing the actual bill. We don’t have a bill yet. Once a bill is produced, the House has to take it up first, and then, under current law, that exists to protect the deals Presidents negotiate, after House passage, the bill spends up to 15 session days in the Senate Finance Committee. After that, there are up to 15 session days for the Senate to act on the floor.

So after a judicial obstruction, she finally gave in to Republican pressure and struck a notional deal with the White House. But actions have consequences. That entire calendar year that House Democrats wasted has consequences. The Speaker’s action was so belated that the administration is still—in the process of writing the actual bill. We don’t have a bill yet. Once a bill is produced, the House has to take it up first, and then, under current law, that exists to protect the deals Presidents negotiate, after House passage, the bill spends up to 15 session days in the Senate Finance Committee. After that, there are up to 15 session days for the Senate to act on the floor.

So, unfortunately, the Speaker’s 12 months of delay have made it literally impossible for the Senate to take up the agreement this year. And if House Democrats send us impeachment articles, they won’t come first in January, so the USMCA will go pushed back yet again.

Like I said, actions have consequences. There is just no way the Senate can make up for 12 months of House Democratic delays in just a couple of days. Governing is a question of priorities. Speaker PELOSI failed to make this trade deal a priority for the entire year, and we are now bound by the time requirements of TPA to protect the deals Presidents negotiate. The Speaker’s action was so belated that the administration is still—in the process of writing the actual bill. We don’t have a bill yet. Once a bill is produced, the House has to take it up first, and then, under current law, that exists to protect the deals Presidents negotiate, after House passage, the bill spends up to 15 session days in the Senate Finance Committee. After that, there are up to 15 session days for the Senate to act on the floor.

On one final matter, speaking of priorities, listen to what the House Democrats are prioritizing. Listen to what they are doing today while all of this crucial legislation goes unfinished: more Judiciary Committee hearings on impeaching the President and on the floor, a vote on yet another far-left messaging bill with literally no chance of becoming law.

They are spending floor time on their socialist demands to micromanage Americans’ prescription drugs and put the Federal Government in charge of the medicines so many people rely on. The Speaker wants to take us down the road of nationalizing an entire industry and imposing Washington’s stifling influence on the life sciences sector that produces lifesaving cures—never mind the fact that this far-left messaging bill has zero chance of passing the Senate and that President Trump has already threatened to veto it.

We know that political performance art takes precedence over bipartisan legislation where this Democratic House has been concerned. I hope these stunts—stunts—come to an end soon. I hope the House finds time to finish negotiating the things we actually have to pass—the funding of the government. I hope we can do that in good faith. I hope our Democratic colleagues join Republicans as the table, the previous bills get the American people’s business that must be done accomplished. I suggest the absence of a quorum. The ACTING PRESIDENT pro tem. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mrs. BLACKBURN. Madam President. I ask unanimous consent that the previous quorum be rescinded. The ACTING PRESIDENT pro tem. Without objection, it is so ordered.

Mrs. BLACKBURN. Madam President, this past Sunday, hundreds of thousands of protesters filled the streets of Hong Kong to remind Beijing that totalitarianism will no longer go unchallenged.

I was reading a New York Times article about this protest when I came across a particularly striking quote. Asked why she had taken to the streets, a 24-year-old biology researcher named Alice said: We want Hong Kong to continue being Hong Kong. We don’t want to become like China.

Madam President, I ask unanimous consent to have printed in the RECORD this article on the Hong Kong human rights protest, that appeared in the December 9 edition of the New York Times and that depicts a beautiful picture of what people will do for the cause of freedom.

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

{From the New York Times, Dec. 7, 2019}

HONG KONG PROTEST, LARGEST IN WEEKS, STRETCHES SEVERAL MILES

{By Jarier C. Hernández and Elaine Yu} Hon Kong—Hundreds of thousands of protesters, basking in a recent election victory by Hong Kong’s pro-democracy camp, poured onto the city’s streets on Sunday in one of the largest marches in weeks to pressure the government to meet demands for greater civil liberties.

The huge turnout was a reminder to China’s leader, Xi Jinping, that the months-long campaign against his authoritarian policies still had broad support in Hong Kong despite a weakening economy and increasingly violent clashes between protesters and the police.

Tensions in Hong Kong, a semiautonomous territory, had eased somewhat in recent days, after pro-democracy advocates won a stunning victory in local elections two weeks ago, giving new hope to the movement.

On Sunday, demonstrators returned in force, packing city streets to denounce Mr. Xi’s government, rail against police brutality and reiterate demands for greater civil liberties, including universal suffrage. They beat drums, sang protest anthems and chanted: “Fight for freedom.” Though the mood was largely peaceful, some demonstrators vandalized shops and restaurants and lit a fire outside the high court.

HONG KONG.—Hundreds of thousands of protesters, basking in a recent election victory by Hong Kong's pro-democracy camp, poured onto the city's streets on Sunday in one of the largest marches in weeks to pressure the government to meet demands for greater civil liberties.

The huge turnout was a reminder to China's leader, Xi Jinping, that the months-long campaign against his authoritarian policies still had broad support in Hong Kong despite a weakening economy and increasingly violent clashes between protesters and the police.

Tensions in Hong Kong, a semiautonomous territory, had eased somewhat in recent days, after pro-democracy advocates won a stunning victory in local elections two weeks ago, giving new hope to the movement.

On Sunday, demonstrators returned in force, packing city streets to denounce Mr. Xi's government, rail against police brutality and reiterate demands for greater civil liberties, including universal suffrage. They beat drums, sang protest anthems and chanted: “Fight for freedom.” Though the mood was largely peaceful, some demonstrators vandalized shops and restaurants and lit a fire outside the high court.
December 12, 2019  

CONGRESSIONAL RECORD — SENATE  

S7001  

“We want Hong Kong to continue being Hong Kong,” said Alice Wong, 24, a biology researcher who stood among protesters gathered at Victoria Park. “We don’t want to become like China.”

As many as 800,000 people attended the march, according to Civil Human Rights Front, an advocacy group that organized the gathering. The mood at the march was relaxed, with people taking selfies against a backdrop of the vast crowds. Children, some dressed in black with their parents, holding hands as they shouted, “Stand with Hong Kong!”

A sea of protesters, spread across several miles, filled major thoroughfares as they moved between towering skyscrapers. In some areas, there were so many people that the police cracked down on a small’s pace and spilled into adjacent alleys. Some small businesses encouraged the turnout by promising giveaways if more than one million people joined the march.

The protesters said they intended to remain peaceful on Sunday, but some vowed to use more aggressive tactics if the police cracked down. “We will protection resistance as long as possible,” said Tamara Wong, 33, an office worker who wore a black mask as she stood opposite crowds of protesters who had barricaded a street downtown in a brief tense moment.

The large turnout could further embolden the movement’s confrontational front-line protesters, who said they planned to disrupt the city’s roads and public transportation system on Monday. The call for further action seemed to resonate among some protesters on Sunday.

“If the government still refuses to acknowledge our demands after today, we should and will escalate our protests,” said Tamara Wong, 33, an office worker who wore a black mask as she stood among the crowd gathered at Victoria Park.

The protesters have demanded amnesty for activists who were arrested and accused of rioting, as well as an independent investigation of police conduct during the demonstrations.

Despite the show of strength on Sunday, it is unlikely that the protesters will win further concessions from Beijing, which has worked to portray demonstrators as rioters colluding with foreign governments to topple the governing Communist Party.

Jean-Pierre Cabestan, a professor of political science at Hong Kong Baptist University, said that through Sunday’s march, which showed the protest movement remained strong and unified, Beijing was unlikely to listen to its demands.

“Hong Kong is condemned to live in a permanent political crisis as long as China is ruled by the Communist Party,” Professor Cabestan said.

Mr. Xi, who has cultivated an image as a hard-line leader, has demanded “unswerving efforts to stop and punish violent activities” in Hong Kong. Publicly endorsing the city’s beleaguered leader, Carrie Lam, and her efforts to bring an end to the unrest.

Chinese officials have suggested that the United States is responsible for helping fuel unrest in Hong Kong, pointing to statements by American officials in support of the protests. Last month, President Trump signed into law legislation that authorized the United States to publicly endorse the city’s beleaguered leader, Carrie Lam, and her efforts to bring an end to the unrest.

Chinese officials have suggested that the United States is responsible for helping fuel unrest in Hong Kong, pointing to statements by American officials in support of the protests. Last month, President Trump signed into law legislation that authorized the United States to publicly endorse the city’s beleaguered leader, Carrie Lam, and her efforts to bring an end to the unrest.

The largest turnout could further embolden the movement’s confrontational front-line protesters, who said they planned to disrupt the city’s roads and public transportation system on Monday. Many protesters acknowledged that a compromise with the government is unlikely. But the government’s position, has brushed aside many protests and rallies in Hong Kong, citing safety concerns. But the government’s position, has brushed aside many protests and rallies in Hong Kong, citing safety concerns.

Mrs. BLACKBURN. Madam President, Alice’s statement is loaded with historical context and correctly implies that what we are seeing now is the culmination of a slow but sure violation of the laws and norms that once defined Hong Kong’s semiautonomous relationship with mainland China. These protests erupted after what Beijing and Hong Kong’s government are proposing change to existing extradition laws, but the people saw it for what it was—a thinly veiled threat to Hong Kong’s relative autonomy. It wasn’t a takeover. It was just that foot in the door, and China is nearly unparalleled in its ability to turn a foot in the door into a permanent existing condition.

Sometimes their power plays are very obvious, and sometimes they are not. On my recent trip to Djibouti, I saw firsthand the influence of China’s debt-trap diplomacy.

Here is what debt-trap diplomacy is. It’s a fancy way of saying that China has increased its influence around the world by offering to struggling nations that they are going to hold their debt in exchange for preferential treatment on trade or maybe a physical presence such as a port or other sweetheart deals.

In Djibouti City, I saw this tactic run wild. Now China would say that what they have done is help the Djiboutians create a “smart city” in Djibouti. It has been spent on intelligent power grids or traffic management systems or on clean air or clean water, but it is being spent on surveilling their own citizens. China has created a false sense of security here in the West when we don’t see the evidence of what they are doing. In the United States we are not particularly vulnerable to their debt trap, but we are vulnerable to less obvious attempts to get that foot in the door.

Some form or another, most Americans have allowed Big Tech to take hold of a portion of their lives. Smartphones and cloud storage once were very novel, but now we assume that even simple transactions come predicated by an additional condition. Do you see the app or the service has access to—guess what—your data. They want to own your virtual you.

Popular apps like TikTok, whose parent company is based in China, have left me with more questions than answers about the platform’s business practices, privacy protections, and ideological loyalty to the Communist
Party. Consider that the U.S. Army has barred soldiers from using TikTok. Everyone needs to understand this. The U.S. Army has said: You cannot use TikTok. This very body has expressed our concerns on a bipartisan basis with the platform’s censorship and data handling practices.

It is no wonder that TikTok’s chief executive officer canceled this week’s scheduled meetings here in DC with Members of this body. The fact that millions of Americans, especially our American children, continue to offer their personal data to TikTok is beyond disturbing, but we will not be able to roll back the creeping surveillance state without setting our own standards for what is acceptable from both foreign and domestic companies.

When I introduced the BROWSER Act earlier this year, I did so not only to give Big Tech solid guidelines regarding data privacy and content but to set a new standard for what consumers expect from Big Tech. Our problem here in this country is pretty much one of awareness and of understanding that the exact same philosophy drives China’s surveillance programs and their less obvious but much more personal individual monitoring schemes—their surveillance state scheme.

China’s Communist Party is after more than just ad revenue and more complete data sets. Their goal, as those Hong Kong protesters put it, is to trick other people into becoming more like China, which is not tilting toward freedom but tilting away from freedom.

My goal with the BROWSER Act and with my focus on what has become the surveillance state is to do the exact opposite—to enable freedom, to encourage freedom, not only here but around the globe—and to make certain that consumers here decide how much of their data they want to be able to share. We must make certain that we continue to support the cause of freedom, not be the beings who are swimming in the murky waters of conspiracy to divert attention from the fact that they don’t have the facts and the law on their side. The only way they can defend the President’s comments is to come up with crazy, out-of-line conspiracy theories that are not based on any evidence.

Some Senate Republicans find it so difficult to argue the President’s defense on the facts that they resort to fiction. For instance, after a few weeks, certain Republicans have actually helped spread disinformation invented by Putin’s intelligence services. He said that Ukraine, not Russia, interfered in the election. No one believes it. There is no factual basis of it. Of course, Putin would say he wants to divert attention from Russia, but it is amazing that Senators would traffic in those theories, totally made up, not one bit of fact. It is a low moment for the Senate when they turned this course to President Trump overshadows any need to find truth and to defend rule of law. That is not what a democracy is about. That is the edges of dictatorship.

Chairman GRAHAM, as he tends to do these days, put on a big show, a lot of ranting, a lot of raving—no refutation of the fact of what the IG found.

In this case, pounding the table means coming up with diversionary conspiratorial theories.

House Republicans, rather than mount a vigorous defense of the President on the merits, have attacked the process. If House Republicans could focus on the merits, could find evidence that said: No, this is not true; that is not true; he did not try to influence Ukraine to help his campaign, they would have prevailed.

Why has no evidence been presented directly refuting the core of the charge against the President? Because there probably isn’t any. In the Senate we have several Members who are swimming in the murky waters of conspiracy to divert attention from the facts that they don’t have the facts and the law on their side.

It is the old lawyer saying: When you think President Trump is above the law, go right ahead, but that is not what George Washington or Benjamin Franklin or Thompson Jefferson...
Next year, voters will have a chance to try. We need to start moving the need helping middle-class families. If any—have shattered records over $1 trillion annual total of corporate stock buybacks went? Shareholders, not workers. In Trump's lion's share of that Republican tax cut hikes. Do you want to know where the announced bonuses to workers or wage tax cut. Increases investments into their company. Republican majority leader was on the floor a little earlier, and he talked about the business of the Senate and how busy we are in the Senate. I would like to state for the record, so far in the calendar year 2019, on the floor of this U.S. Senate, where the greatest deliberative body meets and considers the lofty issues of our time, in the year 2019—other than the Senate, have considered 22 amendments in the entire year—22 amendments.

President Trump promised the tax bill would benefit middle-class America, creating a $4,000 raise for every American family. No way. Ask the average American family. The rich Americans will say yes. The top 1 percent will say yes, but, of course, they receive a tax cut 64 times the size of the one given to the middle class. President Trump and Republicans promised the bill would prompt businesses to increase investments into their companies, leading to job growth and higher wages. This, too, has proved a fantasy. Less than 5 percent of all workers in America were ultimately promised pay increases or bonuses as a result of the tax cut.

Out of 5.9 million employers, only 413 announced bonuses to workers or wage hikes to keep workers. To know where the lion’s share of that Republican tax cut went? Shareholders, not workers. In the 2 years since the tax bill, the annual total of corporate stock buybacks have shattered records over $1 trillion in 2018. It is impossible to look at the last 2 years with a straight face and say that the Republican tax cut was designed or is helping middle-class families. If anything, the Republican tax bill exacerbated the already staggering inequalities of work and wealth in our country. We need to start moving the needle in a completely opposite direction.

Next year, voters will have a chance to make that happen by voting for a change in the Senate leadership. I yield the floor. I suggest the absence of a quorum. The ACTING PRESIDENT pro tempore. The clerk will call the roll. The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOTE OF LAWRENCE VANDYKE

Mr. DURBIN. Madam President, the Republican majority leader was on the floor a little earlier, and he talked about the business of the Senate and how busy we are in the Senate. I would like to state for the record, so far in the calendar year 2019, on the floor of this U.S. Senate, where the greatest deliberative body meets and considers the lofty issues of our time, in the year 2019—other than the Senate, have considered 22 amendments in the entire year—22 amendments.

Madam President, six of them were offered by the junior Senator from Kentucky. One Senator had six amendments, all defeated. Then some 16 other amendments were offered.

To put that into perspective, on a good day in the Senate, when the Senate was the Senate, there would be 10 amendments to one bill we sent to the floor; we would debate, amendments would be adopted. Some would lose. People would give speeches. We would pass legislation, send it over to the House, go to a conference. We would not do that anymore.

Under Senator MCCONNELL, the Republican leader of the Senate, we do not do that anymore. There were 22 amendments in the course of the entire year. If we were paid for the actual piecework that we do, we would not get a paycheck this year because we haven’t done anything.

I will take that back. What we have done is to fill as many Federal court vacancies as possible with some of the most unqualified people ever offered by a President of the United States. This week, a man named VanDyke is being named to the court in Nevada. He has such a limited connection with Nevada that both Nevada Senators refuse to approve him to this court appointment. He has no connection to their State, but he was chosen by the White House.

He went through a background check by the American Bar Association, and they concluded unanimously that he was unqualified to be a Federal judge—unqualified. He is not the first. Under this President, we have had nine different court nominees found unqualified by the American Bar Association. You say, Well, that is going to happen, lawyers defend the laws they don’t like.

Do you know how many were found unqualified under the Obama administration in 8 years? None, not one.

There are nine unqualified men and women now with lifetime appointments on the Federal bench because, for Senator MCCONNELL, that is his priority: Fill the bench with people of his political stripe at any cost.

Take up legislation? No. The Democrtically-controlled House of Representatives has sent us over 200 different measures to consider on the floor of the Senate. Senator MCCONELL has refused. He will not take up any legislation. He is very proud of it. To his credit, he is not ashamed or embarrassed. He says to call himself the Grim Reaper when it comes to measures coming over from the House. He is here to kill them, and he has done a pretty good job of that, if that is his goal in what he wants to achieve. When I hear him come to the floor and say we are not doing enough in the Senate—are 22 amendments in 1 year. I say to Senator MCCONNELL, you have been in the Senate for a long time. You know the difference.

FOR-PROFIT COLLEGES AND UNIVERSITIES

Madam President, it is the holiday season, and many families are gathering at special meals, giving gifts, with a lot of fond memories, but in—of celebrating, hundreds of thousands of people across America who have been defrauded by for-profit colleges and universities are just trying to get by. There will not be many presents that they will be able to give or probably receive. They have been waiting for years and days for one person to make a decision. Her name is Betsy DeVos. She is the Secretary of Education. She can provide them relief from their federal student loans that they desperately need, but she refuses to do it.

After being lured with false promises, these people I am talking about ended up in programs at for-profit colleges and universities. Who were the for-profits? See if these names ring a bell: Corinthian, ITT, Everest, DeVry, University of Phoenix, Dream Center. These are for-profit colleges and universities, and these student borrowers were left with mountains of debt, worthless credits, and diplomas that employers laugh at when it was all said and done. Now, Secretary DeVos refuses to provide these students with relief from their student loan debt to which they are entitled under the borrower defense provision of the Higher Education Act.

Take Rachel from Missouri who attended Corinthian’s Everest College. She says, “I am not able to buy my children clothes or shoes.” Pamela from South Carolina owes $140,000 after attending the corrupt ITT Tech for-profit school. Here is what she says: “I have an autistic daughter that depends on me, and I can’t afford to get a decent place to live or buy the things she needs.” Is that any surprise with $1 trillion in debt from one of these corrupt for-profit colleges?

Jennifer, who attended the Illinois Institute of Art—not to be mixed up
with the Illinois Art Institute, a reputable institution—but the Illinois Institute of Art where she attended, she owes $67,800 in Federal student loans, and she says, “The stress and anxiety of working 3 jobs to make a living to pay off these loans, feed my kids, and keep a roof over my head, is exhausting.”

For borrowers like Rachel, Pamela, and Jennifer, Secretary DeVos might as well be Secretary Scrooge this holiday season. She continues to deny them a fresh start. She continues to refuse to apply the borrowed defense provision which would allow the discharge of their federal student debt. More than 200,000 borrowers find themselves in similar positions, while Secretary DeVos lets claims back up at the Department. She has failed to prove a single claim in more than a year, not one for all these hundreds of thousands of students facing this fraudulent debt.

Why should we give them a break? Why should they have any forgiveness for student debt? Let me tell you why. It is because it starts with the U.S. Federal Government, Department of Education recognizing the accreditation of these institutions—these worthless institutions. That accreditation says to students applying there: This is a real college.

Well, it turns out that they weren’t real colleges and universities. But they were real when it came to costs. Some of the most expensive places to attend higher education in America are these for-profit universities. What kind of record do they have? Well, consider this: just nine percent of all postsecondary students in America go to these for-profit colleges and universities—nine percent. This will be on the financial statements that Secretary DeVos thinks many borrowers got some value from their experience, even though they were defrauded into massive debt. She thinks borrowers are just after “free money,” and they don’t deserve a full discharge.

Yesterday, National Public Radio released a series of internal Department memos showing that the facts don’t back up Secretary DeVos’s claims. Back in 2017, the Department staff concluded that “the value of an ITT [Tech] education—like Corinthian—is likely either negligible or nonexistent.” This was a school whose accreditation was recognized by our Federal Government, Secretary DeVos, and it has turned out to be worthless. The memo went on to conclude, “Accordingly, it is appropriate, for the Department to award eligible borrowers full relief.” I agree. It is reasonable for the Department of Education to try to make amends for this miserable failure of oversight of these schools and to give these student borrowers a chance.

Nonetheless, last week, Secretary DeVos announced a new scheme to use something called gainful employment earnings data to deny defrauded student borrowers full discharges. Remember, that the gainful employment rule was meant to ensure that programs were actually preparing students for jobs after graduation. But Secretary DeVos delayed and then eliminated the rule. Now, instead of using gainful employment data to hold poor-performing programs accountable, she wants to use it to prevent defrauded student borrowers from getting relief. She has already tried it once, only to be told by a Federal judge that what she did was illegal.

While it is unclear if this slightly tweaked version of the scheme will pass legal muster, the result for the borrowers would be the same: ultimate denial in terms of full relief from their student loans from miserable for-profit schools.

Not only is Secretary DeVos delaying and denying relief for previously defrauded borrowers, she is rewriting the rules to make it almost impossible for future defrauded borrowers to get relief. She continues to undermine the accreditation of these unworthy institutions. She continues to say to the United States and the world: These are perfectly good schools. Then, when it turns out they are perfectly awful, she wants to accept no responsibility.

She released a new version of the borrower defense rule just a few months ago that places unreasonable burdens on borrowers, way beyond their capacity to detect the fraud being perpetrated at the time. The net result is this: According to The Institute for College Access and Success, the new DeVos rule will cancel just 3 percent of all loans associated with misconduct.

In September, I introduced a resolution in the Senate to overturn the DeVos borrower defense rule. Forty-two of my colleagues have joined me, I plan to bring it to a vote on the Senate floor, where it needs a simple majority to pass.

Just this week, 57 student, veteran, and consumer organizations released a letter supporting the resolution. I ask unanimous consent that it be printed in the RECORD.

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

DECEMBER 9, 2019.

SENATOR DICK DURBIN,
Washington, DC.

REPRESENTATIVE SUSIE LEE,
Washington, DC.

DEAR SENATOR DURBIN AND REPRESENTATIVE LEE: As 57 organizations representing and advocating for students, families, taxpayers, veterans and service members, faculty and staff, civil rights and consumer organizations released a letter in support of your efforts to disapprove the 2019 Borrower Defense to Repayment rule pursuant to the Congressional Review Act.

The purpose of the borrower defense rule as defined by the Higher Education Act is to protect students and taxpayers from fraud, deception, and other illegal misconduct by unscrupulous colleges. A well-designed rule will both provide relief to students who have been lied to and cheated, and deter illegal conduct by colleges.

However, the final rule issued by the Department of Education on September 23, 2019, would accomplish neither of these goals. An analysis of the Department’s own calculations estimates that only 3 percent of the loans that result from school misconduct were actually cancelled, under the new rule. Schools would be held accountable for reimbursing taxpayers for just 1 percent of these loans.

The DeVos Borrower Defense rule issued in September imposes unreasonable time limits on student borrowers who have been deceived and misled by their schools. It requires applicants to meet these limits that make it almost impossible for wronged borrowers to obtain loan cancellation.
The rule eliminates the ability of groups of borrowers to be granted relief, even in cases where there is substantial compelling evidence of widespread wrongdoing. It prohibits the rule from being filed for three years when evidence of wrongdoing emerges at a later date. It requires borrowers to prove schools intended to deceive them or acted recklessly students have no way to access evidence that might show this intent. And the rule stipulates that student loans taken by students under false pretenses and evidence of financial harm to allow the loans to be cancelled.

Additionally, the 2019 rule eliminates the promissory loan relief of predatory-connected students whose school closed before they could graduate. Instead, the Department would force each eligible student impacted by a school closing individually to prove that about their statutory right to relief, apply, and navigate the government’s bureaucracy to have their loans cancelled.

Many of us wrote to the Department in August 2018 in response to the notice of proposed rulemaking and offered carefully considered recommendations. However, the Department rejected our recommendations that would have provided a fair process that protects students and taxpayer dollars. Instead, the new rule would do little to provide relief, and even less to dissuade colleges from systematically engaging in deceptive and illegal recruitment tactics. Moreover, a borrower defense to inadequate disclosure rule that harms the most vulnerable students, including first-generation college students, Black and Latino students, and military-connected students, who are targeted by and disproportionately enrolled in predatory-for-profit colleges.

Meaningfully, the Department refuses to take action on a massive backlog of over 200,000 pending borrower defense claims, having failed to approve or deny a single claim in over a year. We fully support your effort to repeal the 2019 borrower defense rule, and look forward to restoration of the 2016 rule, which took major steps to provide a path to loan forgiveness for the hundreds of thousands of students who attended schools where misconduct has already been well documented.

Signed,
AFL-CIO, AFSCME, Allied Progress, American Association of University Professors, American Federation of Teachers, Americans for Financial Reform, Association of Young Americans (AYA), Campaign for America’s Future, Center for Public Interest Law, Center for Responsible Lending, Children’s Advocacy Institute, CLASP, Clearinghouse on Women’s Issues, Consumer Action, Consumer Advocacy and Protection Society (CAPS) at Berkeley Law, Consumer Federation of America, Consumer Federation of California, Demos, Duke Consumer Rights Project, East Bay Community Law Center, Education Network of Massachusetts, Project on Predatory Student Lending, Public Citizen, Public Counsel, Public Good Law Center, Public Law Center, Service Employees International Union (SEIU), Southeast Asia Resource Action Center (SEARAC), Student Debt Crisis, Student Defense, Student Veterans of America, U.S. Public Interest Research Group (PIRG), UnidosUS, Veterans Education Success, Veterans for Common Sense, Young Invincibles.

Mr. DURBIN. Among the organizations supporting the resolution are the American Federation of Teachers, the Center for Responsible Lending, the Consumer Federation of America, the Education Trust, the National Association of College Admission Counseling, the NAACP, the National Education Association, the Student Veterans of America, and the American Legion on behalf of American veterans who have been victims of this fraud as well.

When our resolution comes to the Senate floor, Mr. Speaker—by the way, my Republican colleagues will take a look at it and realize that we have to give these students a second chance at their lives. We misled them into attending for-profit schools that were worthless. The schools deceived them. They ended up in debt, they lost their ability to live, and under the provisions of the Higher Education Act, that debt can be forgiven. Let’s give these defrauded student borrowers a second chance. Ultimately, they deserve an opportunity from our government to have a better life coming before them and a better life ahead.

I yield the floor.

The PRESIDING OFFICER (Mr. SCOTT of Florida). The Senator from Ohio.

UNITED STATES-MEXICO-CANADA TRADE AGREEMENT

Mr. PORTMAN. Mr. President, I have come to the Senate floor several times over the past year to talk about the importance of the United States-Mexico-Canada Agreement. This is the successor agreement to the 25-year-old NAFTA accord.

Yes, it has been a year; in fact, it has been over a year since that agreement was negotiated between Canada and Mexico, and then Congress was meant to take it up. It has been too long. However, I am happy to report today that now we are at the end of that long process. I am told that the legislation is actually going to be voted on in the House of Representatives probably next week and then here in the U.S. Senate right after the holidays.

We will have a chance, finally, to pass this agreement that is so good for the farmers, for the workers, for the manufacturers, and for the small businesses that I represent.

I am really pleased that the President of the United States and his chief trade negotiator, Bob Lighthizer, had the persistence to get this done. I am not sure I would have had the same patience.

I also want to congratulate House Speaker NANCY PELOSI for making the decision to move forward with it. This is one of these situations in which, under our law, the agreement has to be voted on first by the House. So the Speaker of the House had an unusual role here, where it couldn’t go forward without her approval. Again, finally, we are able to vote on it.

The agreement, which was negotiated over a year ago and languished—specific language was sent up here in May of last year—is pretty much the same. About 99 percent of it is the same agreement. It is not perfect because it opens up more markets for us. What has changed is there are new provisions, different provisions, as it relates to enforcing the labor standards that are already in the agreement.

In the agreement, what Mexico and Canada were asked to do, in addition to the United States, in terms of higher labor standards, was negotiated over a year ago, but what has happened over, really, the past several months is now there is a mechanism to enforce it that is a little different.

I think it will make it easier to enforce potential violations of the agreement we have reached, particularly with regard to Mexico. It doesn’t really change the enforcement; it is a little different. We can explain this in more detail as we see the exact language that is coming up in the next couple of days.

The bottom line is, for a U.S. company, the labor standards that are espoused by the agreement are the ones we already have in our law. For Mexico or Canada to file an objection to us potentially not following that agreement is simply after there has been a U.S. law process, which would involve the National Labor Relations Board and our existing law, so it really shouldn’t affect us at all.

By the way, Secretary Scalia, who is the Secretary of Labor, was very involved in ensuring that it wouldn’t come back against U.S. companies, on U.S. agreements, and workers, and on our economy.

At the end of the day, although it took way too long to get there, we have ended up with a very good result—an agreement that does expand trade, and that is the whole idea.

We have talked a lot on the floor as to why this is so important. I will tell you, in my home State of Ohio, we send more than half of our exports to two countries, Canada and Mexico. By far, the No. 1 trading partner is Mexico, and No. 2 is Canada.

This is really important because these jobs are really important. It is about $23 billion a year. These are jobs that pay higher wages and better benefits—export jobs. For our farmers, this is obviously important. For manufacturers and workers, it is really important because this lets them be able to do what we do best, which is efficiently and productively make things and produce things that could be sold to other markets.

Remember, in America, we are only about 5 percent of the global economy—five percent of the people—so our...
population is only about 5 percent, but we are about 25 percent of the GDP of the world. We are a relatively small country by population, but we have this big economy. To access that 95 percent of consumers outside of America to sell our products is absolutely essential to our prosperity here, to our jobs here.

As I mentioned earlier, those export jobs tend to be better jobs and higher paying jobs with better benefits.

What makes this agreement great? First of all, it creates a bunch of new jobs. This chart has 176,000-plus new jobs. That is because the International Trade Commission—which is the independent body that analyzes these things—gave us a range. The GDP increased. It increased our economy. The number of jobs is huge, by the way—greater than any other trade agreement we have entered into, greater on the economic growth side than the Trans-Pacific Partnership that many of my colleagues here on the other side of the aisle thought was something we should have entered into and was so important. This is even bigger.

Obviously, it is so big because Canada and Mexico are such big trading partners with us. So even relatively small changes to open up new markets have a big impact. These are going to be welcome jobs and, again, higher paying jobs.

Second, it really helps us with regard to online sales. One of our advantages as a country is we do a lot of commerce over the internet. When the original NAFTA agreement was written and was currently enforced—the status quo—there really were not any significant online sales—virtually none. So there were no provisions in there. Every modern trade agreement has provisions for online sales or for sales over the internet. Now we have them with regard to Mexico and Canada, which we have not had under the old NAFTA. So that is a big improvement. For Ohio, that is a lot of small companies because entrepreneurs—some of these new startups are online companies—really like these provisions.

By the way, it says a number of things. It says you can’t require localization of data. In other words, Canada and Mexico can’t say: Hey, you have to have your servers in our country if you are going to do business with us. That is really important to our American online industry.

Second, it says that you can’t put tariffs on data online. Again, it is very important to establish that, not just for Canada and Mexico but as a precedent for other trade agreements going forward.

Third, it actually raises the de minimis level. In other words, to apply customs duties on stuff going to Canada and Mexico, they have a very low level. We have a relatively high level here. That level has increased for Canada and Mexico. That is an administrative burden that is lifted off of a lot of these small businesses but also a cost saver because they don’t have to pay customs duty on a relatively small product that goes to another country.

These are all good things for American jobs. Again, we have a comparative advantage here because we do a lot of online sales.

Third is more U.S.-made steel and auto parts. This is really important to Ohio but also to our country. Manufacturing jobs are actually increasing in this country for the first time in years, and we are getting back on our feet in terms of what has always made America great, which is that we produce things; we make things. So this agreement helps.

It says, as an example, that 70 percent of the steel that goes into automobiles—and the automobile industry is a big deal for Canada and Mexico and the United States—has to come from North America. That helps U.S. steel mills and steel mills in Ohio, as opposed to steel coming in from China, for example, from Brazil, and from other countries.

Second, it changes the rules of origin—how much stuff can go into an automobile that comes from other countries. It is 62 1/2 percent now, and it would take it up to 75 percent in this agreement. That is the highest level of any agreement we have with anybody. Why is that important? Well, think about it. We have agreed with Canada and Mexico that we are going to have this agreement that lowers the tariffs in all these countries and lowers the trade barriers generally. In other words, it gives them an advantage in our market. We get an advantage in their market. That is the idea. If you don’t have a rule of origin where you say stuff—stuff that comes from other countries and take advantage of that, then you have basically free riders.

As an example, China can send a bunch of their auto parts to Mexico and produce a car that is a Mexican car that then complies and that gets advantage of the NAFTA agreement. China has not opened its market at all; it has only provided this product to Mexico. But then the product gets the advantage of the lower tariffs and lower trade barriers generally. In other words, it gives them an advantage in our market. We get an advantage in their market. That is the idea. If you don’t have a rule of origin where you say stuff—stuff that comes from other countries and take advantage of that, then you have basically free riders.

One is weather. We have had some lousy weather, particularly in my State and across the Midwest, where it is too wet and too wet, and so farmers have been suffering because of a few different things.

One is weather. We have had some lousy weather, particularly in my State and across the Midwest, where it is too wet and too dry. Farmers have been hit hard. We couldn’t plant in Ohio in a number of cases this last year because of the weather being too wet, and so farmers have been hit by that.

The second is that prices have been relatively low—not just recently but really over the last several years for different commodities such as corn, soybeans, and wheat, and what that is because of the global markets.

Part of it is because of the third issue, which is China. Because of our ongoing negotiation with China and disputes with China over what they are doing on intellectual property, leaning our technology, and other issues, they have bought less of our farm products. For Ohio, as an example, our No. 1 market overseas for soybeans is China, and one out of every three acres planted in Ohio is planted for export. Think about how that affects your prices if you lose that big market share and that big customer.

I am pleased to say that we seem to be making some progress with China right now, incidentally, as an aside. It is great to have this agreement done. The next agreement I hope we get done is with China and get them to play by the rules and open those markets more. This week, they started to buy more soybeans, and that is good.

In the meantime, our farmers are desperate for more markets, and in this
agreement, that is exactly what they get. So if you are an Ohio farmer—and we are No. 2 in the country on eggs—you can now have access to these markets in Canada and Mexico, on eggs, that you never had before.

On dairy, in particular has some very protectionist provisions in place with regard to dairy products—think milk and cheese.

If you are an Ohio dairy farmer, you can sell stuff into Canada you couldn’t sell before—bulk milk, beef, wheat, and other products. This is good for our farmers. This is why over 1,000 farm groups around the country have supported this agreement. I mean, I don’t know a farm group in Ohio that doesn’t support it strongly. Again, part of it is that this is a great agreement for them, and part of it is that they are hurting, and this gives them some light at the end of the tunnel, an opportunity to see new markets and therefore see some prices increase in our ag community.

This is a good agreement that is good for jobs, good for small business, as we talked about, good for farmers, good for workers, and good for our economy. It is important that we get it done. I am glad the House is going to go ahead and vote on it in the next week. I wish we could vote here in the Senate right away, too, but under the process called trade promotion authority, we do have some processes we need to go through. It is to our advantage to have it happen after the holidays. Right after the holidays, my hope is that here on the floor of the Senate, Members will look at this for what it is. This is not a Democratic or a Republican victory; this is an American victory.

Again, I appreciate the efforts of President Donald Trump because he was persistent and tough on the negotiations, and then he was persistent and patient in working with the U.S. Congress. There were a lot of people saying: Go ahead and send the agreement up and try to jam the Democrats into doing the right thing. He didn’t do that. He waited to figure out a way to coalesce around and improve the status quo. NAFTA was negotiated 25 years ago. A lot has happened in the last 25 years. We talked about how the digital economy has transformed our economy, and we have a competitive and comparative advantage in that. That is one small example. So many things have changed.

We have better protections for intellectual property in this agreement, as an example. We have these new trade-creation opportunities so we have these opportunities in manufacturing to do more here in North America and specifically in the United States.

A vote against this new agreement is a vote for NAFTA, which is this 25-year-old agreement that has these flaws because that is the status quo. My hope is that the next time I come to this floor to talk about this, it will be to ask my colleagues in short order to support this. It will have come out of the Finance Committee with a strong bipartisan vote, that it will have come to the floor with a strong vote from the House, and that we can get this done. Then President Trump can sign it, and the people we represent will be better off, our community of nations here in North America will be better off, and the United States of America will have another victory.

I yield back.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. SHAHEEN. Mr. President, I came to the floor this morning to address what has been an alarming and inaccurate information campaign that is being spread about the international family planning amendment included in this year’s State and Foreign Operations appropriations bill.

I would note that while this amendment is referred to as the “Shaheen amendment” in alarmist and inaccurate blog posts, it is actually bipartisan language that was agreed to by both the subcommittee and full committee chairs of the Appropriations Committee and ultimately approved unanimously by Republicans and Democrats in the committee. Yet articles and op-eds online have condemned the amendment as pro-abortion. I was surprised to hear this given that, despite my objections, the amendment does not address the Mexico City policy—or the global gag rule, as it is known—if abortion is involved. In fact, this is the first time in 18 years—I am going to say that again. It is the first time in 18 years that members of the Appropriations Committee were prevented from offering a bipartisan family planning amendment to strip the bill of the Mexico City provision.

Instead of allowing the established committee process to amend the SFOPs bill with this provision, the entire bill was pulled from consideration. In response to that, in an effort to ensure the bill wasn’t endangered, I worked with my colleagues Senator COLLINS of Maine and Senator MURKOWSKI of Alaska and with Republican leadership to limit the scope of the amendment so we would not pull the whole bill.

It is false—absolutely, positively false—to say this amendment funds abortions abroad. In fact, it is wrong to say, and inaccurate to say, that any assistance goes to abortions at home or abroad. In compliance with U.S. law, family planning funding does not and never has gone to abortion services. I hope everyone is clear about that. Under our law, family planning services and supplies do not go to support abortion services.

Now that I have outlined what this amendment does not do, let me discuss what it does do. It provides an increase of $37.5 million for a total of $632.5 million for existing international family planning accounts. This money funds programs and services that provide modern contraceptives, which 214 million women around the world who want to avoid pregnancy are not able to access. Again, I don’t know when the debate around abortion came to include contraceptives and family planning. It also would allow for the healthy timing and spacing of births, which is very important to the health of infants and it is important to the health of women to be able to space the births of their children to recover between births. It provides education information and counseling about family planning issues. It ensures access to antenatal and postnatal care for a baby and a baby. It provides for HPV vaccination and prevention, something very important to the health of children.

These are a few of the critical services the assistance provides. The impact of these services is very real. According to the Guttmacher Institute, with each additional $10 million the U.S. dedicates to family planning and reproductive health programs, 400,000 more women and couples receive contraceptives services and supplies. With the $37.5 million increase provided for in this amendment, more than 2.2 million women and couples...
will have that access. That will result in 654,500 fewer unintended pregnancies, 291,500 fewer unplanned births, 280,500 fewer induced abortions. If you care about abortion and you don’t believe that is the right alternative, then you should support family planning programs that cause families and couples an option to ensure they can have the children they want, and it would provide for 1,320 fewer deaths of women.

While these numbers are stark, the transformative effect of simply having access to family planning information and services on the lives of women and their families should not be underestimated.

The most vulnerable women who are reached by family planning programs report that learning about family planning options, receiving services to prevent unwanted pregnancies, and ensuring that wanted pregnancies are healthy and happy is the key to helping them control over their lives. Many women are making healthcare choices for themselves and their families for the very first time with help from these programs.

These critical programs change lives, and the beneficiaries who implement these programs are indispensable. In October, USAID Administrator Mark Green said he could not “imagine an effective development Agency that doesn’t partner with the community of faith.” Luckily, he doesn’t have to. For those people who were worried that family planning programs are not going to be implemented by our faith community, that is just wrong.

The family planning account goes to a range of program implementers, including healthcare providers, international NGOs, and faith-based organizations alike. All of these organizations have the goal of saving women’s lives and saving the lives of their children. The need for more resources, not fewer, to do this work.

What else does the international family planning amendment do? It includes an additional $33 million to USAID’s family planning account for money that is rerouted away from the U.N. Population Fund.

Again, unlike what the blogs are mistakenly saying, this is not money that currently goes to UNFPF’s lifesaving operations. Instead, it will be redirected back into the family planning account and contribute to the programs I just outlined.

Third, the amendment requires the Government Accountability Office to produce a report that evaluates the efficacy of family planning programs and their structure. Again, this was another bipartisan effort with my Republican colleagues to ensure that our U.S. dollars are most effective and they contribute to programs and services that are most effective. Again, if you have pulled our planning dollars being spent, then you should support this amendment because it is going to give us data and information to show what is effective and what isn’t.

Finally, the amendment includes language to reaffirm an existing nondiscrimination policy within USAID. This is an existing nondiscrimination policy that existed for several years, and it is not targeted toward faith-based organizations, despite what some of the blogs mistakenly are putting out there. In fact, the complaints I have heard in my office about single women being rejected for services didn’t touch on work that faith-based organizations are doing.

I hope all of our colleagues in the Senate will not allow misinformation about the family planning dollars that are in the State and Foreign Operations Appropriations bill. This previous bill has been an important and very important bipartisan achievement. Its impact is too great and its programs are too important to let them be killed by a campaign to try and mislead people about what is in the amendment.

I yield the floor.

NOMINATION OF AURELIA SKIPWITH

Mr. CARPER. Mr. President, I want to share with the Senate my reasons for opposing the nomination of Aurelia Skipwith to be the Director of the U.S. Fish and Wildlife Service.

Let me begin by saying that I am disappointed to find myself in this position. When I had the privilege of serving as Governor of Delaware, I was able to assemble my own leadership team. So I appreciate how important it is that people in executive positions, including Presidents, have that same ability.

However, in article II of the Constitution, the system in which the President would nominate individuals to the top posts in our government and Senators would provide "advice and consent" on those nominees.

In order for the Senate to fulfill that constitutional role, those nominated individuals must cooperate with the confirmation process. And, unfortunately, Ms. Skipwith has not provided information requested by the Democrats during the nomination process.

Despite my repeated requests for the nominee to be more forthcoming—requests made twice in writing and twice in person, during her nomination process—Ms. Skipwith has refused. Instead, she has given me the impression that she does not take this confirmation process seriously.

Her lack of candor has elevated questions about the family planning dollars that are in the State and Foreign Operations Appropriations bill, despite what some of the blogs mistakenly are putting out there. In fact, the complaints I have heard in my office about single women being rejected for services didn’t touch on work that faith-based organizations are doing.

As I said, this is not a new policy. The anti-discrimination policy has existed for several years, and it is not targeted toward faith-based organizations, despite what some of the blogs mistakenly are putting out there.

I hope all of our colleagues in the Senate will not allow misinformation about the family planning dollars that are in the State and Foreign Operations Appropriations bill, 291,500 fewer unplanned births, 1,320 fewer deaths of women.

Ms. Skipwith first joined the Trump administration in April 2017, when she was appointed as Deputy Assistant Secretary of Fish and Wildlife and Parks, a non-Senate-confirmed political appointment at the Department of the Interior.

During her tenure there, the Fish and Wildlife Service proposed and finalized controversial regulations that drastically altered implementation of the Endangered Species Act.

The Service has also issued a legal opinion that changes the way the Department of the Interior enforces the Migratory Bird Treaty Act. Former senior Interior officials from every administration since the early 1970s, both Republican and Democrat, have strongly opposed this Migratory Bird Treaty Act legal opinion. At her confirmation hearing, Ms. Skipwith vehemently defended it.

Prior to her controversial tenure at the Interior Department, Ms. Skipwith has also not seemed to make up for her lack of previous experience while on the job. At her confirmation hearing, when asked to name any conservation scientist who had most influenced her career and her approach to wildlife and fisheries management, Ms. Skipwith struggled to name any conservation scientist. Ultimately, she named a former Monsanto employee who was president with whom she used to work, but she misremembered his name.

This was not an insignificant misstep. To me, it was revealing. Ms. Skipwith’s response to my simple question represented a clear lack of familiarity with the basics of wildlife management, a troubling quality for a Fish and Wildlife Director nominee.

By contrast, Ms. Skipwith does have significant experience in the agricultural industry. Before joining the Trump administration, she worked for Monsanto, one of the world’s largest agrochemical firms. Monsanto regularly has business interests before the Interior Department. She also worked for Alltech, a Kentucky-based agricultural products company.

Ms. Skipwith also co-founded AVC Global, an agribusiness-technology start-up, and was employed by Gage International, a Washington, DC, based lobbying firm founded by her fiancé.

That is why even before her confirmation hearing, I asked Ms. Skipwith some basic questions about how these companies operate and
whether Ms. Skipwith has recused herself from working on those issues. Unfortunately, Ms. Skipwith has refused to answer those questions.

She has repeatedly refused to provide her calendars with the appointments she had at the Department of the Interior official. This information could be made available to any member of the public under the Freedom of Information Act, but she has refused to provide it to me for months within the confirmation process. This information is important because Ms. Skipwith’s former employer, Gage International, has represented her calendars with the appointments for the yeas and nays.

The senior assistant legislative clerk called the roll. The clerk will call the roll.

The PRESIDING OFFICER. Is there a sufficient second?

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from North Carolina (Mr. BULL), the Senator from Kentucky (Mr. PAUL), the Senator from Georgia (Mr. ISAACKSON), and the Senator from Alabama (Mr. SHELBY).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. BOOKER), the Senator from Illinois (Ms. DUCKWORTH), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Vermont (Mr. SANDERS), and the Senator from Massachusetts (Ms. WARNER) are necessarily absent.

The question is, Will the Senate advise and consent to the Sullivan nomination?

Mr. INHOFE. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Under the previous order, all postcloture time is expired.

The question is, Will the Senate advise and consent to the Sullivan nomination?

Mr. INHOFE. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. THUNE. The following Senators are necessarily absent: the Senator from North Carolina (Mr. BULL), the Senator from Georgia (Mr. ISAACKSON), and the Senator from Kentucky (Mr. PAUL).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. BOOKER), the Senator from Illinois (Ms. DUCKWORTH), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Vermont (Mr. SANDERS), and the Senator from Massachusetts (Ms. WARNER) are necessarily absent.

The question is, Will the Senate advise and consent to the Sullivan nomination?

Mr. INHOFE. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. THUNE. The following Senators are necessarily absent: the Senator from North Carolina (Mr. BULL), the Senator from Georgia (Mr. ISAACKSON), and the Senator from Kentucky (Mr. PAUL).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. BOOKER), the Senator from Illinois (Ms. DUCKWORTH), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Vermont (Mr. SANDERS), and the Senator from Massachusetts (Ms. WARNER) are necessarily absent.

The question is, Will the Senate advise and consent to the Sullivan nomination?

Mr. INHOFE. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. THUNE. The following Senators are necessarily absent: the Senator from North Carolina (Mr. BULL), the Senator from Georgia (Mr. ISAACKSON), and the Senator from Kentucky (Mr. PAUL).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. BOOKER), the Senator from Illinois (Ms. DUCKWORTH), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Vermont (Mr. SANDERS), and the Senator from Massachusetts (Ms. WARNER) are necessarily absent.

The question is, Will the Senate advise and consent to the Sullivan nomination?
American diplomats like Henry Morgenthau were on the ground in Turkey, and they made heroic efforts to help the Armenian people, but here in Washington at the time, no one did anything in the face of this heinous crime.

As former UN Ambassador Samantha Power wrote in her Pulitzer Prize-winning book, “A Problem from Hell,” “America’s nonresponse to the Turkish horrors established patterns that would be repeated.”

As my colleague from Texas, my co-sponsor who has been such a stalwart advocate with me, has very often noted, this is the first genocide to be recorded in this century. We know all too well the horrors in the 20th century with the Holocaust and other genocides around the world. So here in the Senate today, we break those patterns. We join the House and voted to do so by passing a resolution affirming the facts of the genocide, 405 to 11. Today, the Senate shows the same resolve.

I am deeply grateful to Senator Cruz for his stalwart leadership on this issue and to the 27 other Senators from both parties who have cosponsored the resolution and demonstrated their commitment to the truth, and the truth finally will set us free.

I am thankful that this resolution has passed in a time in which there are still survivors of the genocide. We will be able to see that the Senate acknowledges what they left.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CRUZ. Madam President, I thank my colleague and friend, the Senator from New Jersey, for his powerful remarks, and I rise today and celebrate a bipartisan achievement—an achievement of the Senate; an achievement for truth; an achievement for speaking the truth to genocide.

This journey has been a long journey. Senator MENENDEZ has been fighting this fight a long time. I have been proud to stand by his side. This is the third week in a row we have come to the Senate floor seeking to pass this resolution. I am grateful that today we have succeeded.

The Menendez-Cruz resolution affirms U.S. recognition of the Armenian genocide. It has been far too long in coming. From 1915 to 1923, the Ottoman Empire carried out a forced deportation of nearly 2 million Armenians, of whom 1.5 million were killed. It was an atrocity, a genocide. That happened in a fact and undeniable reality.

In fact, the very word “genocide” literally means the killing of an entire people, and it was coined by Raphael Lemkin to describe the horrific nature of the Ottoman Empire’s calculated extermination of the Armenians. It is why we have the horrific word “genocide” in our English language.

Over 100 years ago, the world remained silent as the Armenian people...
suffered and were murdered. Even today, many people are unaware of what happened. But we must never be silent in response to atrocity. We have a responsibility to stand up and speak the truth. With this resolution, the United States of America is saying it is the policy of the United States of America to commemorate the Armenian genocide through official recognition and remembrance.

We have a moral duty to acknowledge that over 1.5 million innocent souls who were murdered. It is the right thing to do. I am grateful that, today, we have seen every Republican and every Democrat come together in support of the bipartisan Menendez-Cruz resolution. This is a moment of truth that was far too long coming.

**NATIONAL DEFENSE AUTHORIZATION ACT**

Mr. CRUZ. Madam President, I rise today to celebrate yet another major bipartisan victory that is included as part of the National Defense Authorization Act that the House has passed and the Senate is preparing to pass.

As it so happens, today is the 1-year anniversary—1 year to the very day that the European Parliament voted overwhelmingly to condemn the construction of the Nord Stream 2 pipeline between Russia and Germany. By a vote of 433 to 105, the Members of the European Parliament called for the project to be cancelled because “It is a political project that poses a threat to European energy security and the efforts to diversify energy supply.”

In the coming days, the U.S. Congress will answer the call to stop this profoundly dangerous project. The House has acted, and the Senate will act very soon.

As part of the National Defense Authorization Act, sanctions on the Nord Stream 2 pipeline are included. The Cruz-Shaheen legislation—legislation I introduced, bipartisan legislation that Senator SHAHEEN and I and the Foreign Relations Committee brought our legislation to a vote. We won an overwhelmingly bipartisan vote—a vote of 20 to 2—out of the Foreign Relations Committee.

In the past weeks and months, there have been extended negotiations to include this legislation, these sanctions, in the National Defense Authorization Act. We have negotiated with Republicans—Republicans and Democrats on the Senate Armed Forces, on the Foreign Relations Committee, on the Banking Committee, in leadership, and also Republicans and Democrats on the House Armed Services Committee, Foreign Relations Committee, Banking Committee, and leadership—and we have achieved a remarkable consensus.

Part of the reason we were able to achieve this bipartisan victory is that the sanctions are narrowly targeted, precisely targeted. The Nord Stream 2 pipeline is a pipeline from Russia to Germany to carry natural gas that, if completed, would generate billions of dollars for Putin and billions of dollars that would fund Russian military aggression.

Not only that, if completed, this pipeline would make Europe even more dependent on Russian energy and even more vulnerable to Russian blackmail. Putin has demonstrated that he is more than willing to cut off the gas in the dead of winter as economic blackmail against his neighbors.

This pipeline will be built this very moment. It is near completion. The legislation we are passing is designed to operate like a scalpel, specifically directed to the ships that lay in the deep sea pipeline needed to complete Nord Stream 2.

There are only five companies on the face of the Earth with the technological capability to delay the deep sea pipeline. Russia does not have one of those companies.

The Russian government lacks the expertise to lay this pipeline. As a result, Russia has contracted with the Swiss company, Allseas. Right now, as we speak, Allseas has a ship called the Pioneering Spirit that is laying this pipeline.

The legislation that has passed the House and that is about to pass the Senate imposes crippling sanctions on any company laying this pipeline. It is designed to operate like a scalpel so it doesn’t impact anyone else, but if this legislation operates as Congress intends, as both Republicans and Democrats in the Senate and House intend, then it will halt construction of this pipeline overnight.

The best estimates we have are that, if uninterrupted, the Nord Stream 2 pipeline would be completed by the end of January. That means the window to stop the pipeline is vanishingly small.

When the Senate passes the National Defense Authorization Act, which will be any day now, and the President signs it, which will be shortly thereafter, two things need to happen immediately.

No. 1, the Treasury Department and the administration need to immediately begin working on implementing these sanctions. I am confident the administration will follow the directives of President Trump. He has said that Nord Stream 2 is harmful to the national security interests of the United States of America, and it is harmful to Europe.

No. 2, there will be a decision made by the CEO and corporate leadership of Allseas. The instant this bill is signed, there is going to be a decision made by the CEO and corporate leadership of Allseas. The instant this bill is signed, Allseas risks crippling sanctions that could devastate the company.

The purpose of this legislation is not to see those sanctions implemented on Allseas; the purpose of this legislation is to show American leadership. The only responsible and rational decision for the corporate leadership of Allseas to make is to stop construction.

My understanding is their contract with the Russians has an explicit escape path in case sanctions were passed. So the day this is signed, Allseas shareholders are at profound risk if Allseas corporate leadership does anything other than cease construction and stop the pipeline.

If and when that happens, that will be an incredible victory. It will be an incredible victory for Europe, an incredible victory for Ukraine, an incredible victory for energy security, and an incredible victory for jobs in the United States of America.

It is far better for Europe to be relying on energy from the United States than to be fueling Putin and Russia and dependent on Russia and subject to economic blackmail. That is why, as I noted, the European Parliament voted by a vote of 433 to 105 to condemn Nord Stream 2.

Passing these Nord Stream 2 sanctions are an incredible victory for the United States and America, but it is also an incredible loss for Vladimir Putin and Russia.

I commend my Democratic cosponsor Senator SHAHEEN. I commend the cosponsors that this legislation has had, bipartisan legislation that is in a bipartisan way, and I commend the U.S. Senate and the U.S. House for coming together. At a time when so many other issues divide us, we have united in defense of America, in defense of Europe, in defense of our European allies and in opposition to Russia’s military aggression. Passing Nord Stream 2 sanctions is a big, big deal, and I commend the U.S. Congress for acting swiftly in the rapidly closing window we have to stop this project.

I yield the floor.

The PRESIDING OFFICER (Mr. YOUNG). The Senator from Rhode Island.

**HEALTHCARE**

Mr. WHITEHOUSE. Mr. President, I am here to speak about the success of the Affordable Care Act in Rhode Island. It has been very well managed in Rhode Island, and it has made a very big difference in many, many lives.

The marketplace plan that the Affordable Care Act set up in Rhode Island is called Health Source Rhode Island. It has been well run, and it has been successful. For 2019, it has 34,533 people getting health insurance through the plan.

Mr. President, I expanded Medicaid, as the Affordable Care Act allowed. Under the Medicaid expansion, 72,000 Rhode Islanders got coverage that they didn’t have before. So if you put those two together, that is 106,000-plus Rhode Islanders who got the benefit, the comfort, and the confidence of coverage for healthcare as a result of this bill. It is 10 percent of our population, and it has driven our uninsured numbers way, way down, into low single digits, which has been a very big win for us.

I would also say for us that we have taken very good advantage of the accountable care organization provisions of the Affordable Care Act, with two of the best
performing ACOs in the country as two of our lead primary care provider groups: Coastal Medical and Primary Care Partners. They are showing just terrific results, as they are changing the way they deliver care. They can do so because they know the way they can be reimbursed for care.

That Rhode Island snapshot is part of a larger story of success.

Eleven and a half million Americans around the country have enrolled in ACA marketplace insurance plans. There are 11.8 million Medicare beneficiaries who have saved a total of $26.8 billion on prescription drug costs. That is over $2,200 per senior. That is something to celebrate. Unfortunately, it is still at risk in the courts.

President Trump and this Republican administration are still trying to knock it down. If they succeed, 133 million Americans with preexisting conditions will be at risk of losing health care protections.

One hundred and fifty-six million Americans with private or employer-sponsored insurance will lose the consumer protections in the ACA for preventive care, disallowing lifetime or annual limits on coverage and requiring insur- ers who deserve the treatment they need for the rest of my life.

Bridget, congratulations. Thank you. God bless you.

Let us make sure we do not let this administration tear down the millions and millions of dollars that the states have sought to undo with this reckless litigation. I yield the floor.

I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANCHIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MANCHIN. Mr. President, I rise today to reflect on the accomplish- ments that Chairman MURKOWSKI, my colleagues on the Energy and Natural Resources Committee, and I have been able to make this year.

Today, I will focus on remarks on the energy agenda we have put in place to address climate change, as well as a path forward for a bipartisan energy bill.

The year began with my appointment to ranking member of the committee. There were some expressions of uncer- tainty about where Chairman Mur- kowski and I might lead that committee, but I have been able to address climate change, but I can assure you it is strong.

On March 5, 2019, we held the first hearing on climate in the committee in 7 years. Just this morning, we passed an additional five Energy bills, making the total count for this year 52 Energy bills reported out of committee.

We have endlessly examined our Na- tion’s work on innovation in the energy and manufacturing sectors, and we have been reminded that the United States must lead in this space in order to ensure we can address climate change effectively.

As discussions about large climate bills move forward, it is important that Congress is doing the work to ensure we have the technology necessary to meet the challenge of reducing green- house gas emissions in a comprehen- sive and timely way.

In the midst of all the political noise, our committee has been quietly lead- ing this effort over the last year. The strong bipartisan nature of our com- mittee has enabled us to move dozes of pieces of legislation that will push the Department of Energy and the pri- vate sector into that next phase of re- search and development as we seek technological innovations-reducing solu- tions.

In reflecting on this year’s progress, I want to highlight that bipartisanship because I believe it is absolutely key to addressing the reality and severity of climate change.

Across the country, we can clearly see that the costs of climate change are mounting, but we need to refocus our attention on the incredible opportu- nities presented by the solutions to it. Whether that is the upstart solar company hiring former coal miners in Jefferson and Cabell Counties; the collaboration between oil, gas, and geo- thermal on new ways to access hot rocks in Monongalia County; or the in- vestment by the State of West Virginia in supporting local communities for- mulaic innovation in the energy sector, we have been reminded that the United States must lead in this space in order to ensure we can address climate change effectively.

Let us make sure that the clean energy agenda and the work of our committee, and the rest of the Department of Energy and the committee, and the rest of the Department of Energy, and the private sector into that next phase of research and development as we seek technological innovations-reducing solu- tions.

In reflecting on this year’s progress, I want to highlight that bipartisanship because I believe it is absolutely key to addressing the reality and severity of climate change.

Across the country, we can clearly see that the costs of climate change are mounting, but we need to refocus our attention on the incredible opportu- nities presented by the solutions to it. Whether that is the upstart solar company hiring former coal miners in Jefferson and Cabell Counties; the collaboration between oil, gas, and geo- thermal on new ways to access hot rocks in Monongalia County; or the in- vestment by the State of West Virginia in supporting local communities for- mulaic innovation in the energy sector, we have been reminded that the United States must lead in this space in order to ensure we can address climate change effectively.
I have said time and again that the miners who built our country are the best workers we can employ to build our future economy. It is our responsibility as their representatives to include them and their communities in the economy of the future by passing the laws and making the investments needed to shape that future, creating those jobs and guiding the private sector and others toward new, ambitious climate solutions. That is why I have pursued bills that will build new energy and natural resource jobs in rural communities.

The Advanced Geothermal Innovation Leadership Act would significantly invest in new geothermal projects to unlock new and potentially vast resources in the Eastern United States—bringing proven renewable technologies to fossil fuel-producing regions.

The Enhancing Fossil Fuel Energy Carbon Technology Act would make the first Federal investments in direct air capture and firm up our commitment to carbon capture, utilization, and storage—necessary climate solutions that can be built in the valleys of West Virginia.

The Clean Industrial Technology Act would incentivize new technologies to reduce greenhouse gas emissions in industrial and heavy transport fuel sectors—solutions that reenergize the manufacturing heartland of the United States.

These bills and the many others we have reported out will lay the foundation for our climate future, while creating the innovation jobs needed in our rural communities, all while leading the world.

That brings me back to the bipartisan nature of the Energy and Natural Resources Committee. The legislation we have passed in our committee reflects the diversity of our Members and our constituents who have sent us here on their behalf. These bills invest in the programs necessary to bring climate solutions to the bear, and they will create jobs and opportunities.

Our bipartisan work on energy innovation is evidence of the good work that can be done in Congress and stands in contrast to the skeptical and cynical narrative that dominates our politics today. Our work is far from done. We will continue to work in a bipartisan fashion with our colleagues in this Chamber and in the House to take those 52 bills and turn them into an impactful energy package, one that can easily and readily move the needle on reducing emissions and one that can be signed into law.

I congratulate my dear friend and colleague Chairman Murkowski and the Energy and Natural Resources Committee. I thank all of our committee colleagues for their hard work and their role in shaping our energy innovation package in the new year.

I yield the floor.

Mr. PRESIDING OFFICER. The Senator from Alaska.

MS. MURKOWSKI. Mr. President, I thank my colleague, the ranking member on the Energy and Natural Resources Committee. He is really a friend on not only energy matters but on so many of the other initiatives we have worked on.

As he mentioned, every year now and again, our committee has to see things differently, but we have come to understand where we come from, what we bring to the table, and figure out how we can work together collaboratively and then set that collaborative tone for the full committee as a whole. I appreciate the opportunity to highlight a few of the accomplishments we as a committee have achieved over this past year.

We had a holiday lunch at the first of this week with both of our staffs assembled—had some good food—and I was able to share with all of the staffs that I felt like we were the committee that was kind of like "The Little Engine That Could"—the children's storybook wherein the tiny little engine is not as impressive as the trains. We kind of are not typically the headline-grabbing committee in this Senate, but just like the little engine, we kind of put our heads down and get to work, and we achieve a lot.

In our case, even in a divided time, we are seeing good, strong bipartisan legislation that is helping just about every Member of our Senate in all areas of the country.

Think about it, we started off this year. You will recall that it was unfortunately in the midst of a government shutdown. But what we were able to do even at that time was to move through a significant victory, and that was the passage of our sweeping lands package containing more than 120 individual measures that reflected the priorities of dozens of Members in the Senate and the House. We passed that out of the Senate 92 to 8, the House passed it out 393 to 62, and the President signed it shortly thereafter. It was sweeping. We recognized that it provided for economic development for so many small communities, protected treasured landscapes, addressed a range of sportsmen's priorities, and permanently reauthorized the Land and Water Conservation Fund.

It took a long time. There were many initiatives we had been working through for a considerable period of time. But our ability to be able to pass it shortly after this government shutdown underscored that even at a time when we are known for our divisions, we can still achieve bipartisan success.

The committee really took the momentum, and we ran with it—as Senator Manchin has pointed out, some 52 bills here. Today, we just moved 19 bills out of the Energy and Natural Resources Committee markup. We have moved out measures that are focused on energy efficiency, renewables, energy storage, advanced nuclear energy technology, and storage. We focused on mineral security, cyber security, and a range of additional technologies that really work to ensure that energy becomes more affordable as it becomes cleaner.

We have been working very hard on the public lands side of our jurisdiction as well. One bill you are sure to hear more about in the first of the year is the Restore Our Parks Act, which will help address the multi-billion-dollar deferred maintenance backlog at our national parks—the crown jewels of our Nation. That bill provides $6.5 billion over the next 5 years to fix dilapidated trails, buildings, roads, bridges, monuments, and historic markers.

Working on the parks and the land side, we reported 13 nominees for key leadership positions at the Department of Energy, Department of the Interior, and the FERC. Nearly all of them were confirmed, ensuring the President has a good team to carry out our Nation's energy and resource policies.

We have also held hearings—about two a week while we have been in session—to highlight the opportunities and the challenges we face within our jurisdiction. These range from everything from the need for new and innovative technologies—as Senator MANCHIN pointed out—to the future of our Strategic Petroleum Reserve. As he mentioned, we have held hearings—many hearings now—on climate change, making that a priority among priorities.

I think it is fair to say we have been very productive as a committee. We know the work isn't done. It is one thing to report the measures out of our committee, it is another thing to get them enacted into law. Our eyes are directed right now on these next steps.

Early next year, we hope to bring much of the work we have processed through the committee, bring it to the Senate floor. We are counting on our colleagues to join us and to move these bills to the House and to the President for his signature. Whether you are interested in energy innovation, resource security, or access to public lands, this work should appeal to you. And about every week we provide an opportunity to advance the security, prosperity, and competitiveness of our Nation.

I want to share the deep appreciation I have for my ranking member, Senator MANCHIN, and his partnership. We have navigated some complicated stretches, but we have done so by working together to ensure a good outcome for the committee, for the Senate, and for the American people. I think you have seen some of that.

Mr. President, we saw some of the good work of a gentleman we have lauded on the floor now throughout this week and will continue to laud because he is a most laudable and wonderful human being, and that is our friend, the Senator from Georgia, Mr. Isakson. I want to recognize and pay tribute to a lifetime of dedicated service, not just to his constituents in Georgia, not just to his constituents in the United States, but to his constituents to the world. It is an honor to know you and to have had the privilege of serving with you.
It was a pleasure to know we were able to move out of the Energy Committee this morning. One of the priorities he has been working on is the Preserving America’s Battlefields Act. He is a great historian and has put a great deal of himself into advancing that important legislation.

Another markup I was part of this morning was in Health, Education, Labor and Pensions, where we moved out two significant bills that had John-ny Isakson’s fingerprints all over it. His care, his compassion for the most vulnerable children who have been abused—he has been a leader in the CAPTA legislation that moved out of that committee by voice vote this morning.

He was also instrumental in another measure that moved through the committee, the Adoption Opportunities Act. It gives you a glimpse of the range and the breadth of this extraordinary legislator, whether it is his great effort working with veterans and his leadership on the Committee on Veterans’ Affairs, his leadership on those matters that he cares so personally and passionately about in the HELP Committee, or what we see in the other committees who have seen him in Energy with his focus on America’s history.

Johnny Isakson is not only a great legislator, a laudable man, but he is also a true friend. He is one who has reminded us all that relationships matter; that how we treat one another as human beings and friends matters.

I know that as we say our goodbyes to Senator Isakson from this Chamber, we will long remember not only the contributions he has provided from a legislative perspective and a policy perspective but as a person and as a lovely and decent human being.

With that, I yield floor.

The PRESIDING OFFICER. The Senator from Connecticut.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. KING. Mr. President, I rise for a few moments to compliment my colleague, the chair of the Energy and Natural Resources committee, along with her ranking member, Joe Manchin, who spoke a few minutes ago, the Senator from West Virginia.

I have done a lot of thinking about leadership. One of the observations I have is that this is a very important and thoughtful role which the leadership needs to take seriously.

In this case, the chair and the ranking member of our committee have produced one of the most remarkable records of achievement in a committee that I have seen since I have been here over the past year. It has been because of their willingness to listen, their willingness to work with all of the members of the committee—and it is quite a diverse committee—in terms of geography and in terms of ideology and quite a diverse committee in terms of willingness to work with all of the members of the committee who have seen in Energy what you pay. The tax credits in ObamaCare will help you get that pre- 

In fact, on average, folks are getting pretty sizable premiums—in the neighbor-hood of $900. That could make healthcare incredibly affordable, even if the sticker price looks out of your range.

A woman in Hartford, named Debo-rah, visited a local enrollment fair after receiving a letter saying her pre-

That scared me a little bit so I wanted to come in and have someone explain it to me whether it was going to go up, decrease, you know. What were any options? What ended up happening is that actually my premium went down for the same plan but I also learned that just because they renew you that I had this opportunity and say no, I don’t want that plan, I want to choose this plan. I am ecstatic with my new plan. . . . I got educat-ed on the insurance process and I like that.

You can still get that help. You can still get somebody on the phone to walk you through your choices. I really encourage people to do that by this Sunday.

For folks who do find an affordable plan, I hope you will also step up and try to help us maintain the protections and the coverages we have. We have been fighting a battle with the Trump administration. It doesn’t like the Affordable Care Act simply because the people who help you pick which plan is right for you. The administration has rolled back the adver-tising for the Affordable Care Act.

This is what qualifies for advertising today—charts on the floor of the U.S. Senate. The administration has rolled back the advertising for the Affordable Care Act.

Lastly, though, what you will find, if you go and enroll in some states, are plans that look like an Affordable Care Act plan on the outside but actually aren’t. They are what we call junk plans, short-term plans—that don’t really cover anything. They might not cover maternity care or ad-diction care or mental health or pre-existing conditions. And these junk plans don’t cover you if you get admitted into the hospital on a Friday or Saturday.

Be careful of those plans because the sticker price is going to look really low, but that is for a reason. It is be-cause they don’t cover anything.

The President has allowed for those junk plans to be shown right next to...
the Affordable Care Act plan. Make sure you are signing up for a regulated, Affordable Care Act plan. That is a plan that is bronze or silver or gold, not one of those junk short-term plans that is not going to be right for the vast majority of Americans.

It is not too late. Sunday is the deadline. If you are in Connecticut, make sure to go to Access Health CT or your State exchange, if your State runs an exchange. If not, you can get healthcare through www.healthcare.gov.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk will call the roll.

The question is, Will the Senate advise and consent to the Hahn nomination?

The Senator from Vermont (Mr. S. ANDERS), and the Senator from New Jersey (Mr. BOOKER), yeas 72, nays 18, as follows:

YEAS—72

Alexander
Baldwin
Barrasso
Bennet
Blackburn
Barrasso
Boozman
Braun
Brown
Capito
Cardin
Casper
Casey
Cassidy
Collins
Coons

Bennet
Blumenthal
Cantwell
Cassidy
Carper
Cardin
Brown
Baldwin
Alexander

NAYS—18

Enzi
Emanuel
Fincher
Gardner
Grassley
Hawley
Hoven
Hyde-Smith
Inhofe
Johnson
Jones
Kaine
Kennedy
Lankford

Lee
Manchin
McConnell
Merkley
Murray
Nelson
Orrin
Paul

Rhode
Risch
Romney
Sanders
Young

Scott (FL)
Scott (SC)
Shelby
Sinema
Sulliman
Tester
Thune
Tillis
Toomey
Van Hollen
Warner
Whitehouse
Wicker
Young

VOTE ON HAHN NOMINATION

The question is, Will the Senate advise and consent to the Hahn nomination?

Mr. LANKFORD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Massachusetts (Ms. WARREN) is necessarily absent.

The Senator from Kansas (Mr. MORAN) is necessarily absent: the Senator from Kentucky (Mr. PAUL).

The PRESIDING OFFICER. The Senator from North Carolina (Mr. BURR), the Senator from Georgia (Mr. ISAKSON), the Senator from Kansas (Mr. MORAN), and the Senator from Kentucky (Mr. PAUL).

Further, if present and voting, the Senator from Kansas (Mr. MORAN) would have voted "yea."

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. BOOKER), the Senator from Illinois (Ms. DUCKWORTH), the Senator from California (Ms. HARRIS), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Vermont (Mr. SANDERS), and the Senator from Massachusetts (Ms. WARREN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 18, as follows:

[Rollcall Vote No. 397 Ex.]

YEAS—72

Alexander
Baldwin
Barrasso
Bennet
Blackburn
Barrasso
Boozman
Braun
Brown
Capito
Cardin
Casper
Casey
Cassidy
Collins
Coons

Brown
Capito
Cardin
Casper
Casey
Cassidy
Collins
Coons

YEARS—72

Bennet
Durbin

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. BOOKER), the Senator from Illinois (Ms. DUCKWORTH), the Senator from California (Ms. HARRIS), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Vermont (Mr. SANDERS), and the Senator from Massachusetts (Ms. WARREN) are necessarily absent.

The PRESIDING OFFICER. The Senator from South Dakota.

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

The Senate from South Dakota.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. THUNE. Mr. President, I ask unanimous consent that the Senate proceed to legislative session and be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PALLONE-THUNE TRACED ACT

Mr. THUNE. Mr. President, every American has had to deal with annoying and illegal robocalls. All of us have been interrupted at one time or another by a robocall's announcing "You have won a prize" or claiming to need important banking information so that our accounts will not be closed. These calls are a major nuisance. Of course, they are not just a nuisance. Too many Americans fall victim to sophisticated robocall scammers and have their money or identities stolen. These individuals spend months or years struggling to get their lives back after failing prey to these scammers. There are currently laws and fines in place to prevent scam artists from preying on people through the telephone. Unfortunately, these measures have not been sufficient. In many cases, robocall scammers simply build the current fines into the cost of doing business, and the Federal Communications Commission's enforcement efforts are hampered by a ten-minute window for pursuing violators.

I have been working on this issue since my time as chairman of the Committee on Commerce, Science, and Transportation, and at the end of last year, I introduced the Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, or the TRACED Act, with my colleague Senator MARK- KAYE.

The Senate passed our bill in May, and last week our bill was passed by the House of Representatives. The TRACED Act provides tools to discourage illegal robocalls, protect consumers, crack down on offenders. Criminal prosecution of illegal robocallers can be difficult. Scammers are frequently based abroad and quickly shut down shop before authorities can get to them, but I believe we need to make sure there is a credible threat of criminal prosecution and prison for those who use robocalls to prey upon the elderly and other vulnerable Americans.

The TRACED Act convenes a working group with representatives from the Department of Justice, the Federal Communications Commission, the Federal Trade Commission, the Department of Commerce, the Consumer Financial Protection Bureau, State attorneys general, and others to identify ways to criminally prosecute illegal robocalling.

In the meantime, it expands the window in which the FCC can pursue scammers and levy fines from 1 year to 4 years. The bill also makes it easier for your cell phone carrier to lawfully block calls that aren't properly authenticated, which will ultimately help stop scammers from getting through to your phone in the first place.

The TRACED Act also tackles the issue of spoof calls, where scammers make the call appear as if it is coming from some known number. I remember an article from my home State a couple of years ago that reported that scammers had successfully spoofed the number of the Watertown Police Department. To anyone who received a call, it looked as if it really was the Watertown Police Department calling.

The TRACED Act also addresses the issue of so-called one-ring scams, where international scammers try to get individuals to return their calls so they can charge them exorbitant fees, and it directs the Federal Communications Commission to convene a working group to address the problem of illegal robocalls being made to hospitals. There are numerous stories of hospital telephone lines being flooded with robocalls, disrupting critical lines of communication, literally, for hours. This can't be allowed to go on.

I want to thank Senator MARK- KAYE for partnering with me on the TRACED Act, and my House colleagues for advancing this legislation. I am proud of the bipartisan support our bill has received in both Houses of Congress.

One last step remains before we can get this bill to the President's desk, and that is Senate passage of the final
HONORING FIRST LIEUTENANT MICHAEL CLEARY

Mr. CASEY. Mr. President, I rise today to honor the life of 1LT Michael Cleary from Dallas, PA. It has been 14 years since his death. Michael is one of some 288 Pennsylvanians killed in action in the wars in Iraq and Afghanistan.

First Lieutenant Cleary served as platoon leader of the Explosive Ordnance Disposal Team in E Company, 1st of the 15th Regiment, 3rd Brigade, 3rd Infantry Division of the U.S. Army. On December 20, 2005, First Lieutenant Cleary was killed in action while working in a bomb factory near Samarra, Iraq. His platoon was ambushed outside the facility. He was just 24 years old.

Even prior to joining the Army, Michael Cleary was an active member of his community. He graduated from Dallas Senior High School in Dallas, PA, and was a 4-year varsity athlete in both soccer and tennis. He was captain of both teams in his senior year. He received the Dr. Pepper Soccer MVP Scholarship and a history scholarship at high school graduation and was offered academic scholarships at Ursinus College, Gettysburg, as well as Dickinson and Lafayette—all very strong academic institutions of higher education in Pennsylvania.

He followed his father’s footsteps and chose Hamilton College in New York. While at Hamilton, First Lieutenant Cleary participated in varsity soccer and lettered in varsity tennis. After the September 11, 2001, attacks on our Nation, he wanted to enlist in the Special Forces but chose to follow the advice of his mother and stayed in school until completing his studies.

In May 2003, he graduated from Hamilton with honors. During his senior year, he applied to and was accepted into the Marine flight officer program. He was notified that his class would be deferred until January. Not wanting to wait any longer to serve his country, Michael Cleary decided to enlist in the U.S. Army. Three weeks after college graduation, he went to basic training and earned his airborne wings and sapphire star tabs while taking the Special Air Service Antiterrorist Course.

The news of First Lieutenant Cleary’s death came just before he was scheduled to return home during the Christmas holidays, planning to get married 2 months after he returned home to his high school sweetheart. First Lieutenant Cleary earned the following awards and decorations: the Army Achievement Medal, National Defense Service Medal, Iraq Campaign Medal, Global War on Terrorism Service Medal, Army Service Ribbon, and Overseas Service Ribbon. His family also received First Lieutenant Cleary’s U.S. Army Bronze Star and Purple Heart.

Following his death, First Lieutenant Cleary’s father, Jack, described his last conversation with his son the day before he died. Jack Cleary is someone I have gotten to know since his son’s passing, but here is what Jack said at that time:

"He"—meaning Michael—"was very upset that they were sending home some of his men without their awards... for things like promotions, and he was fighting for his men. That is the kind of officer he was. Michael was a fine man. He cared about all people, great and small."

Jack Cleary knows of what he speaks because he, himself, served in Vietnam and, as I mentioned earlier, was also a graduate of the same college. 1LT Michael Cleary’s legacy lives on with his family. His mother, Marianne, is a member of Gold Star Mothers where she works to support veterans, military families, and her community every day.

Jon Bellona, Michael’s college roommate, is a director and founder of the 1LT Michael Joseph Cleary: Run for the Fallen, a run across America to honor the life of 1LT Michael Joseph Cleary. Run for the Fallen, a run across America to honor the life of 1LT Michael Joseph Cleary. Run for the Fallen, a run across America to honor the life of 1LT Michael Joseph Cleary. Run for the Fallen, a run across America to honor the life of 1LT Michael Joseph Cleary. Run for the Fallen, a run across America to honor the life of 1LT Michael Joseph Cleary.

Run for the Fallen supports organizations that help wounded veterans, as well as the families of those killed, and helps aid the healing process for those Americans whose lives have been affected by war.

All Americans are grateful for the friends and family of fallen service members who not only continue the legacy of service to the Nation, but who take their tragedy and turn it into a force for good.

1LT Michael Cleary is one of so many bright, talented, and dedicated young men and women who have died in service to our country. While I speak specifically of Michael today, his story is the story of thousands of men and women across our country, hundreds of them in Pennsylvania who have given their lives in Iraq and Afghanistan and also have given their lives in service of American values, values like democracy and liberty and rule of law.

As we remember Michael Cleary, we should also remember the words of Abraham Lincoln. Abraham Lincoln remembered that people like Michael Cleary gave, as he said, "The last full measure of devotion to our country." It is at times like this when we should remember not only those words, but also other words from the Gettysburg Address, where he said, "It is we, the living, rather, to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced." So that was our charge from President Lincoln all those generations ago. We must strive every day, whether we are citizens or public officials, whatever our station in life, we must strive every day to complete that unfinished work that Lincoln talked about, so that, as we discuss major security issues like war and issues like Afgha

CONGRESSIONAL RECORD — SENATE December 12, 2019
not into divisions and brigades. They are sons and daughters, husbands and wives, fathers and mothers. Their love for their families are matched only by their devotion to our country, but many more bear the scars of war.

Some families have a loved one who served in Iraq or Afghanistan and were returned home, but who were one of the more than 49,000 who were wounded. We must not overlook the unusually high percentage of Iraq and Afghanistan veterans who have died since returning home—whether from a drug overdose or suicide or the effects of combat. Thousands of American families continue to pay a terrible price for the courage and dedication of their family members who gave life and limb for this country.

We have much to think about, not only on this day, but, of course, in this season—this season of hope, this season of our time together with our families back home, but we should especially remember those families who have loved and lost, those who have lost someone in combat, those who have lost someone who served so nobly, served on behalf of the rest of us.

At this time, Mr. President, I know you have personal experience with this, having served yourself, and I know that you understand this. It is an important time to remember those who have given so much for our country, with the spirit of gratitude for their service and hope that we don’t have more losses in the coming year, and with confidence that they have set a great example for us.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. CORNYN. Mr. President, the chaos in Washington, DC, precipitated by impeachment mania or our inability to get things done, often have the effect of stripping away the past and cutting off the future. For example, the past week was a success. The inspector general found that the Crossfire Hurricane investigation and to hold people accountable for abuse of power. There were mistakes made, including some intentional misconduct, which has now been referred to the Justice Department for potential investigation and even prosecution. This was a troubling report, identifying at least 17 different areas of concern. The report is full of legal jargon, government acronyms, and a long list of names most Americans probably don’t recognize. The bottom line is, under all of this is a pattern of concerning behavior that ought to concern everyone who cares about civil liberties.

At the core of these issues is, under Director Comey, the FBI’s abuse of the Foreign Intelligence Surveillance Act, or FISA. I know people have heard the phrase, “a foreign intelligence surveillance warrant should be free from error, let alone intentional lies. Unfortunately, Inspector Horowitz found 17 different instances where the FBI agents involved in securing this FISA warrant failed that standard. First of all, the inspector general identified 7 mistakes in the original application and an additional 10 in 3 renewals, for a total of 4 separate warrants under the Foreign Intelligence Surveillance Act. These applications were put together by FBI agents; these errors came from handpicked teams that didn’t raise any red flags for high-level
senior officials—something that Mr. Horowitz said made him deeply concerned, which is a feeling I share.

One of the most glaring errors was the applications’ reliance on a deeply flawed private intelligence report—opposition research paid for by the Trump campaign and the Democratic National Committee—on Donald Trump. This is called the Steele dossier, as people have heard that reference. Mr. Steele is a former intelligence officer who worked for the British government, the British intelligence services, but he had long since retired from his government service, and now he was out for hire to dig up information—in this case, on a political candidate in the Presidential election in 2016.

One of the biggest concerns we have all had since the 2016 election is Russian interference in our elections. Sometimes this is called active measures, where they merely try to sow discord and dissent by social media use, by渗透 through intelligence services leaking information.

I asked Attorney General Barr, before the Judiciary Committee earlier this year, whether he could state with confidence that the Steele Dossier, which was paid for by the British government, the British intelligence services, but he had long since retired from his government service, and now he was out for hire to dig up information—in this case, on a political candidate in the Presidential election in 2016. Barr said no, he could not.

FBI attorneys assisting in the Crossfire Hurricane investigation called it a “close call” on whether they had sufficient justification to ask the Foreign Intelligence Surveillance Court to issue a warrant so they could collect intelligence on an American citizen. Carter Page. What made that a close call? What turned a close call into the granting of that authority? Well, it was the Steele dossier. It was a hit piece—called that by one of our intelligence agencies—based on internet rumor, not based on verified information. That was used by the Crossfire Hurricane team to apply to the Foreign Intelligence Surveillance Court to get a warrant issued to surveil and spy on an American citizen.

Although I know that taking a look at the real source of the Steele dossier was outside the realm of the inspector general’s duties, it is worth investigating because it played a central and essential role in the FBI’s FISA applications. That is what Mr. Horowitz found.

Mr. Horowitz found on one occasion serious and intentional misconduct on the part of an FBI lawyer, and he now has referred that lawyer for criminal prosecution. But the explanations they offered for the other errors were completely unsatisfactory, and they should not be overlooked or excused. Attorney General Barr even echoed that in a TV interview earlier this week. I trust him and Mr. Durham to get to the bottom of it. They have more authority than the inspector general to compel the production of evidence in testimony—much like a grand jury, as opposed to what the inspector general had, which was basically a voluntary willingness of witnesses to come forward and to look at the FBI’s internal files.

To my mind, nothing as new and expository information—information that tended to show innocence—came to light on Carter Page, this information was not reflected in what the FBI filed when they requested a foreign intelligence surveillance warrant from the court.

You have to wonder—if this level of mishandling is occurring in a high-profile investigation of a Presidential candidate, someone who would later become the leader of the free world, what kind of protections are in place for average American citizens?

We place an enormous amount of trust in the U.S. Government to keep us safe and also to respect and uphold our constitutional rights. So seeing these patterns of intentional and unintentional, slipping through the cracks in such a sensitive investigation doesn’t give me much confidence that it is not happening in other cases.

Another question I asked the Inspector General was about the so-called defensive counterintelligence briefings. This is a little bit arcane, but let me explain. There are two different types of investigations that are going on in the FBI. One is a potential criminal prosecution. We are all familiar with that. But the second role that the FBI plays is conducting counterintelligence investigations—in other words, protecting the American people and our national security from the attempts by foreign actors, malign foreign actors to gain intelligence on the U.S. Government and the American people, to our detriment and to the detriment of our national security.

One of the things Loretta Lynch, who was Attorney General under Barack Obama, said is that in a counterintelligence investigation, defensive briefings are routine. In other words, if the Presiding Officer were a target of a Russian intelligence operation—somebody had bumped into you at the grocery store or shown up at your kid’s soccer game or perhaps shown up at your work, and you began to wonder, who this person and why have they taken such interest in me?—well, if the FBI discovered that, it indicates this is part of an effort to recruit an American citizen to become an asset for the Russian intelligence services, what the FBI is obligated to do is to give a defensive briefing where they might tell the President, the FBI and everybody else who might be targeted “This is what is happening to you, so be on your guard. Don’t think this is innocent. Protect yourself,” and in so doing, protect the national security of the United States.

One of the things we learned from Loretta Lynch, that routine, they are given routinely to political candidates, to individuals, and to companies that hear from the FBI about those potential threats so they can take steps to protect themselves.

We know that both Presidential candidates of 2016—Donald Trump and Hillary Clinton—received some kind of defensive briefing in that the so-called defensive briefing for the Trump campaign was unique in a number of aspects.

At the time the FBI believed the Russians were trying to infiltrate the Trump campaign, you would think that would have been a prime opportunity to share that information with Candidate Trump and his campaign so he could tell the people on his campaign: Be on your guard, and don’t engage in any unnecessary contact with people whom you don’t know and who might have malign motives.

The FBI could have advised the Trump campaign about these potential threats and given them their professional advice on how to address the concerns, but that didn’t happen in the case of the Trump campaign. Instead of warning the Trump campaign about possible Russian efforts, they actually inserted—the FBI inserted a case agent into the briefing and used that as an opportunity to collect information in support of their own criminal investigation of GEN Michael Flynn.

It is not only unfair to insert an FBI agent into an otherwise benign setting in order to collect information on an American citizen in an investigation, obviously General Flynn did not know the FBI was trying to do this under a pretext, so he couldn’t say: I would like to talk to a lawyer. I would like to know that what I say can’t be used against me in a court of law. In other words, all of the normal protections under the Bill of Rights that would be given to somebody under a criminal investigation were not afforded because of this pretextual defensive briefing, an agent slipped in in order to collect information.

Here is the bottom line: This defensive briefing of the Trump campaign lasted a whopping 13 minutes—hardly enough time to convey the sort of information you would want to a political campaign. I can tell you that if the FBI came to me and told me that some foreign actor was trying to infiltrate my campaign, I would want to know what happened, what advice they were given, what protections were given to the people who volunteered in the campaign to knock it off. But President Trump, when he was a candidate, was not given that information or the opportunity to shut it down, which he should have, because the fact that the American people’s trust in their government to protect them has been harmed by the Comey FBI.
Mr. MCCONNELL. Mr. President, I ask that the Chair lay before the Senate the conference report to accompany S. 1790, an amendment of the House to the bill (S. 1790) to authorize appropriations for fiscal year 2020 for military activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

The Founders were clear in their intent. The Constitution squarely places the authority to “declare war”—that is the phrase in the Constitution—and places it clearly with Congress and the other branch of government. The Founders did this for good reason. For centuries, European monarchs had drained royal coffers, levied heavy taxes, and lost countless lives in wars that benefited themselves and not the people.

As Elbridge Gerry from Massachusetts said during the Constitutional Convention, after another delegate suggested giving this war power to the President: “[I] never expected to hear a republic a motion to empower the Executive alone to declare war.”

The Founders vested this most consequential power in the legislative branch so that any decision to go to war would have broad public support. Since the Republic’s beginning, there has been a tension between the Congress and the executive branch regarding the use of this power.

In the modern era, the balance has been undepended. Our ability and willingness to effectively check the Executive on war powers is dangerously diminished. Congress has not declared war for any of our major conflicts since World War II. But after the bloody, prolonged, and politically divisive Vietnam War, Congress passed a War Powers Resolution of 1973, overriding the veto of President Nixon. That resolution requires Congress to issue an authorization for use of military force, or an AUMF.

Immediately after 9/11, a nearly unanimous Congress—myself included—authorized force against the perpetrators, al-Qaeda and those who harbored them, by which we meant the Taliban government in Afghanistan. The 2001 AUMF authorized the United States’ entering conflict in Afghanistan to root out al-Qaeda.

The Taliban were then expelled from power. Al-Qaeda in Afghanistan has been defeated. Osama Bin Laden is dead. And the now 18-year-old AUMF has outlived its purpose, as a stunning Washington Post expose on the Afghan war has now made clear.

The war in Afghanistan is the longest in U.S. history, but it no longer has a clear purpose. The Washington Post recently sued previously undisclosed government documents, dubbed the “Afghanistan Papers.” These 2,000 pages of interviews and memos from senior military, diplomatic, and White House officials tell a shocking and tragic story. Three separate administrations have had a well-formed mission for the war but fought on anyway and repeatedly misled the American people.

According to the head of the NATO command in Afghanistan in 2006, “there was no coherent long-term strategy there.” The next NATO commander, Army LTG Dan McNeill said:

I tried to get someone to define for me what winning meant, even before I went there and nobody could give me a good definition of what it meant. . . . There was no NATO campaign plan—a lot of verbiage and talk, but no plan.

A senior diplomat under President Obama said:

I was encouraged earlier this year when the House passed—and a majority of the Senate proceeded to consider the conference report. (The conference report is printed in the House proceedings of the RECORD of December 9, 2019.)

The President. Mr. McConnell, Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior assistant bill clerk read as follows:

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I rise to write a book, its [over] would be—America goes to war without knowing why it does.

Over and over, senior officials describe the lack of strategic goals. All the while, the government lied to the public about the success when there was none.

This war has cost 157,000 lives, more than 775,000 American troops have been deployed, 2,300 American military personnel have been killed, and more than 20,000 have been wounded. It has cost the American people over $2 trillion—$2 trillion. These costs are tragic, inexcusable, and it is time for this war to end.

The executive branch isn’t the only branch at fault. Congress has sat back and let the Executive stretch the AUMF to the point of breaking. We have ducked the debates. We have ducked the hard votes. We need to change that, and we can start with Afghanistan.
of the Senate-supported—my amendment to prohibit war with Iran absent congressional authorization.

Tensions with Iran have grown since the President withdrew from the international agreement preventing Iran from developing nuclear weapons. Iran has been a weapon threat since the President dropped out of the agreement, claiming he could get a “better deal” and mounting his “maximum pressure” strategy. Since then, we haven’t gotten anywhere close to a better deal, but we have gotten much closer to war.

This June we were 10 minutes away from the President’s calling a strike on Iran, 10 minutes away from military escalation in the Gulf. While the President’s maximum pressure campaign has not succeeded in forcing Iran into a better deal, it has succeeded in pushing Iran to breach the nuclear agreement, and it has led to a cycle of violence in the region and from Iran, attacking commercial ships in the Gulf of Oman, moving short-range ballistic missiles into Iraq, and threatening U.S. troops in Israel.

Since May, the President has increased troop presence by 14,000 in the Middle East. After initially denying it, the Pentagon is considering sending an additional 14,000 troops. The risk of war with Iran is very real, whether intentionally or by mistake, miscalculation, or misjudgment. And the President has the capability to go to war against Iran without congressional approval.

In September, this body held a historic vote, voting to 50 to 40 to include the Udall-Kaine-Paul amendment to the National Defense Authorization Act to prohibit funding for war with Iran without congressional authorization. We took a giant step forward to assert our constitutional authority. This amendment was germane and by rule was included by the Senate. The final Senate NDAA, but the majority leader forced a 60-vote threshold that should not have been applied. Nevertheless, the House version did include the prohibition, and with Senate majority support, it should have been included in the conference.

This week, the Senate and the House conference committee just released their NDAA conference report. I am deeply disappointed that they did not include our amendment. This is a major missed opportunity to take back our authority and a missed opportunity to stop expansion of war and U.S. interventionism in the Middle East. Another terribly missed opportunity is the NDAA’s failure to include a provision to eliminate U.S. support for Saudi Arabia’s disastrous war in Yemen.

Under the authority of the 2001 AUMF, our troops are supporting Saudi Arabia in its war against the insurgent Houthis, but the Houthis are also fighting al-Qaida, the actual target of the AUMF. We are fighting a group fighting against al-Qaida. This is a prime example of the misuse of this authority.

The human cost is horrific. Since 2015, more than 100,000 people have been killed in Yemen, including more than 12,000 Yemeni citizens. More than 20 million Yemenis need humanitarian aid. There is no compelling U.S. national security interest in aiding the Saudis in this war. We should not be lending support to a war that the international community recognizes as a humanitarian disaster.

In April, the President voted on a bipartisan basis to remove our troops from this conflict unless Congress authorized force. The President vetoed that bipartisan bill. The NDAA conference committee missed an opportunity to step up and direct the President to take us out of the Saudi-Yemen conflict. Again, Congress is ducking its duties. For too long, Congress has hidden from making the hard decisions, from taking the tough votes. We have deferred to the Executive under Republican and Democratic administrations alike. The Founders placed this power in our hands for a good reason. Those reasons are as sound today as they were two centuries ago.

This is not a political issue. It is not a red or blue issue. It is not a Republican or Democratic issue. It is a constitutional issue. It goes to the core of our Constitution and our war powers in the legislative branch in Congress. Every senator should stand up and uphold the Constitution. We can do so by upholding, not running from, our constitutional responsibilities.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Tribute to Johnny Isakson

Ms. Ernst. Mr. President, Johnny Isakson will be a legend in the Senate. His life is marked with such tremendous service. From his time in the Georgia House and Senate, to his service in the Georgia house and senate, and on to the U.S. House and the Senate, Johnny has been making his home State proud every single step of the way.

As a fellow veteran, I can’t tell you how much I especially appreciate Senator Isakson’s relentless and dedicated focus on veterans’ issues. As chairman of the Senate Veterans’ Affairs Committee, he has worked tirelessly to put our veterans first.

One of the most important pieces of legislation we worked on together was the VA MISSION Act. Veterans in Iowa and in Georgia are oftentimes living in rural areas or are simply homebound. So with the VA MISSION Act, I knew that Johnny would be a great ally and partner to make sure that we prioritized telehealth and ensure that veterans could receive necessary care closer to home, and we did just that.

Folks, this MISSION Act is truly landmark legislation that is making a difference in the lives of countless veterans across our Nation. It would not have been possible without the hard work and the diligent efforts of our colleague Senator Johnny Isakson.

Second is his passion. There is absolutely no doubt in anyone’s mind and he has been so focused on serving the people of Georgia, and you can’t help but smile when you see Johnny Isakson.

Finally, for me, I would have to say his encouragement. When I see Johnny in the halls or in the cloakroom, always—no matter how quickly I seem to be walking—he smiles. He will stop me, and he will always speak an encouraging and a very kind word. I know he does this not just with his Republican colleagues but also with our Democratic friends. While you will not see that on TV or in the headlines, it is real, and it is Johnny Isakson.

That leads me to what I will miss most of all. I will miss Johnny, plain and simple. He has never taken his eye off the ball. He has been committed and he has been focused on serving the people of his home State that he loves so dearly. We will miss Johnny. He has been a tremendous colleague and a friend to all of us.

Johnny, you will be missed on this floor and in these halls. From one veteran to another, thank you for all you have done for our great veterans, not just in Georgia, not just in Iowa, but all across our Nation. May God bless you, Johnny Isakson, and may God bless your family. Thank you for your service.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Honoring Stephen Carr

Mr. Cotton. Mr. President, Stephen Carr has been described by friends as a “gentle giant” and “all-American boy.” He enjoyed hunting and fishing. He played on the offensive line at Southeastern Baptist University.

He came from a law enforcement family. He always knew he wanted to be a police officer, so it was little surprise when Stephen joined the Fayetteville Police Department 2½ years ago. He served with professionalism and valor in those 2½ years as a patrol officer in the Dickson Street entertainment district.
Sadly, Officer Carr was in his patrol car Saturday night when he was ambushed by a gunman looking for an officer to kill. Carr’s fellow police heard the gunshots and responded to the scene within seconds. With little regard for their own safety, they pursued the gunman down tractor alley. When confronted, they met force with force and took him down. The whole incident took just minutes from start to finish.

Emergency services were on the scene within an instant, but despite their best efforts, they couldn’t save Officer Carr. He succumbed to his wounds on the scene, as did his killer. Officer Carr was only 27 years old.

This tragedy reminds us of the terrible risks officers face every day when they put on the uniform and the badge, not knowing whether they will be alive to take it off that night. Already this year, 118 officers across America have been killed in the line of duty. Some were the victims of random tragedies. Others, like Officer Carr, were wounded or killed by a criminal class that hates what the police represent: law and order.

Since Officer Carr’s killing, two more officers have fallen in the line of duty. Detective Joseph Seals, a 15-year veteran of the City Police Department, was struck and killed by a fleeing suspect in a vehicle. All of these fallen officers will be remembered as heroes.

In Arkansas, especially, we will remember Officer Carr, whose watch ended on December 7, 2019. May he rest in peace.

HONORING STOREKEEPER 1ST CLASS JOHN WILLIAM CRAIG

Mr. President, Navy Storekeeper 1st Class John William Craig of Monroe, AR, perished aboard the USS Oklahoma on December 7, 1941, a date which will live in infamy. On that day, Imperial Japanese bombers shattered the morning calm at Pearl Harbor, killing Petty Officer Craig and more than 2,000 of his brothers in arms.

Nearly eight decades later, however, his remains were listed as unknown and interred at the National Memorial Cemetery of the Pacific in Honolulu. He was reported as missing in action, but Petty Officer Craig is missing no more. Thanks to the outstanding work of the Defense POW/MIA Accounting Agency, his remains were accounted for in 2017, and just last weekend, on the 78th anniversary of the attack on Pearl Harbor, he arrived home in Arkansas to his final resting place.

Petty Officer Craig’s burial is a long-overdue honor for a brave sailor. It is also a moment of hope for our many military families whose loved ones haven’t yet been found—a reminder that our Nation will not rest until every one of our missing heroes is back in our arms or laid to rest with honor.

We have now fulfilled this solemn pledge to Petty Officer Craig. Nearly 80 years after his disappearance, we have affirmed once again that the United States leaves no man behind on the battlefield.

FENTANYL SANCTIONS ACT

Mr. President, synthetic opioids like fentanyl kill tens of thousands of Americans each year. They are a terrible accelerator that has fueled the worst drug crisis in our Nation’s history, killing more people every year than died in the entire Vietnam war.

These drugs aren’t made here in the United States, but instead are flooding across our borders from overseas, trafficked by cartels, and, even unwittingly, sometimes by the U.S. Postal Service.

Synthetic opioids are often produced in superlabs by the drug cartels that are terrorizing our border communities. But the ingredients for those drugs—and sometimes the drugs themselves—can be traced back to a different source: China, whose vast pharmaceutical and chemical industries frequently have been abused to poison our fellow citizens.

The Chinese Communist Party has been waging an opium war in reverse against the United States for far too long. The death of August 2nd of 68 Americans have perished from overdoses, Chinese officials have turned a blind eye to the drug criminals who have profited off of our pain. But now, desperate for a trade deal to save its sputtering economy, Beijing has finally promised to crack down on fentanyl and other synthetic opioids. But we would be naive to trust any promise from Chinese Communists, especially this one.

It is time that we take matters into our own hands. That is exactly what we will do in the 2020 National Defense Authorization Act, which includes my bill introduced with Senator SCHUMER to sanction foreign drug dealers in China, Mexico, and elsewhere. The bill also urges the President to work with our allies to impose even tougher multilateral sanctions against foreign drug dealers. It authorizes new funding for law enforcement and the intelligence community for counternarcotics activities. It establishes a commission to find new ways to stop the flow of drugs from overseas.

This bill will soon be signed by the President and become law. This is welcome news for law enforcement and for so many among the crisis of opioid addiction, and it is bad news for the Chinese Communist Party and foreign drug dealers around the world who are responsible for the poisoning of so many Americans.

PROTECTING EUROPE'S ENERGY SECURITY ACT OF 2019

Mr. President, 70 years after the creation of NATO, the biggest external threats to the alliance are our revisionist adversaries—China and Russia. Unfortunately, however, the alliance faces some internal threats, too, among the allies themselves, who too often fail to take these adversaries seriously. Instead, they strike dangerous deals with the very powers that threaten to destroy all of us.

Consider the Nord Stream 2 pipeline project between Germany and Russia. Germany touts the pipeline’s commercial benefits, but Russia sees it differently—as a strategic tool to divide Europe and thus to strengthen its fictional claim to dominion over parts of Eastern Europe.

The Nord Stream 2 pipeline would effectively double the amount of natural gas Russia could export to Europe along a route that bypasses the alliance’s eastern frontier. This would damage the NATO members’ reliance on Russian gas while it would enhance Putin’s ability to engage in energy blackmail, just as he has done in the past. For example, in 2009, Russia shut off the flow of natural gas to Europe during a dispute with Ukraine, causing energy shortages across the entire continent in the dead of winter. Putin’s opportunities for such blackmail will only increase if Nord Stream 2 is completed before he will be able to ship huge gas to Western Europe with its transiting Eastern Europe. Therefore, he will be able to blackmail Eastern Europe while the Germans will sit warm and toasty in their living rooms—indifferent to the plight of their NATO allies to the east.

This pipeline is almost complete, so the timeline for action is short. Thankfully, the National Defense Authorization Act includes our bill to impose mandatory sanctions on companies that are constructing, insuring, or financing Vladimir Putin’s pipeline to Europe. These sanctions are a demonstration of our commitment to the strength and security of the whole NATO alliance.

I urge the German Government and all companies involved in this dangerous endeavor to pull back before it is too late and to consider the serious consequences that Nord Stream 2 could have for their security as well as for the security of the NATO alliance as a whole.

JUNIOR RESERVE OFFICERS' TRAINING CORPS HOMESCHOOL

Mr. President, homeschooling parents sacrifice a lot when they make the choice to at home education and indeed very admirable choice to personally educate their children. In effect, these parents are making the choice to go back to school themselves so that their kids may receive well-rounded and faithful educations.

Their sacrifices pay off in spades. Homeschooled students consistently prove to be outstanding citizens because they are taught the importance of patriotism, faith, hard work, and sacrifice—virtues exemplified by their parents and their teachers.

Homeschooled students, therefore, ought to be prime candidates for our Armed Forces for this very reason, but until now, in some places, it hasn’t been clear as to whether homeschooled
students have been eligible to join their local Junior Reserve Officers’ Training Corps Programs. Now that is going to change.

The 2020 National Defense Authorization Act includes my bill—which also sponsored by senators SHAHEEN, that helps military spouses keep their occupation up to the time they are on the move across State lines.

One in three military spouses works in a field that requires one to have an occupational license, and too many spouses are forced to recertify every time they move between States. That can be very often. Most military families move every 2 to 3 years, and when each move requires an expensive, time-consuming recertification process, many military spouses might as well kiss their careers goodbye. These occupational licenses are a costly burden for military families, who have already sacrificed so much for our country.

Our PCS Act will alleviate this burden by empowering the Department of Defense and the States to negotiate interstate compacts for occupational licenses in fields in which military spouses often work. These compacts, which are made possible by our bill, will ensure that military spouses will be able to pursue their careers uninterrupted by the need to acquire license after license, as they move their families from State to State and back to base. Most importantly, the PCS Act will allow military families to focus on their mission, which is to protect and serve our country with honor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

TRIBUTE TO HUGH “BUD” FATE

Mr. SULLIVAN. Mr. President, it is that time of week in which I get to come in to the floor of the U.S. Senate—a great privilege—and talk about a special person in Alaska, somebody who helps to make my State the greatest State in the country, in my opinion. We call this person our Alaskan of the Week. It is one of the best things I get to do all week. I know that the pages really enjoy it as well because they get to hear about Alaska and all of the things that are happening.

Before I recognize our special Alaskan of the Week, let me tell you a little bit about what is going on in Alaska right now.

We have had some strange weather in Southcentral Alaska—warm by our standards—that being wet and windy, with gusts over 100 miles per hour in some places. In Fairbanks, which is in the interior—I was just up there last week and am going to talk about that, for it is where our special Alaskan of the Week was born, in January, which is more like winter. It got down to 27 below zero last week, and now it is in the single digits.

When it comes to Alaska’s interior weather, there is some debate as to what the lowest recordbreaking temperature was. Some say it was 66 below zero in 1934, and others say it was in the negative 70 and 70below-zero territory.

The numbers do matter. Take it from Dr. Hugh “Bud” Fate, who is our Alaskan of the Week—we call him Bud—who, during the time he was working construction on the North Slope in the early 1950s, once had to walk a mile for shelter after a tractor he was operating froze up.

“When I got to the station, they told me the official temperature was 70 degrees below zero,” he said. “I was dressed for it”—Bud is a tough guy—“but my fingers and my toes were getting cold. I don’t think I could have made another mile.” Bud said.

Bud, we know you could have. We know you could have.

That is just one of many stories that Bud tells about his 70 years of living in the great State of Alaska.

So let me introduce Bud Fate—a legend across our State. He just turned 90 years old last week. He has been a rodeo cowboy, a college football player, a roughneck, a soldier, a gold miner, a carpenter, a hunter, a commercial and subsistence fisherman, a dog musher, a bush pilot, a dentist, a businessman, a State representative, an author, an artist, an all-around rabble-rouser, and an Alaskan renaissance man through and through.

But most importantly, he is a dedicated father, grandfather, husband to his wife, Mary Jane, for 65 years, and a man who has lived his life in service to his country, his State, and his community—very worthy of being our Alaskan of the Week.

So Bud Fate was born on December 4, 1929—90 years ago last week—and raised in Eastern Oregon—COWTOWN, as he called it. He began riding a horse when he was just 6 years old, eventually riding on the rodeo circuit, getting bucked off horses all across the American West.

He went to college at the University of Washington, where he initially played football. After he got hurt, he enrolled in a drama class and had dreams, when talk about his way to California, to Hollywood, to work as an actor or as a stuntman in cowboy movies and films.

As it turned out, it wasn’t California that called him; it was Alaska that called him—specifically, a good job in the far north of Alaska, a place called Umiat, working on oil rigs not too far away from what would become the biggest oil find ever in North America, the mammoth field at Prudhoe Bay. Bud was 20 years old, working 12 hours a day, 7 days a week. Even though it was a barren and cold, cold place—this was in the winter—he fell in love with it. Alaska grabbed him, as it does to others whose life’s calling is to make a difference. He knew you could have.

But Bud Fate was born on December 4, 1929—90 years ago last week—and raised in Eastern Oregon—COWTOWN, as he called it. He began riding a horse when he was just 6 years old, eventually riding on the rodeo circuit, getting bucked off horses all across the American West.
Eventually Bud, using the GI bill, went back to college, and then he went to get his degree in dentistry. He was a beloved dentist not only in Fairbanks but all across the region.

Now, he was a bush pilot, and he had a plane, so he and Mary Jane went on a travel. They would go all around the small villages in the interior.

Trust me, these villages do not and certainly not in the way did not have any dental care so they provided dental care throughout the interior to tiny, little communities for free, for anybody who needed it.

As their three daughters were growing up—Janine, Jennifer, and Julie—it was a big time, a momentous time, in Alaska.

The Alaska Native Claims Settlement Act was being debated. One of the biggest land settlements in American history, but Bud's family, Mary Jane and Bud, traveled all around the small villages in the interior.

One of Bud's best friends was Ralph Perdue, a strong Alaska Native leader, who, along with Mary Jane and Bud, founded the Fairbanks Native Association. Working together, they focused heavily on education for Alaska Natives, particularly high school education. They understood that there were so many important boards and commissions that the Native people of Alaska, particularly those very faraway places in Alaska and in the lower 48.

Now, that was an injustice gone. How they change the education. The Fairbanks Native Association decided to tackle the changes. They produced studies. They gave lectures. They talked to State officials. They talked to Federal officials. They and so many others across the State helped lay the groundwork for the seminal lawsuit brought by a group of Alaskans that resulted in a State signed consent decree to provide high schools in communities throughout the State—communities with at least 15 students. The most important boards and commissions that they took for granted. Until 1976, rural Alaska—a huge swath of America—and did not have any high schools.

The list of boards and commissions that Bud sat on is way too long to go into here, as is the list of service organizations that he has volunteered for and led.

He has known Presidents of countries and dignitaries from all over the globe. He is comfortable at his fish camp on the Yukon River as he is in the board room.

As I mentioned, he is a rabble rouser with very strong opinions—I have heard them for many years, but at heart all of his opinions are focused on a commitment to treat everybody with respect and kindness and provide every Alaskan—every American—an opportunity to better themselves.

He is a good man—Bud Fate—one of the best. The impact of Bud and the impact of his life is probably best reflected in his family and his friends, so many of whom gathered in Fairbanks on December 4 for his 90th birthday, where people from all walks of life all across the State came together—well over 100—talked about his generosity, how it impacted them, how it impacted families, and how it impacted people all around him.

People gave speeches about how he and Mary Jane took people in all walks of life—veterans coming back from Vietnam who needed comfort and respect, people who needed a helping hand, food, warmth, just love. He lifted people up, so did Mary Jane, and they saved lives.

I was actually one of those people giving a speech in Fairbanks at Bud's 90th birthday party, and I talked about the profound impact Bud has had on my own life—after all, Bud Fate is my father-in-law, and I can't imagine a better one.

He has taught me so much. Bud and Mary Jane, along with my own mom and dad, have provided me a model—actually, for me and Julie, my wife, of what a true partnership looks like. He is a model for how fulfilling a life of service can be, especially a life in the great State of Alaska.

As I mentioned, he is not just a model for me but for the whole State of a life well lived and a life lived in full.

So, Bud, thanks for all you have done for Alaska, for America, for Fairbanks, for our family, for our great State, and all you continue to do. Thanks for being a great father-in-law and a friend, and, Bud, congratulations on being our Alaskan of the Week.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. MCconnELL. Mr. President, I ask unanimous consent that the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Tribute to Kiah Morris

Mr. LEAHY. Mr. President, I recently had the pleasure of meeting with my friend, former Vermont State Representative Kiah Morris, who among many distinctions was the second African-American woman ever elected to the Vermont Legislature. Kiah's talents are far-reaching. She has also been an actress of stage, film, and television, spoken word performance, as a singer, dancer, and arts manager. Whether as a legislator or on a theater stage, Kiah's work has focused on amplification of the voices of oppressed people, on human rights, and on social justice.

It was in keeping that Kiah recently traveled to El Salvador and Honduras under the auspices of Oxfam America to meet with families struggling with the violence, poverty, lack of opportunity, injustice, and hopelessness that is causing thousands of destitute, frightened people to abandon their homes to seek refuge elsewhere. In those countries, Kiah saw where people had been gunned down, victims of gangs or corrupt police. She listened to the stories of threats and extortion, of kidnappings and deadly attacks, of fear and desperation. Inspired by the people she met and outraged by the brutality they described, she wrote a poem.

I ask unanimous consent that Kiah's poem, which captures the essence of what the debate here over Central American refugees should be about, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

I SAW THE PLACES THEY DIED

(By Kiah Morris 2019)

I saw the places they died
I saw the places they died
I saw the blood on the wall as if it were fresh
I saw the bullet holes pierce their flesh
I saw the places where they died and their spirits left their bodies onto a heavenly place
Far from a war-torn country of our design which orchestrated their demise
On the darkened brick walls splashed with stucco
Metal bars on windows each home a fortress from the violence that hovers in wait across the thresholds
Street vendors who compete for our Starbucks money to feed their souls and nourish their dreams
I saw the places they died in the tears behind the eyes of a priest who saw too much Mexico,
Springing too close to the expressions of horror and sadness on the face of a mother who died trying to save their daughter’s life captured in the space between his eyes and the weight of their loss
Their state-sanctioned murders designed to leave no witnesses behind
Ordered bullets to fill her face to ensure no viewer could recognize their own mother’s eyes in her frozen gaze
I saw the places they died, where the children were spared
No life too precious to halt corruption and gang warfare
Daily genocides where there are no sacred grounds or circumstances in which to hide
I saw the places that they died in the cobblestone streets
Where people are pawns in a corruptors’ endgame
The depth of the violence bears no shame
I saw the places where they died when I heard the women speak of the terror that they face every day.
Every week
The normalcy of rape, the dignity decimated, the beatings meant to break and the constant earthquakes that shake the fragile state
I saw the places they died in the hopeful smiles of the proud feminists who carry the burdens of their sisters as a shield
To protect the dignity of their humanity which too often is forced to yield
I saw the places they died, float off into still air
Laden with promises unfulfilled and hidden ambitions laid bare
I crafted words to form a bouquet dropped off in a history of genocide
With the hope the path these roses display will propagate a garden in honor of the many places they died.

TRIBUTE TO MAJOR BRAD CATON

Mr. DAINES. Mr. President, I rise to pay tribute to MAJ Brad Caton for his exemplary dedication to duty while serving as a Department of Defense congressional fellow and a congressional budget liaison for the Assistant Secretary of the Army, Financial Management and Comptroller. This month, he will begin his transition to serve as a budget analyst in the Army’s Budget Office.

As a native of Libby, MT, Brad was commissioned as an infantry officer upon graduation from the University of Montana, where he earned a bachelor’s of science degree in business administration. A dedicated scholar, Brad went on to serve as a member of business administration from the University of Montana and later a master’s degree in legislative affairs from the George Washington University. Brad has been very successful in his Army career and has served in a broad range of assignments.

His billets have spanned from serving as an infantry platoon commander and commanding officer to the 4th Infantry Division with a deployment to Iraq to assignments managing the Army’s financial resources. Brad exemplifies what it means to be a Montanan with his leadership, perseverance, and versatility. This was evident in his first assignment as a budget analyst for U.S. Army Central Command and while he commanded the Pontiac Recruiting Company in Eastern, MI. Following command, Brad continued to display his Montana Resolve as the support operations officer at Camp Carroll, Republic of Korea. Additionally, he was deployed to the Hashemite Kingdom of Jordan while serving as the deputy assistant chief of staff, financial management for the 1st Armored Division.

In 2017, Brad served as my Department of Defense congressional fellow. For a year, I had the privilege of working closely with Brad. He was extremely passionate about serving and representing Montanans. He consistently went above and beyond his immediate responsibilities to work in areas outside of the veterans and defense realm. He used his insight as a Montanan to provide critical local feedback on rural Montana priorities, including tribal relations. He was always thinking of Montana while representing the Department of Defense in my office. Following his fellowship, Brad transitioned to serve as a congressional budget liaison for the U.S. Army. In this capacity Brad arranged and escorted me over to visit the Montana National Guard while they were deployed to Afghanistan over the holidays. He continued to work tirelessly with all Members of Congress and their staffs to advocate particularly the Army’s budget positions to the Appropriations Committees. His professionalism, diligence, and commitment to the mission are unmatched, and his work both as a fellow and as a liaison was outstanding and represented the Department of Defense and U.S. Army to the U.S. Congress well.

The foundation of Brad’s military success is his family and his Montana roots. In fact, Brad bought a house in Libby when he was a child and to this day he maintains a home there which he hopes to retire to 1 day. He is a devoted husband to his wife, Eryn Beckman of Colstrip, MT, and a committed father to his children, Isabel, Evan, Pierce, and Audrey. Brad and Eryn’s attitude of service, sacrifice, and care for others permeates every organization and activity they participate in, and they are truly examples of servant leaders in the Army and their communities.

Throughout his career, Brad has exemplified what it truly means to be a Montanan as he positively impacted soldiers, peers, and superiors. Our country has benefited tremendously from his extraordinary leadership, judgment, and passion. I join my colleagues today in honoring his dedication to our Nation and his invaluable service to the U.S. Congress as an Army congressional liaison.

It has been a genuine pleasure to have worked with MAJ Brad Caton over the past 3 years. On behalf of a grateful nation, I join my colleagues today in recognizing and commending Brad for his service to our country, and we wish him all the best as he continues service in the U.S. Army.

TRIBUTE TO JEREMY WHEELER

Mr. YOUNG. Mr. President, I rise to formally express my appreciation to Mr. Jeremy Wheeler. Jeremy is a congressional relations officer in the Department of Veterans Affairs. However, over the last year, he served as a fellow on my national security and veterans team.

Jeremy has supported my work helping the veterans of Indiana and the Nation using his exceptional knowledge of the Veterans Affairs’ system and his experience working with many of the veterans service organizations. A dedicated public servant, Jeremy has spent much of the last two decades serving our Nation. He served in the U.S. Army for 6 years, including two combat tours in Iraq in 2008 and 2005. After 5 years working in Hollywood, he returned to government service at the Department of Veterans Affairs and has spent much of this decade working to improve the quality and access to care for our Nation’s heroes, establish deeper relationships with veterans service organizations, and strengthen the VA’s outreach and communications capabilities.

In my office this year, he has provided valuable insight into how the legislation before this Chamber would be implemented and how it would impact the VA’s ability to continue serving our veterans. And perhaps most impressively, I am not sure how many offices on Capitol Hill can boast an Emmy-winning staff member. This is just one of the many unique contributions Jeremy has brought to my office. In the last year, I have continually been impressed with Jeremy’s work ethic, professionalism, candor, and knowledge.

Next month, Jeremy will be returning to the VA, where I have no doubt he will continue seeking innovative ways to caring for veterans. I wish him the best in all his endeavors, and I look forward to working with him in the future.

ADDITIONAL STATEMENTS

25TH ANNIVERSARY OF THE VETERANS GUEST HOUSE

Ms. CORTEZ MASTO. Mr. President, I come forward today to recognize the 25th anniversary of the Veterans Guest House.
The Veterans Guest House has long been one of Reno's best kept secrets. This “home away from home” is one of the only facilities of its kind in the country serving U.S. military veterans and their families, providing temporary accommodations for veterans receiving treatment at a medical facility in the Reno-Sparks area. In the early 1990s, veterans visiting the Veterans Administration Medical Center of the Sierra, VAMC, in Reno noticed that many of them were sleeping in their cars because they couldn’t afford lodging while their loved one was in the hospital. Even some veterans were sleeping in the hospital as they could not arrange for appointments and other treatments. It was clear that this was not acceptable, and so our generous Northern Nevada community went to work to do better for our veterans.

In 1995, the House opened its doors in an old bungalow-style home right near VAMC in Reno. It had a handful of beds, and in those early years, the House provided lodging to about 800 guests each year. In the 25 years since that time, the Veterans Guest House has evolved and expanded to better meet the needs of our veterans and their families. In 2002, the nonprofit took the name “Veterans Guest House” to reflect its broader mission. Today, Veterans Guest House has struggled with drug addiction and in the early years, the House provided lodging to about 800 guests each year.

In 2017, the House acquired another property and expanded the bed total to 17, allowing them to provide more than 5,000 guest nights that year. Recently, construction concluded on the latest expansion bringing total capacity to 33 beds.

The Veterans Guest House is key to connecting our community to our veterans. Providing a variety of ways to show our support for our veterans and their families and the sacrifices made by both. Volunteers are welcome at the Veterans Guest House to help provide the organization ongoing support doing everything from painting rooms, to assisting in small repairs, to helping with fundraisers. Community groups, families, and businesses also are encouraged to provide a home-cooked meal for the guests or help fill the needs of the agency’s “Wish List.” Most guests reside more than 30 miles away from the hospital, and so having that support for them and their families is crucial.

Guests are asked to make a donation to support the work of the House, but no one is turned away because they can’t pay. The organization relies completely on donations and receives no Federal or State funding.

I am so pleased to recognize the 25th anniversary of the Veterans Guest House and the critical services and support it provides to our veterans and their families.

TRIBUTE TO MELISSA MATTHEWS AND BELLE RAE ZACHESKY/COPP

Ms. HAASAN. Mr. President, I am proud to recognize Melissa Matthews and Belle Rae Zachesky/Copp of Raymon and December’s Granite Staters of the Month for seeking to turn their own grief into positive change and mental wellness for their community.

In the last few months, both Melissa and Belle have become dear to them. Melissa lost her husband, Graham, to suicide on September 30, 2019; and her niece, 8-year-old Belle, lost her father, Jesse, to an opioid overdose the next day, on October 1.

In response to their shared grief and to distract from their sadness Melissa and Belle are seeking to raise awareness about the importance of mental wellness in their community. Belle and Melissa have started promoting wristbands with the slogan “Let’s change the ‘I’m in mental illness with ‘WE’ for mental wellness,’” to help spread this important message to others.

The two have also started a Facebook page to try to create an online community of support and positivity. The group’s name, MW Warriors—MW standing for mental wellness—was inspired by the song “Warrior” by singer Demi Lovato, who has struggled with drug addiction and depression.

Their story is another inspiring example of how people across New Hampshire come together during difficult times to support one another. This is particularly true as the opioid crisis continues to ravage our State, and it is crucial that we continue to be there for the loved ones of those whom we have lost.

Melissa and Belle are trying to do the challenging but important work of promoting positive change, all while battling their own personal crises and channeling their energy to help others.

Thank you, Melissa and Belle, for your strength and courage.

TRIBUTE TO NANCY WHITWORTH

Mr. SCOTT of South Carolina. Mr. President, today I would like to take a moment to recognize Ms. Nancy Whitworth of Greenville, SC, for her over 40 years of service to Greenville County. I extend my congratulations to her on her upcoming retirement and wish to reflect on her successful career.

As the longtime economic developer and deputy city manager for the city of Greenville, Nancy was responsible for commercial and neighborhood revitalization, downtown development, business recruitment and retention, planning and zoning codes. She has also authored articles on Greenville’s award-winning downtown and meets frequently with other cities to share Greenville’s success story. Last year, she was awarded with the 2018 Local Economic Developer of the Year award.

Ms. Whitworth is to be commended for her role in spurring the dramatic growth and revitalization Greenville
MESSAGE FROM THE HOUSE

At 10:09 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 729. An act to amend the Coastal Zone Management Act of 1972 to authorize grants to Indian Tribes to further achievement of Tribal coastal zone objectives, and for other purposes.

H.R. 5038. An act to amend the Immigration and Nationality Act to provide for terms and conditions for nonimmigrant workers performing agricultural labor or services, and for other purposes.

The message also announced that the House agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 1790) to authorize appropriations for fiscal year 2020 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. MENENDEZ (for himself, Mr. BLUMENTHAL, Mrs. GILLIBRAND, and Mr. BOOKER):
S. 3029. A bill to amend titles XVIII and XIX of the Social Security Act to make premium and cost-sharing subsidies available to low-income Medicare part D beneficiaries who reside in Puerto Rico or another territory of the United States; to the Committee on Finance.

By Mr. BENNET (for himself, Mr. PORTMAN, Mr. YOUNG, and Mr. BROWN):
S. 3039. A bill to require the Secretary of Housing and Urban Development to establish a national evictions database, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. COTTON (for himself, Mrs. BLACKBURN, Mr. CORNYN, Mr. CRUZ, Mr. GRAHAM, Mr. HAWLEY, Mr. PERDUE, Mr. ROMNEY, and Mr. Sasse):
S. 3031. A bill to amend the Immigration and Nationality Act to add membership in a significant transnational criminal organization to the list of grounds of inadmissibility and to prohibit the provision of material support or resources to such organizations; to the Committee on the Judiciary.

By Mr. BENNET:
S. 3032. A bill to amend the Internal Revenue Code of 1986 to allow for transfers of the carbon oxide pollution reduction credit, the energy credit, and the credit for carbon oxide sequestration; to the Committee on Finance.

By Mr. PETERS (for himself and Mr. SCOTT of Florida):
S. 3033. A bill to require the Secretary of Veterans Affairs to establish a grant program to conduct cemetery research and produce educational materials for the Veterans Legacy Program, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. ROSEN (for herself, Mr. WICKER, Mrs. HASSAN, and Mr. ROMNEY):
S. 3046. A bill to amend the Higher Education Act of 1965 to include teacher preparation for computer science in elementary and secondary education; to the Committee on Health, Education, Labor, and Pensions.

By Ms. HASSAN (for herself, Ms. HERNST, and Ms. SENSEA):
S. 3041. A bill to amend title 38, United States Code, to ensure that medical professionals employed by the Veterans Health Administration are properly compensated, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FEINSTEIN:
S. 3042. A bill to amend title 46, United States Code, to require the Secretary of the department in which the Coast Guard is operating to prescribe additional regulations to secure the safety of individuals and property on board certain small passenger vessels, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INHOFE (for himself, Mr. MORAN, Ms. DUCKWORTH, and Mrs. CAPITO):
S. 3043. A bill to modernize training programs at aviation maintenance technician schools, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. WHYNDE (for himself and Mr. MERKLEY):
S. 3044. A bill to amend the American’s Water Infrastructure Act of 2018 to expand the Indian reservation drinking water program, and for other purposes; to the Committee on Indian Affairs.

By Mr. JOHNSON (for himself and Ms. HASSAN):

S. 3046. A bill to amend the Homeland Security Act of 2002 to protect United States critical infrastructure by ensuring that the Cybersecurity and Infrastructure Security Agency has the legal tools it needs to notify private and public sector entities put at risk by cybersecurity vulnerabilities in the networks and systems that control critical assets of United States; to the Committee on Homeland Security and Governmental Affairs.

By Mr. MERRICK:

S. 3047. A bill to amend the Energy Policy Act of 2005 to establish a program to provide grants and loan guarantees to improve the energy efficiency of publicly owned wastewater treatment facilities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BARRASSO (for himself, Mrs. CAPITO, and Mr. MANCHIN):

S. 3048. A bill to authorize certain aliens seeking asylum to be employed in the United States while their applications are being adjudicated; to the Committee on the Judiciary.

By Mr. BROWN (for himself and Mr. RUBIO):

S. 3049. A bill to amend title XVIII of the Social Security Act to provide for certain amendments relating to reporting requirements with respect to clinical diagnostic laboratory tests, and for other purposes; to the Committee on Finance.

By Mr. TESTER (for himself, Mr. TILLIS, and Mr. PUSKAS):

S. 3050. A bill to amend the Federal Financial Institutions Examination Council Act of 1978 to provide designees of the Secretary of Veteran Affairs and the Administrator of the Rural Housing Service of the Department of Agriculture with positions on the Appraiser Advisory Committee of the Federal Financial Institutions Examination Council; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BARRASSO (for himself and Mr. CASSIDY):

S. 3051. A bill to improve protections for wildlife, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MORAN:

S. J. Res. 61. A joint resolution approving the request of the Secretary of Veterans Affairs for a waiver under section 1703E(f) of title 38, United States Code; to the Committee on Veterans Affairs.

By Mrs. GILLIBRAND (for herself and Mr. SCHUMER):

S. J. Res. 62. A joint resolution disapproving the recommendation of the Administrator of the Federal Aviation Administration to realign Binghamton, NY (BGM) TRACON operations and Elmira, NY (ELM) TRACON operations to Wilkes-Barre/Scranton, PA (AVP) TRACON, to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MENENDEZ (for himself, Mr. CARDIN, Mrs. SHAHEEN, Mr. COONS, Mr. UDALL, Mr. MURPHY, Mr. Kaine, Mr. MARKEY, Mr. MERKLEY, and Mr. BOOKER):

S. Res. 453. A resolution honoring the Employees of the Department of State and the United States Agency for International Development and the Agency’s contractors; to the Committee on Foreign Relations.

By Mr. MENENDEZ (for himself, Mr. RUBIO, Mr. DURBIN, Mr. CRUZ, Mr. CARDIN, Ms. COLLINS, and Mr. Kaine):

S. Res. 454. A resolution calling for the immediate release of Cuban democracy activist Jose Daniel Ferrer and commending the efforts of Jose Daniel Ferrer to promote human rights and fundamental freedoms in Cuba; to the Committee on Foreign Relations.

By Mr. MCCONNELL:

S. Res. 455. A resolution to authorize representation by the Senate Legal Counsel in the Case of Richard Arjun Kaul v. Senator Charles Schumer, et al., considered and agreed to.

By Mr. BLUMENTHAL (for himself, Mr. CANTWELL, Mr. MERRICK, Mrs. HASSAN, Ms. DUCKWORTH, Mr. MURPHY, Ms. HARRIS, Mr. WHITEHOUSE, Mr. VAN HOLLE, Mr. COONS, Mrs. MURRAY, and Ms. HIRONO):

S. Con. Res. 30. A concurrent resolution recognizing the need to improve physical access to many federal funded facilities for all people of the United States, particularly individuals with disabilities; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 133. At the request of Ms. MURKOWSKI, the names of the Senator from Michigan (Ms. STABENOW), the Senator from Tennessee (Mrs. BLACKBURN), the Senator from Arkansas (Mr. COTTON), the Senator from New York (Mrs. GILLIBRAND), the Senator from Michigan (Mr. PEERING), the Senator from Arizona (Ms. KENNEDY) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 133, a bill to award a Congressional Gold Medal, collectively, to the United States merchant mariners of World War II in recognition of their dedicated and vital service during World War II.

S. 299. At the request of Ms. COLLINS, the names of the Senator from Massachusetts (Ms. WARREN) was added as a cosponsor of S. 299, a bill to amend title VII of the Public Health Service Act to reauthorize programs that support interprofessional geriatric education and training to develop a geriatric-capable workforce, improving health outcomes for a growing and diverse aging American population and their families, and for other purposes.

S. 668. At the request of Mr. BROWN, the name of the Senator from West Virginia (Mr. MANchin) was added as a cosponsor of S. 668, a bill to amend title XVIII of the Social Security Act to waive coinsurance under Medicare for colorectal cancer screening tests, regardless of whether therapeutic inter-vention is required during the screening.

S. 665. At the request of Mr. LEE, the name of the Senator from Louisiana (Mr. KENNEDY) was added as a cosponsor of S. 665, a bill to amend the Inspector General Act of 1978 relative to the powers of the Department of Justice Inspector General.

S. 877. At the request of Mr. TOOMEY, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a co-sponsor of S. 877, a bill to prohibit the sale of shark fins, and for other purposes.

S. 903. At the request of Ms. HASSAN, her name was added as a co-sponsor of S. 877, supra.

S. 902. At the request of Mr. BURR, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 902, a bill to direct the Secretary of Energy to establish advanced nuclear goals, provide for a versatile, reactor-based fast neutron source, make available high-assay, low-enriched uranium for research, development, and demonstration of advanced nuclear reactor concepts, and for other purposes.

S. 1382. At the request of Mr. PORTMAN, the names of the Senator from Oklahoma (Mr. LANKFORD) and the Senator from Wyoming (Mr. ENZI) were added as co-sponsors of S. 1032, a bill to amend the Internal Revenue Code of 1986 to modify the definition of income for purposes of determining the tax-exempt status of certain corporations.

S. 1311. At the request of Mr. SCOTT of Florida, the name of the Senator from Nevada (Ms. ROSEN) was added as a co-sponsor of S. 1151, a bill to prohibit contracting with persons that have business operations with the Maduro regime, and for other purposes.

S. 1389. At the request of Mr. SULLIVAN, the name of the Senator from Texas (Mr. CORNYN) was added as a co-sponsor of S. 1380, a bill to amend the Federal Rules of Criminal Procedure to remind prosecutors of their obligations under Supreme Court case law.

S. 1381. At the request of Mr. BOOZMAN, the name of the Senator from Massachussetts (Ms. WARREN) was added as a co-sponsor of S. 1381, a bill to modify the presumption of service connection for veterans who were exposed to herbicide agents while serving in the Armed Forces in Vietnam during the Vietnam era, and for other purposes.

S. 1432. At the request of Mr. MARKEY, the name of the Senator from Iowa (Ms.
American History for Freedom grant program.  

S. 1381  
At the request of Ms. ROSEN, the name of the Senator from Massachusetts (Mr. MARKEY) was added as a cosponsor of S. 2085, a bill to authorize the Secretary of Education to award grants to eligible entities to carry out educational programs about the Holocaust, and for other purposes.  

S. 1160  
At the request of Mr. SCOTT of South Carolina, the name of the Senator from New Hampshire (Ms. HASSAN) was added as a cosponsor of S. 2160, a bill to require carbon monoxide alarms in certain federally assisted housing, and for other purposes.  

S. 1349  
At the request of Mr. MENENDEZ, his name was added as a cosponsor of S. 2449, a bill to amend title 18, United States Code, to require licenses to acquire or receive firearms, and for other purposes.  

S. 1547  
At the request of Mr. RISCH, the name of the Senator from Texas (Mr. CRUZ) was added as a cosponsor of S. 2547, a bill to state the policy of the United States with respect to the expansion of cooperation with allies and partners in the Indo-Pacific region and Europe regarding the People’s Republic of China.  

S. 1599  
At the request of Mr. BRAUN, the name of the Senator from Arkansas (Mr. COTTON) was added as a cosponsor of S. 2993, a bill to protect the dignity of fetal remains, and for other purposes.  

S. 2615  
At the request of Ms. CASSIDY, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 2015, a bill to amend the Internal Revenue Code of 1986 to improve the historic rehabilitation tax credit, and for other purposes.  

S. 2627  
At the request of Ms. CORTEZ MASTO, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 2627, a bill to amend the Internal Revenue Code of 1986 to allow an above-the-line deduction for attorney fees and costs in connection with civil claim awards.  

S. 2661  
At the request of Mr. GARDNER, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 2661, a bill to amend the Communications Act of 1934 to designate 9–8–8 as the universal telephone number for the purpose of the national suicide prevention and mental health crisis hotline system operating through the National Suicide Prevention Lifeline and through the Veterans Crisis Line, and for other purposes.  

S. 2089  
At the request of Mr. ROBERTS, the names of the Senator from South Dakota (Mr. ROUNDS) and the Senator from Illinois (Mr. DURbin) were added as cosponsors of S. 2693, a bill to authorize the Secretary of Agriculture to provide for the defense of United States agriculture and food through the National Bio and Agro-Defense Facility, and for other purposes.  

S. 2741  
At the request of Mr. SCHATZ, the names of the Senator from Connecticut (Mr. MURPHY) and the Senator from South Dakota (Mr. ROUNDS) were added as cosponsors of S. 2741, a bill to amend title XVIII of the Social Security Act to expand access to telehealth services, and for other purposes.  

S. 2754  
At the request of Mr. KENNEDY, the names of the Senator from Georgia (Mr. PERDUE) and the Senator from Alabama (Mr. JONES) were added as cosponsors of S. 2754, a bill to create jobs and drive innovation and economic growth in the United States by supporting and promoting the manufacture of next-generation technologies, including refrigerants, solvents, fire suppressants, foam blowing agents, aerosols, and propellants.  

S. 2765  
At the request of Mr. ENZI, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 2765, a bill to improve Federal fiscal controls and the congressional budget process.  

S. 2774  
At the request of Ms. MCCLURE, the name of the Senator from Minnesota (Mr. KOUBICH) was added as a cosponsor of S. 2774, a bill to direct the Attorney General to establish and carry out a Veteran Treatment Court Program.  

S. 2815  
At the request of Mr. SCHUMER, the names of the Senator from New Jersey (Mr. BOOKER) and the Senator from Delaware (Mr. COONS) were added as cosponsors of S. 2815, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Purple Heart Honor Mission.  

S. 2831  
At the request of Mrs. CAPITO, the names of the Senator from South Dakota (Mr. ROUNDS) and the Senator from Nevada (Ms. ROSEN) were added as cosponsors of S. 2831, a bill to amend title 51, United States Code, to modify the national space grant college and fellowship program, and for other purposes.  

S. 2898  
At the request of Mr. INHOFE, the names of the Senator from New Hampshire (Ms. HASSAN), the Senator from
Arizona (Ms. MCSALLY), the Senator from North Dakota (Mr. HORVEN) and the Senator from Minnesota (Ms. SMITH) were added as cosponsors of S. 2898, a bill to amend title 5, United States Code, to provide for a full annuity supplement for certain air traffic controllers.

At the request of Mr. PORTMAN, the name of the Senator from Massachusetts (Ms. WARREN) was added as a cosponsor of S. 2941, a bill to require the Administrator of the Environmental Protection Agency to establish a consumer recycling education and outreach grant program, and for other purposes.

At the request of Mrs. SHAHEEN, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Maine (Mr. KING) were added as cosponsors of S. 2942, a bill to amend the Internal Revenue Code of 1986 to provide that certain contributions by government entities are treated as contributions to capital.

At the request of Mrs. FISCHER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2949, a bill to direct the Secretary of Veterans Affairs to make grants to eligible organizations to provide post-traumatic stress disorder, and for other purposes.

At the request of Mrs. HARASS, the name of the Senator from Arizona (Ms. MCSALLY) was added as a cosponsor of S. 2976, a bill to amend the Internal Revenue Code of 1986 to provide an election to advance future child tax credits in the year of birth or adoption.

At the request of Mr. CASSIDY, the name of the Senator from Louisiana (Mr. BERNARD) was added as a cosponsor of S. 2989, a bill to amend title XI of the Social Security Act to clarify the mailing requirement relating to social security account statements.

At the request of Mr. TOOMEY, the name of the Senator from North Carolina (Ms. HARRIS) was added as a cosponsor of S. 3001, a bill to provide for certain extensions with respect to the Medicare and Medicaid programs under titles XVIII and XIX of the Social Security Act, and for other purposes.

At the request of Mr. MARKEY, the name of the Senator from California (Ms. HARRIS) was added as a cosponsor of S. 3004, a bill to protect human rights and enhance opportunities for LGBTI people around the world, and for other purposes.

At the request of Mrs. FISCHER, the name of the Senator from Nevada (Ms. CORTEZ MASTO) was added as a cosponsor of S. 3016, a bill to amend the Federal Food, Drug, and Cosmetic Act to ensure that consumers can make informed decisions in choosing between meat products such as beef and imitation meat products, and for other purposes.

By Mr. DURBIN (for himself, Mr. LEE, Mr. WHITEHOUSE, Mr. COONS, Ms. HARRIS, Ms. KLOBUCHAR, Ms. HIRONO, and Mr. LEAHY): S. 3035. A bill to provide that the amount of time that an elderly offender must be deemed eligible for placement in home detention is to be reduced by the amount of good time credits earned by the prisoner, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DURBIN. 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. 3035

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 "Elderly Home Detention Pilot Program Technical Corrections Act of 2019".

SEC. 2. CREDITS FOR CERTAIN ELDERLY NON-VIOLENT OFFENDERS.

Section 231(g)(5)(A)(ii) of the Second Chance Act of 2007 (34 U.S.C. 60541(g)(5)(A)(ii)) is amended by striking "to which the offender was sentenced" and inserting "reduced by any credit toward the service of the prisoner's sentence awarded under section 3624(b) of title 18, United States Code".

By Mrs. FEINSTEIN:

S. 2942. A bill to amend title 46, United States Code, to require the Secretary of the department in which the Coast Guard is operating to prescribe additional regulations to secure the safety of individuals and property on board certain small passenger vessels, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the "Small Passenger Vessel Safety Act of 2019".

This bill would prevent future tragedies like the one that happened onboard the Conception passenger vessel off the coast of Santa Cruz Island, California. This was the worst maritime disaster in modern California history, and my thoughts continue to be with the victims and their loved ones.

On August 5, 2019, thirty-four people were tragically killed onboard the vessel when a fire started while passengers were sleeping below deck after a nighttime swim. The victims of the boat fire—thirty-three passengers and one crewmember—were athletes, immigrants, CEO’s, and students. All were united by love of the water, marine life, and their adventurous spirit.

The Conception boat fire was a tragedy that must never be allowed to happen again. Reports indicate the fire consumed the boat, including the salon, galley compartment, and the aft deck, and causes include overloading of the electric system, possibly from rechargeable devices with lithium ion batteries. The lack of an inter-connected fire alarm system throughout the vessel meant passengers and crew were not made aware of the fire until key areas of escape were already engulfed. Critical time—time that could have saved lives—was lost. This bill addresses these issues and potential causes.

While investigations by the National Transportation Safety Board and the Coast Guard are still ongoing, it is

December 12, 2019

CONGRESSIONAL RECORD — SENATE

S7029

While investigations by the National Transportation Safety Board and the Coast Guard are still ongoing, it is
clear regulatory changes are needed to ensure small passenger vessels have the right safety measures in place to limit the possibility of fire and help evacuate the vessel of passengers in the event a fire does start.

The Conception is one of about 325 small passenger vessels built before 1996 and exempt from stricter safety standards imposed on newer vessels. This bill offers a number of commonsense provisions that will improve passenger vessel safety. These include: requiring these types of vessels to have no less than two avenues of escape from all areas accessible to passengers; mandating safety standards for the handling, storage and operation of lithium ion batteries; and, establishing standards for interconnected fire alarm systems.

I appreciate the hard work of the National Transportation Safety Board and the U.S. Coast Guard Inspections and Compliance Directorate. I especially appreciate the Commandant’s Marine Safety Information Bulletin issued on September 10 reminding owners, operators and masters of passenger vessels to adhere to the regulations related to firefighting, lifesaving, emergency evacuation and means of escape. And, more specifically, I appreciate the attention to the issue of unsupervised charging of lithium-ion batteries and the extensive use of power strips and extension cords.

Given the horrific nature of this tragedy, it is imperative that we establish stricter safety standards onboard these boats where so many children and families have such enjoyment. I believe this bill is a pragmatic, commonsense solution to improve safety on these older vessels, and I urge it to be included in the Coast Guard Reauthorization Act.

Thank you, Mr. President. I yield the floor.

By Ms. COLLINS (for herself and Ms. SINEMA):

S. 3048. A bill to authorize certain aliens seeking asylum to be employed in the United States while their applications are being adjudicated; to the Committee on the Judiciary.

Ms. COLLINS. Mr. President, I rise today to introduce the Asylum Seeker Work Authorization Act of 2019, which is similar to a bill introduced by Representative Pingree in the House. My bill would allow asylum seekers to seek employment 30 days after applying for asylum, provided their applications are not frivolous, their identities have been verified, and their names run through government terrorist watch lists. This change would allow asylum applicants to work and contribute to society without being dependent on assistance from local governments while their claims are being adjudicated.

Under current law, asylum seekers must wait 180 days after filing their applications before they are allowed to work. The 180-day requirement was adopted by the Clinton Administration in 1994 out of concern that some asylum seekers might apply for asylum primarily as a means of getting a work authorization. Clearly, this change has only transferred the burden of care for these asylum seekers onto communities across the country.

One such community is Portland, Maine. Earlier this year, over the span of several weeks, a surge of asylum seekers from the Democratic Republic of the Congo and Angola arrived in Portland as they crossed our southern border. These asylum seekers could have given a much-needed boost to Maine’s very tight labor market—our unemployment rate is just 2.8 percent—but the lengthy work-authorization process prevents these asylum seekers from getting jobs even to support themselves.

Thankfully, the Emergency Supplemental Appropriations for Humanitarian Assistance and Security at the Southwest Border Act of 2019 made funds available to assist local communities dealing with a sudden influx of asylum seekers. The City of Portland and private organizations in southern Maine received $892,586 from that Act. While those funds have been provided to Portland and other communities around our country, it would be a better solution if those seeking asylum were able to join the workforce and achieve self-sufficiency as quickly as possible while awaiting their cases.

It is my hope that the change proposed by my bill will lessen the burden on the budgets of communities hosting asylum seekers while allowing these individuals and their families to support themselves as they want to do, bringing needed skills to the cities and towns in which they settle. I encourage my colleagues to support it.

By Mr. MORAN:

S.J. Res. 61. A joint resolution approving the request of the Secretary of Veterans Affairs for a waiver under section 1703E(f) of title 38, United States Code; to the Committee on Veterans’ Affairs.

Mr. MORAN. Mr. President, I ask unanimous consent to submit the following letter from U.S. Secretary of Veterans Affairs, Robert L. Wilkie, for the RECORD.

So Ordered.

Hon. Mitch McConnell, Majority Leader, U.S. Senate, Washington, DC 20510.

Dear Secretary McConnell: In accordance with the requirements of section 1703E(f)(2) of title 38, United States Code, enclosed is the Department of Veterans Affairs (VA) report on a request for a waiver to allow VA to pilot community partnered collaborations to expand dental care for Veterans. We request that copies of this waiver be provided to the Committee and applicable standing committees with jurisdiction to report a bill to amend the provision or provisions of law that would be waived by VA, consistent with Title 38.

As required by section 1703E(f)(2), the enclosed report describes in detail the specific authorities to be waived under the pilot program; the standard or standards to be used in the pilot program in lieu of the waived authorities; the reasons for such waiver or waivers; a description of any metric or metrics VA will use to determine the effect of the waiver or waivers upon the access to and quality, timeliness, or patient satisfaction of care provided through the pilot program; the anticipated cost savings, if any, of the pilot program; the schedule for interim reports on the pilot program describing the results of the pilot program so far and the feasibility and advisability of continuing the pilot program; the schedule for the termination of the pilot program and the submission of a final report on the pilot program describing the result of the pilot program and the feasibility and advisability of making the pilot program permanent; and the estimated budget of the pilot program.

Consistent with section 17.450 of title 38, Code of Federal Regulations, this report also includes the geographic locations for each pilot program, the rationale for those selections, and how VA believes the selected locations will address deficits in care for a defined population; any applicable provision of existing regulations implementing any laws to be waived; and any more specific definitions of terms included in section 17.450(b), as necessitated by the specific provisions thereto.

The Office of Management and Budget advises that there is no objection to the submission of this waiver proposal to Congress and that its enactment would be in accord with the program of the President.

Thank you for your continuing support of our mission. A similar letter has been sent to other leaders of the Congress and the House and Senate Committees on Veterans’ Affairs.

Sincerely,

Robert L. Wilkie

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 433—HONORING THE EMPLOYEES OF THE DEPARTMENT OF STATE AND THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, AND FOR OTHER PURPOSES

Mr. MENENDEZ (for himself, Mr. CARDIN, Mrs. SHAHEEN, Mr. COONS, Mr. UDALL, Mr. MURPHY, Mr. MARKEY, Mr. MERKLEY, and Mr. BOOKER) submitted the following resolution; which was referred to the Committee on Foreign Relations:—

S. Res. 433

Whereas more than 81,000 people serve as employees of the Department of State and the United States Agency for International Development, including locally employed staff, protecting and advancing national security, freedom, democracy, development, and free markets, for the benefit of the people of the United States and the international community;

Whereas employees of the Department of State and the United States Agency for International Development together represent the United States in maintaining diplomatic relations and engaging in diplomatic missions in 180 countries around the world, including in many inhospitable and dangerous regions;

Whereas employees of the Department of State and the United States Agency for International Development promote American values and interests at home and abroad;
through their work and actions, promoting the safety and freedom of all Americans;  
Whereas employees of the Department of State and the United States Agency for International Development are a central component of our defense against international terrorism and the proliferation of weapons of mass destruction;  
Whereas employees of the Department of State and the United States Agency for International Development work to preserve peace and freedom and promote economic prosperity and mutual understanding around the world;  
Whereas employees of the Department of State and the United States Agency for International Development work to reduce poverty, end hunger and malnutrition, fight disease, combat international crime and illicit drugs, and address environmental degradation;  
Whereas employees of the Department of State and the United States Agency for International Development daily work to foster economic development, commercial enterprises, economic prosperity, and United States job and trade promotion;  
Whereas the Department of State and the United States Agency for International Development daily work to promote American ideals and values, human rights, freedom, gender equality, and democracy;  
Whereas employees of the Department of State and the United States Agency for International Development daily work to provide emergency and humanitarian assistance aid to respond to crises around the globe;  
Whereas there are almost 50,000 local employees at posts that aid and support the work of the United States and the Department of State around the world;  
Whereas at least 250 United States citizen employees, as well as family members, and many more locally employed staff, of the Department of State and the United States Agency for International Development have made the ultimate sacrifice on behalf of their Nation;  
Whereas employees of the Department of State and the United States Agency for International Development personify the virtues of patriotism, sacrifice, service, and duty;  
Whereas the families of employees of the Department of State and the United States Agency for International Development have made important and significant sacrifices for the United States;  
Whereas multiple career Foreign Service and employees of the Department of State upheld their oaths to defend the Constitution, uphold the law, and provide testimony in response to lawful subpoenas from congressional oversight hearings, risking their careers and personal safety for service to their nation;  
Whereas these courageous employees of the Department of State, individuals who have served the Nation with distinction and represent our Nation’s finest, include Ambassador Marie Yovanovitch, a distinguished career foreign service officer; Ambassador William Taylor, a diplomat who started his 50-year public service as a West Point cadet and served in every Administration since 1965; George Kent a career foreign service officer with multiple postings throughout the Department since 1992; Jennifer Williams, a 13-year veteran of the Foreign Service who has served overseas in Beirut and Jamaica, managed the United States Government’s humanitarian assistance program for Syria from 2012 to 2014, and recently, has served as the Vice President’s assistant on European and Russian affairs since April 2019; Ambassador David Hale, who has served around the world for more than three decades with the Department, including as Ambassador to Pakistan, Lebanon and Afghanistan; and as Under Secretary of State for Political Affairs; David Holmes, who joined the foreign service in 2002 and was awarded the William Rivkin Sectional Award in 2014; Peter Michael McKinley, whose career in the foreign service spanned more than 35 years and included service as ambassador to Peru, Colombia, Algeria, and Senior Adviser to Secretary Mike Pompeo; Philip Reeker, a 27-year veteran of the foreign service, including service as director of the Bureau of European and Eurasian Affairs; Catherine M. Croft, who has served as a special advisor for Ukraine in the State Department’s National Security Council staff; and Christopher Anderson, a foreign service officer since 2005, who served at the United States Embassy in Kyiv from 2014 to 2017 and as the special adviser for Ukraine negotiations from August 2017 to July 2019; and  
Whereas the Department of State has represented Congress that “no employee has faced any adverse action by the Department for testimony before Congress” and committed that “the Department will not discipline or otherwise take adverse personnel action, or other negative action against an employee for appearing before Congress in response to a subpoena”; Now, therefore, be it  
Resolved, That the Senate—  
(1) honors the employees of the Department of State and the United States Agency for International Development;  
(2) calls on the people of the United States to reflect on the service and sacrifice of employees of the Department of State and the United States Agency for International Development and the roles they serve, present, past, and future;  
(3) thanks the local employees for their aid and support in the mission of the Department of State and the United States Agency for International Development;  
(4) expresses the deep appreciation of a grateful Nation to the employees of the Department of State and the United States Agency for International Development who each and every day courageously and publicly stand up for their country and defend the Constitution for those who have provided testimony to Congress in response to lawful subpoenas;  
(5) urges the Department to fully and faithfully implement its commitment to assist employees called to testify before Congress with the cost of legal fees; and  
(6) calls on the Department to ensure that no personnel will face any retaliatory action, adverse personnel action, or other negative consequence for testifying or providing requested information, and emphasizes that any reprisal for testifying before Congress would be a violation of law.

SENATE RESOLUTION 454—CALLING FOR THE IMMEDIATE RELEASE OF CUBAN DEMOCRACY ACTIVIST JOSE DANIélLER R E S O L U T I O N 454—CALLING FOR THE IMMEDIATE RELEASE OF CUBAN DEMOCRACY ACTIVIST JOSE DANIÉL FERRER AND COMMEMORATING THE EFFORTS OF JOSE DANIÉL FERRER TO PROMOTE HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN CUBA

Mr. MENENDEZ (for himself, Mr. RUBIO, Mr. DURBIN, Mr. CRUZ, Mr. CARDIN, Mr. MURPHY, Mr. TESTA, Mr. ALAINÉ) submitted the following resolution; which was referred to the Committee on Foreign Relations:

Whereas José Daniel Ferrer García is a Cuban democracy and human rights activist who has dedicated his life to promoting greater political pluralism and respect for fundamental freedoms;  
Whereas Mr. Ferrer was born in Cuba on July 29, 1970, in the province of Santiago de Cuba;  
Whereas, in the late 1990s, Mr. Ferrer joined the Christian Liberation Movement (MCL), a peaceful political movement led by late Cuban activist Oswaldo Payá;  
Whereas, through conversations with the MCL, Mr. Ferrer helped lead the Varela Project, an initiative to collect the signatures of citizens to petition the Government of Cuba for democratic protections for freedom of speech, freedom of the press, and freedom of assembly;  
Whereas, in March 2003, as part of a series of sweeping arrests of 75 democracy activists, Mr. Ferrer was arrested by Cuban authorities for his work on the Varela Project and sentenced to 25 years in prison;  
Whereas, in March 2004, Amnesty International declared the group of 75 democracy activists, including Mr. Ferrer, to be prisoners of conscience and called for their immediate and unconditional release;  
Whereas, in 2009, Mr. Ferrer was honored with the Democracy Award given annually by the National Endowment for Democracy;  
Whereas, in March 2012, Mr. Ferrer signed an agreement brokered by the Catholic Church, Mr. Ferrer refused to abandon his homeland and was released from prison to remain in Cuba;  
Whereas, in August 2011, Mr. Ferrer founded the Patriotic Union of Cuba (UNPACU), a nonviolent political movement dedicated to promoting human rights, democratic principles, and fundamental freedoms in Cuba;  
Whereas, on June 7, 2012, Mr. Ferrer testified via digital video conference at a hearing of the Committee on Foreign Relations of the Senate;  
Whereas, since he was released from jail in March 2011, Mr. Ferrer has been frequently harassed, regularly surveilled, and repeatedly jailed by Cuban authorities for his role in UNPACU;  
Whereas, on October 1, 2019, Mr. Ferrer was imprisoned arbitrarily by Cuban authorities for his leadership of UNPACU and outspoken advocacy for human rights and democratic freedoms in Cuba;  
Whereas, on October 1, 2019, Cuban authorities detained 3 other members of UNPACU, Fernando González Vallant, José Pupo Chavoco, and Rolán Zarur Arrie;  
Whereas a letter from Mr. Ferrer was smuggled out of prison stating that he had been tortured, mistreated, and denied proper medical attention, and that his life was put in danger while in detention;  
Whereas the family of Mr. Ferrer has been permitted to visit him only twice since he was imprisoned arbitrarily on December 1, 2019, and the wife of Mr. Ferrer reported that she saw evidence that he had been physically abused and mistreated; and  
Whereas, on November 9, 2019, the European Parliament approved a resolution condemning the arbitrary detention of Mr. Ferrer and calling for his immediate release; Now, therefore, be it

Resolved, That the Senate—  
(1) condemns the arbitrary imprisonment of leading Cuban democracy and human rights activist José Daniel Ferrer and calls for his immediate and unconditional release;  
(2) urges Cuban authorities to grant Mr. Ferrer immediate access to medical care and immediate and unconditional release; and  
(3) calls for the immediate and unconditional release of all members of the Patriotic
Union of Cuba (UNPACU) that have been arbitrarily imprisoned;
(4) commends Mr. Ferrer for his unwavering commitment to advance democratic principles, human rights, and fundamental freedoms in Cuba; and
(5) recognizes the important contributions of UNPACU and all of its members for their efforts to promote greater respect for democratic principles, human rights, and fundamental freedoms in Cuba.

SENATE RESOLUTION 455—TO AUTHORIZ... THE SENATE LEGAL COUNSEL IN THE CASE OF RICHARD ARJUN KAUL v. SENATOR CHARLES SCHUMER, ET AL

Mr. SCHUMER submitted the following resolution; which was considered and agreed to:

S. RES. 455

Whereas, Senator Charles Schumer has been named as a defendant in the case of Richard Arjun Kaul v. Senator Charles Schumer, et al., Case No. 19-CV-13477-Brm-Jad, currently pending in the United States District Court for the District of New Jersey;
Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288(a) and 288(a)(1), the Senator by direct his counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Schumer in the case of Richard Arjun Kaul v. Senator Charles Schumer, et al.

Mr. SCHUMER. Mr. President, I send to the desk a resolution authorizing representation by the Senate Legal Counsel and ask for its immediate consideration.

Mr. President, this resolution concerns a civil action pending in New Jersey Federal court against Senator Schumer and various private entities. The plaintiff previously brought a lawsuit arising out of the revocation of his medical license by the New Jersey State Department of Health Examination Board, and that lawsuit was dismissed. In this lawsuit, plaintiff asserts a conspiracy among Senator Schumer and two large insurance companies, a bank, a law firm, and a media company, to obstruct and undermine plaintiff’s previous lawsuit by having the Senator use his influence over the presiding judge to dismiss the case. Plaintiff’s claims against Senator Schumer are subject to dismissal for failure to state a claim and on jurisdictional grounds. This resolution would authorize the Senate Legal Counsel to represent Senator Schumer in order to seek dismissal of the claims against him.

SENATE CONCURRENT RESOLUTION 30—RECOGNIZING THE NEED TO IMPROVE PHYSICAL ACCESS TO MANY FEDERALLY FUNDED FACILITIES FOR ALL PEOPLE OF THE UNITED STATES, PARTICULARLY INDIVIDUALS WITH DISABILITIES

Mr. BLUMENTHAL (for himself, Mr. CASEY, Mr. BROWN, Ms. CANTWELL, Mr. MERKLEY, Ms. HASSAN, Ms. DUCKWORTH, Mr. MURPHY, Ms. HARRIS, Mr. WHITEHOUSE, Mr. VAN HOLLEN, Mr. COONS, Mrs. MURRAY, and Ms. HIRONO) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pension:

S. CON. R.S. 30

Whereas the First Amendment to the Constitution of the United States—
(1) prohibits Congress from making any law respecting an establishment of religion, prohibiting the free exercise of religion, or abridging the freedom of speech, the freedom of the press, the right to peaceably assemble, or the right of the people for a governmental redress of grievances; and
(2) was ratified on December 15, 1791, as 1 of the 10 amendments that constitute the Bill of Rights;

Whereas the Bill of Rights, specifically the First Amendment to the Constitution of the United States, calls for the right of all individuals to peaceably assemble, meaning that all individuals, regardless of their physical ability, shall be offered equal opportunity to access all amenities that are federally funded or constructed, and variously defined by the exception to certain sites of historical importance approved by the Architectural and Transportation Barriers Compliance Board (referred to in this resolution as the "United States Access Board") or a nonpartisan commission convened by the United States Access Board;

Whereas, in the 29 years since the signing of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), there have been advances in technologies that benefit individuals with disabilities, such as automatic doors;

Whereas, in 2018, the Centers for Disease Control and Prevention reported that—
(1) 61,000,000 individuals in the United States have a disability that impacts major life activities;
(2) 1 of every 7 adults experience a mobility impairment, which is the most common form of disability; and
(3) as people age, disability becomes increasingly common, affecting an estimated 2 of every 5 older adults;

Whereas, as significant advances in medical treatment result in improved health outcomes, the incidence of disability has increased among younger adults;

Whereas, in 2016, an estimated 25.1 percent of veterans in the United States, or more than 2,000,000 individuals, reported having a service-connected disability;

Whereas the Act entitled "An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to and usable by physically handicapped", approved August 12, 1968 (42 U.S.C. 4151 et seq.) (commonly known as the "Architectural Barriers Act of 1968"), was enacted with the exception in 1990 that federally funded facilities are designed and constructed to be accessible to individuals with disabilities;

Whereas the title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.)—
(1) prohibits discrimination against a person with a disability in programs and activities funded by Federal Government;
(2) requires the elimination of architectural barriers for Federal employees and applicants with disabilities; and
(3) established the United States Access Board;

Whereas the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)—
(1) prohibits discrimination against a person with a disability by a State or local government, including any department, agency, special purpose district, or other instrumentality of a State or local government, in programs and activities, transportation, communications, and the built environment;
(2) prohibits discrimination against a person with a disability in the activities of a place of public accommodation, which is an entity that—
(a) is generally open to the public; and
(b) within a category described in that Act, such as a restaurant, movie theater, school, day care facility, or doctor’s office; and
(3) requires a newly constructed or altered place of public accommodation or commercial facility (such as a restaurant or office building) to comply with the Standards for Accessible Design;

Whereas the Fair Housing Act (42 U.S.C. 3601 et seq.)—
(1) prohibits discrimination on the basis of disability in multifamily housing, including military family housing; and
(2) requires the elimination of architectural barriers in common areas;

Whereas the United States Access Board has developed new guidelines for public rights-of-way that address various issues, including access for blind pedestrians at street crossings, wheelchair access to on-street islands, and various components of public rights-of-way;

Whereas the aim of the United States Access Board in developing the new guidelines includes ensuring that—
(1) access for individuals with disabilities is provided wherever a pedestrian way is newly built or altered; and
(2) the same degree of convenience, connection, and safety afforded the public generally is available to pedestrians with disabilities;

Whereas, on the date on which the Attorney General adopts the new guidelines, the guidelines will become enforceable standards under title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.); and

Whereas the United States was founded on the principles of equality and freedom, and such principles require that all individuals, including individuals with disabilities, are able to engage in social members of society; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—
(1) recognizes the importance of equal opportunity for individuals with disabilities in the United States;
(2) recognizes that too many facilities of Federal, State, and local governments remain inaccessible to individuals with disabilities due to architectural and other barriers;
(3) reaffirms its support of and requires full compliance with—
(A) the Act entitled "An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to and usable by physically handicapped", approved August 12, 1968 (42 U.S.C. 4151 et seq.) (commonly known as the "Architectural Barriers Act of 1968");
(B) title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.); and
(C) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and
(4) pledges to make universal and inclusive design a guiding principle for all infrastructure planning and projects, continue working to identify and remove the barriers that prevent all people of the United States,
including individuals with disabilities, from having equal access to the services provided by the Federal Government.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1256. Mr. CRAMER (for Mr. CRAMER) proposed an amendment to the concurrent resolution S. Con. Res. 23, honoring the 75th Anniversary of the Battle of the Bulge fought during World War II, recognizing the valiant efforts of the Allied Forces in December 1944, and remembering those who made the ultimate sacrifice, all of which contributed to the Allied victory in the European Theater.

TEXT OF AMENDMENTS

SA 1256. Mr. CRAMER (for Mr. CRAMER) proposed an amendment to the concurrent resolution S. Con. Res. 23, honoring the 75th Anniversary of the Battle of the Bulge fought during World War II, recognizing the valiant efforts of the Allied Forces in December 1944, and remembering those who made the ultimate sacrifice, all of which contributed to the Allied victory in the European Theater; as follows:

Between the seventh and eighth whereas clauses of the resolution, insert the following: Whereas, the heroic defense of Bastogne by the 101st Airborne Division became personified by General Anthony McAuliffe’s reply to the German request to surrender with one word: “Nuts!”

AUTHORITY FOR COMMITTEES TO MEET

Mr. McCONNELL. Mr. President, I have 5 requests for committees to meet during the session of the Senate. They have the approval of the Majority and Minority leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today’s session of the Senate.

COMMITTEE ON ARMED SERVICES

The Committee on Armed Services is authorized to meet during the session of the Senate on Thursday, December 12, 2019, at 10 a.m., to conduct a closed hearing.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

The Committee on Energy and Natural Resources is authorized to meet during the session of the Senate on Thursday, December 12, 2019, at 10:30 a.m., to conduct a hearing.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

The Committee on Health, Education, Labor, and Pensions is authorized to meet during the session of the Senate on Thursday, December 12, 2019, at 10 a.m., to conduct a hearing nomination of Crosby Kemper III, of Missouri, to be Director of the Institute of Museum and Library Services.

COMMITTEE ON RULES AND ADMINISTRATION

The Committee on Rules and Administration is authorized to meet during the session of the Senate on Thursday, December 12, 2019, at 10 a.m., to conduct a closed hearing.

SUBCOMMITTEE ON SECURITY

The Subcommittee on Security of the Committee on Commerce, Science, and Transportation is authorized to meet during the session of the Senate on Thursday, December 12, 2019, at 10 a.m., to conduct a hearing.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 14 U.S.C. 194(a), as amended by Public Law 113–261, appoints the following Senator to the Board of Visitors of the U.S. Coast Guard Academy: The Honorable Roger Wicker of Mississippi.

AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL IN THE CASE OF RICHARD ARJUN KAUL V. SENATOR CHARLES SCHUMER, ET AL

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 455, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 455) to authorize representation by the Senate Legal Counsel in the case of Richard Arjun Kaul v. Senator Charles Schumer, et al.

There being no objection, the Senate proceeded to consider the resolution. Mr. McCONNELL. I ask unanimous consent that the resolution be agreed to.

The resolution was agreed to.

HONORING THE 75TH ANNIVERSARY OF THE BATTLE OF THE BULGE Fought during World War II

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 326, S. Con. Res. 23.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The senior assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 23) honoring the 75th Anniversary of the Battle of the Bulge fought during World War II, recognizing the valiant efforts of the Allied Forces in December 1944, and remembering those who made the ultimate sacrifice, all of which contributed to the Allied victory in the European Theater.

There being no objection, the Senate proceeded to consider the concurrent resolution. Mr. McCONNELL. I ask unanimous consent that the resolution be agreed to.
the 333rd Field Artillery Battalion were mas-
"Nuts!".
Whereas the success of the Allied Forces in
the 101st Airborne Division became personi-
fied by General Anthony McAuliffe’s reply to
the German request to surrender with one
word: “Nuts!”;
Whereas, although Belgium lost more than
74,000 civilians during the war, in addition to
many more having suffered through other
atrocities that come with war, the people of
Belgium persevered through the difficult pe-
tiod of time and rebuilt their lives the best
they could after the war ended;
Whereas the Battle of the Bulge made possible the final de-
feat and surrender of Nazi Germany in May
1945;
Whereas the citizens of Belgium and Lux-
embourg have generously hosted thousands
of United States veterans and kept the mem-
orry of the Battle of the Bulge alive through
numerous memorials and museums, includ-
ing the Henri-Chapelle American Cemetery
and Memorial, the Luxembourg American
Cemetery and Memorial, the Battle of the Arden-
nes Museum, the Bastogne War Museum, and the
Bastogne December Historic Walk; and
WHEREAS the Third Army accelerated the success of the
Allied Forces during the Battle of the Bulge;
WHEREAS the heroic defense of Bastogne by
the 101st Airborne Division became personi-
fied by General Anthony McAuliffe’s reply to
the German request to surrender with one
word: “Nuts!”;
WHEREAS the Battle of the Bulge resulted in
over 89,000 United States casualties, includ-
ing 19,000 soldiers killed, 47,500 wounded, and
more than 23,000 captured or missing-in-
action;
WHEREAS the Allied Forces overcame formi-
dable obstacles that included being greatly
outnumbered by the German Army, harsh
weather conditions, and the treacherous and
unknown terrain of the Ardennes Forest re-
"Nuts!";
Resolved by the Senate (the House of Rep-
resentatives concurring), That the Senate—
(1) commemorates, on December 16, 2019,
the 75th Anniversary of the Battle of the
Bulge in World War II;
(2) recognizes the valiant efforts of the var-
ious Allied Forces; and
(3) remembers the individuals who made
the ultimate sacrifice, which contributed to
the Allied victory in the European Theater.
ORDERS FOR FRIDAY, DECEMBER
13, 2019, AND MONDAY, DECEM-
BER 16, 2019
Mr. McCONNELL. Mr. President, I
ask unanimous consent that when the Senate completes its business today, it
adjourn and then convene for a pro
forma session only, with no business
being conducted, on Friday, December
13, at 11:45 a.m. I further ask that when
the Senate adjourns on Friday, December
13, it next convene at 3 p.m., Mon-
day, December 16; that following the
prayer and pledge, the morning hour be
deemed expired, the Journal of pro-
ceedings be approved to date, the time
for the two leaders be reserved for their
use later in the day, morning business
be closed, and the Senate resume con-
sideration of the committee report to
 accompany S. 1790; finally, that not-
withstanding the provisions of rule
XXII, the cloture motion filed during
today’s session ripened at 5:30 p.m., Mon-
day.
The PRESIDING OFFICER. Without
objection, it is so ordered.
ADJOURNMENT UNTIL 11:45 A.M.
TOMORROW
Mr. McConNEll. Mr. President, if
there is no further business to come be-
fore the Senate, I ask unanimous con-
sent that it stand adjourned under the
previous order.
There being no objection, the Senate,
at 5 p.m., adjourned until Friday, De-
cember 13, 2019, at 11:45 a.m.
CONFIRMATIONS
Executive nominations confirmed by
the Senate December 12, 2019:
DEPARTMENT OF THE INTERIOR
AURELIA SKIPWITH, OF INDIANA, TO BE DIRECTOR OF
THE UNITED STATES FISH AND WILDLIFE SERVICE.
DEPARTMENT OF STATE
JOHN JOSEPH SULLIVAN, OF MARYLAND, TO BE AM-
BASSADOR EXTRAORDINARY AND plENIPOTENTIARY OF
THE UNITED STATES OF AMERICA TO THE RUSSIAN FED-
ERATION.
DEPARTMENT OF HEALTH AND HUMAN SERVICES
STEPHEN BARK, OF TEXAS, TO BE COMMISSIONER OF
FOOD AND DRUGS, DEPARTMENT OF HEALTH AND
HUMAN SERVICES.
In Honor of the Late Pete Frates

HON. LORI TRAHAN
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 2019

Mrs. TRAHAN. Madam Speaker, I rise today to honor the life of the late Pete Frates, a global icon and champion for Amyotrophic Lateral Sclerosis (ALS) research and awareness. A lifelong resident of Massachusetts and former Boston College baseball player, Pete Frates passed away on December 9, 2019 after a hard-fought battle with ALS.

Diagnosed with the disease in 2012, Pete spent his numbered days raising funds and awareness for ALS research through his social media phenomenon, the “ALS Ice Bucket Challenge,” sparking a global movement that ignited 17 million people into action in order to raise $115 million for the cause.

Pete lived his life selflessly, leaving behind a strong legacy and lessons we can all learn from—be kind to one another and when faced with adversity, face it bravely and help others like you.

Eight years ago, Pete received a terrible diagnosis and a hopeless prognosis. Instead of falling into a cycle of self-pity and remorse, Pete saw this as an opportunity to help others suffering with ALS. At the time, Pete looked at the one life he had and saw its incredible worth. He then took this one step further, springing into action to improve the lives of others.

My heart goes out to Pete’s mother and father, wife, child, and friends. I know they will carry on his legacy and continue his courageous work to bring the world one step closer to the eradication of ALS.

Madam Speaker, I rise today to honor a man whose life is an inspiration to us all. Pete Frates did not die in vain.

HONORING MICHAEL A. HOULEMARD, JR.

HON. JIMMY PANETTA
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 2019

Mr. PANETTA. Madam Speaker, I rise today to recognize Michael A. Houlemard, Jr. for more than twenty years of leadership as the Fort Ord Reuse Authority (FORA) Executive Officer and congratulates him to let the good times roll (laissez les bons temps rouler).

As Executive Officer of FORA, Mr. Houlemard oversees the broadly representative agency located on the Monterey Bay, which is responsible for former Fort Ord’s conversion to civilian reuse program. Mr. Houlemard also oversees a $100 million munities and explosives cleanup of 3,400 former Fort Ord acres. In this role, Mr. Houlemard’s decisive leadership and expertise resulted in FORA being designated a military base reuse national model by the Department of Defense.

Mr. Houlemard’s work has also been lauded by the Association of Defense Communities, earning him their Local Reuse Authority Executive of the Year Award, and the Monterey Peninsula Chamber of Commerce, earning him their Ruth Vreeland Public Official of the Year Award.

Michael A. Houlemard, Jr. has served the central coast of California with adept leadership and tireless dedication over the past two decades, making FORA a model agency for the potential of a civilian reuse program. I hope that Mr. Houlemard enjoys his well-earned retirement spending time with his beloved wife, Christina Valentino, watching his favorite pastime, baseball, and visiting his cherished hometown of New Orleans. Madam Speaker, I ask that my colleagues join me in recognizing his years of service and encouraging him to let the good times roll (laissez les bons temps rouler).

IN RECOGNITION OF THE ODessa FOOTBALL TEAM

HON. EMANUEL CLEAVER
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 2019

Mr. CLEAVER. Madam Speaker, I rise today to commemorate the Missouri Class 3 State Championship win by the Odessa High School football team. Such an achievement is the result of strong leadership and continued dedication by both players and coaches alike. It is truly an honor to recognize this exemplary group of athletes from Missouri’s Fifth Congressional District.

For the first time in a quarter of a century and only the second time in school history, Odessa High School earned the state championship title in a 49–28 win over Cassville High School at the University of Missouri’s Faurot Field on Saturday, December 7, 2019. This victory was the culmination of their unwavering perseverance and excellence on and off the field.

Building upon their undefeated record and averaging 55 points per game, the Bulldogs entered the championship game eager and focused. The Bulldogs took the lead, 6–0, in the first twelve seconds after Senior Bryley Ray’s 93-yard kickoff return. Capitalizing on their early advantage, Odessa covered 80-yards in six plays on its third drive of the game. Not giving into Odessa’s pressure, Cassville brought the score at the end of the first quarter to 14–7. In the second quarter, quarter-back, Josey Meierend and Ray led Odessa to a 21–7 lead before Ethan Unhlaub’s 1-yard score made it 28–7. Leaving nothing to chance, junior Brett Duncan’s 27-yard post pattern completed a five-play, 52-yard drive, sending the Bulldogs into halftime with a 35–14 advantage. But the Bulldogs never became complacent and continued to push themselves.

Going into the second half of the game, Odessa remained singularly focused on their goal of becoming state champs. Carter Westerhold caught an 18-yard pass for a score to complete their first drive of the half while Luke Malizzi led the way on the second to provide the final margin of victory. In a true display of unity and willpower, the Odessa Bulldogs defeated the Cassville Wildcats 49–28.

This momentous accomplishment was achieved not by individuals, but as a united group of young men with guidance from a devoted group of coaches: Mark Thomas, head coach; Barry Blank, assistant head coach; Jeremy Helton, defensive coordinator; Chuck Clemens, special teams coordinator; Kiefer Kratz, JV head coach; and Miles Hoshard, JV offensive coordinator. The accolades of Odessa’s football team and coaching staff are a testament to what they have built through their hard work and collaboration.

It is my honor to congratulate each member of the team that have helped Odessa High School to claim this prestigious title. I encourage each player to continue challenging themselves to always give their best on and off the field.

Madam Speaker, please join with Missouri’s Fifth Congressional District in celebrating the Missouri Class 3 State Championship victory of the Odessa Bulldogs, and I encourage all of us to unite together under the same spirit of perseverance, collaboration, and hard work that led this remarkable team to their first state championship win in over twenty-five years.

PERSONAL EXPLANATION

HON. CHRIS PAPPAS
OF NEW HAMPSHIRE
IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 2019

Mr. PAPPAS. Madam Speaker, yesterday I missed a roll call vote, and I wish to state how I would have voted had I been present: Roll Call No. 671—Yes.
SPEECH OF
HON. JOHN GARAMENDI
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 2019

Mr. GARAMENDI. Madam Speaker, I rise in support of the fiscal year 2020 National Defense Authorization Act (NDAA). I would like to start by thanking Chairman Smith, Ranking Member THORNBERRY, and the House Armed Services Committee staff who have worked tirelessly throughout this past year to get us to this point. It’s a good bill and I encourage my colleagues to support the conference report.

As the Chairman of the Readiness Subcommittee, I worked closely with members on and off the committee to ensure the bill addressed three priority areas affecting our military.

First, the bill includes a number of bipartisan provisions aimed at addressing problems associated with the management and oversight of military family housing. The bill does the following:

- Requires the military services to establish a tenants’ bill of rights for residents of privatized military family housing;
- Requires the Department to establish a standardized assessment tool to be used in evaluating military housing for certain risks, including lead and mold;
- Prohibits the use of non-disclosure agreements as a condition of moving out of military housing;
- Authorizes additional funding to ensure installation housing offices are properly staffed; and
- Provides for a temporary direct hiring authority for government housing personnel to increase oversight of private contractors.

Second, the bill authorizes additional funding and includes bipartisan provisions to mitigate contaminated drinking water for households and agriculture resulting from fluorinated compounds around military installations:

- Bans DoD use of fire fighting agents containing PFAS by 2024;
- Requires DoD to ensure that when disposing of AFF and supplies used to remediate PFAS contamination, it does so in a manner that is safe and does not create further pollution;
- Bans the use of PFAS chemicals in the packaging of the meals (MREs) our service members eat when deployed in combat areas and for training;
- Conducts a phase-in in the DOD Environmental clean-up accounts that was keeping the National Guard from being able to access these funds to address PFOS and PFOA contamination;
- Authorizes DoD to provide alternative water to farmers affected by PFAS contaminated agricultural water;
- Bans the use of fire fighting agents containing PFAS for training;
- Bans the uncontrolled release of fire fighting agents containing PFAS for any purpose other than putting out fires;
- Addresses DoD’s refusal to acknowledge State-promulgated drinking water standards by requiring their use when they are more stringent than federal standards; and
- Requires the Director of the U.S. Geological Survey to establish a performance standard for detecting PFAS and then conduct nationwide sampling to determine the extent of PFAS contamination and then report to Congress the results.

Third, the bill contains a number of provisions to increase military installation resiliency efforts to ensure better planning to assess vulnerabilities and facility codes to mitigate the risk future natural and man-made disasters:

- Requires DoD develop installation master plans that assess current climate vulnerabilities and plan for mitigating the risks to installations from extreme weather events, mean sea level fluctuation, wildfires, flooding, and other changes in environmental conditions using projections from recognized governmental and scientific entities.
- Limits DoD’s ability to spend planning and design funds until it initiates the process of amending the building standards for military construction (Unified Facility Criteria) to ensure that building practices and standards promote energy, climate, and cyber resilience at military installations;
- Requires all proposals for military construction projects to consider potential long-term changes in environmental conditions, and increasingly frequent extreme weather events, as well as, industry best-practices to withstand extreme weather events;
- Requires DoD to report on the feasibility of transitioning installation planning from 100-year floodplain data to a forward-looking predictive model that takes into account the impacts of sea-level rise.
- Establishes a pilot authority for the Department of Defense to carry out military construction projects, with prior congressional notification, that enhance military installation resiliency, mission assurance, support mission critical functions, and address known vulnerabilities.
- Authorizes an additional $133 million for military construction projects under the Department’s Energy Resiliency and Conservation Investment Program.
- Directs the Secretary of Defense to conduct a black start exercise at three major military installations to ensure installation resiliency in the case of a total power outage.

I’m proud of the funding authorized by, and legislative provisions included within the Readiness Subcommittee’s jurisdiction. The bill authorizes $261.6 billion in operation & maintenance funding to support training, maintenance, and military operations; $11.8 billion for MILCON, family housing, and BRAC; and $4.1 billion in emergency authorization for MILCON for recovery of military installations damaged by natural disasters.

The conference report also provides twelve weeks of paid parental leave for all federal employees.

I’m also pleased this NDAA includes a 3.1 percent pay raise for our troops and includes key provisions of my bill, H.R. 2617, the Occupational and Environmental Transparency Health Act, which will require DoD to input any Occupational Environmental Health hazards exposure into service members’ records while deployed, so it is tracked throughout their career and into veteran status.

Additionally, this year’s NDAA funds important priorities at Travis and Beale Air Force Bases in my district. The military construction projects authorized in this bill will support the new KC-46 mission at Travis Air Force Base and will improve resilience and power supply at Beale Air Force Base, enabling it to continue to support intelligence, surveillance, and reconnaissance (ISR) and multi-domain operations.

While there are many positive outcomes, I am disappointed that the prohibition of funding for the deployment of new, low-yield nuclear warheads for submarines did not survive the conference process, and am also disappointed in the omission of critical provisions that were in the House-passed bill to reform border deployment and ensure funding for our military is spent wisely and as Congress intended, and not on an unnecessary border wall, such as the following:

- Preventing the President from diverting Defense funding to pay for an unnecessary border wall;
- Prohibiting funding for the construction of a wall, barrier, or fence along the southern land border;
- Amending the emergency construction authority (10 USC 2808) to limit the total cost of any construction projects undertaken during a national emergency to $500 million, with a further limit of $100 million for construction projects within the United States; and
- Prohibiting reprogramming of funds into the counter drug account, which has been used by the Administration to do construction along the southern land border.

Overall, I am proud of the Readiness Subcommittee’s contribution to this year’s bill and would like to thank the Readiness staff, Brian Garrett, Jeanine Womble, Melanie Harris, Brian Greer, John Muller, Dave Sienicki, Megan Handle, and Sean Falvey, and my personal staff, Betsy Thompson and Dan Naske, for their tireless work. Dan will be departing the Hill after next week, and I would like to personally thank him for his hard work and sharing his expertise with us this past year. He has been an invaluable member of my staff and we will miss him dearly.

This bill helps advance our military’s near-term readiness goals and drives the Department to plan for and take action against long-term threats, and with that, I urge my colleagues to support the FY20 NDAA.

HONORING MICHAEL DAVID SPADARO’S 25 YEARS OF SERVICE TO THE NEW YORK STATE POLICE

HON. ELISE M. STEFANIK
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 2019

Ms. STEFANIK. Madam Speaker, I rise today to recognize Michael David Spadaro’s 25 years of dedicated service to the New York State Police.

Michael David Spadaro joined the State Police in 1994 and since then has served the State of New York with honor and distinction. Throughout our community, professionals in law enforcement, like Trooper Spadaro, dedicate their careers and risk their lives each day to keep us safe. Whether it be patrolling the highways connecting our towns, supporting local law enforcement, preventing terrorism, or responding to natural disasters, the New York State Police get it done. That is in no small part due to the dedication of Troopers like Michael David Spadaro. On behalf of New York’s
IN RECOGNITION OF THOMAS E. TAYLOR, P.E.

HON. MICHAEL C. BURGESS
OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 2019

Mr. BURGESS. Madam Speaker, I rise today to recognize Thomas E. Taylor as he retires after 30 years as Executive Director for the Upper Trinity Regional Water District (UTRWD). Over the course of his career, he planned, directed, advanced and ultimately delivered UTRWD as a critical regional water supply system to the majority of the UTRWD member cities and other customers across Denton County.

Mr. Taylor graduated with honors from the University of Arkansas with a degree in civil engineering. After graduation, he joined the City of Dallas as an entry-level engineer and rose through the ranks to become the youngest department head at the city, serving as head of three different departments. As Director of Dallas Water Utilities from 1980 to 1986, he managed retail services for Dallas, plus wholesale water and wastewater services for 25 other cities. He was also responsible for adding two new water supply reservoirs to the system.

Subsequently, Mr. Taylor helmed the Steering Committee to create a Master Plan for the future regional water supply needs of communities in the Denton County area. The plan included securing legislative approval for a new county-wide wholesale utility special district. Supported by many entities, the Upper Trinity Regional Water District was approved by the Texas Legislature June 16, 1989.

Over the past 30 years as Executive Director, Taylor has effectively led the development and growth of UTRWD in meeting the needs of more than 25 participating communities. He recruited and developed a top-notch staff to accomplish UTRWD’s mission to acquire raw water supplies, implement strategies for treatment, delivery, reclamation and reuse of water resources. Under his leadership, the organization navigated the necessary permitting challenges to initiate permitting and construction of Lake Ralph Hall reservoir that will provide one of the most new water supply lakes necessary to continue support for the fast-growing communities composing the North Texas region.

Taylor has been honored as one of the “Top Ten Public Works Leaders in North America” by the American Works Association. Also, he took it upon himself to improve the profession of utilities, he was recognized by the American Water Works Association with the William T. “Doc” Ballard Award.

Much of the economic growth and quality of life enjoyed by communities in Denton County and North Texas would not have been possible without Tom Taylor’s ambition, vision and work ethic. It is my honor to recognize Mr. Thomas E. Taylor’s commitment as a public servant and the legacy he leaves in the form of UTRWD’s important role in Texas’ incredible economic growth and prosperity.

HONORING BARNEGAT VFW POST 10092

HON. ANDY KIM
OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 2019

Mr. KIM. Madam Speaker, I rise today to recognize the Barnegat, New Jersey Veterans of Foreign Wars (VFW) Post 10092, which recently received the Outstanding Community Service Award for their efforts supporting the veterans’ community in Ocean County.

Over the last several years, the Barnegat VFW Post 10092 has dedicated itself to being an active leader in supporting the veterans, families and students of Barnegat, and Ocean County community as a whole. Post 10092 offers two scholarships for Barnegat High School students, and coordinates two essay contests, the Patriots Pen and the Voice of Democracy, designed towards high school students from the area. In 2017, the Post began to offer a police, fire and EMS recognition awards program for Barnegat, a Junior ROTC recognition awards program for the local high school, as well as a Christmas in Camouflage program with the elementary schools. These programs have succeeded in honoring those who serve and have engaged the community with the important work the VFW does every day.

Recently, the Barnegat VFW Post found that their neighbors lacked a VFW chapter and so could not engage in the same VFW programs that Barnegat residents had. Just this past year, Post 10092 expanded their programs to include Stafford Township schools and South- ern Regional High School. Through this expansion, the Barnegat Post has lived up to the VFW’s legacy of service to communities across our nation.

I’d like to thank the Barnegat VFW Post 10092 for their years of service to the veterans and their families, and to our schools in Ocean County. I am proud to fight in Congress for the needs of our veterans and servicemembers, and am proud to work alongside distinguished colleagues like the men and women of the VFW Post in Barnegat.

IN HONOR OF THE CITY OF DARIEN, ILLINOIS’ 50TH BIRTHDAY

HON. SEAN CASTEN
OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 2019

Mr. CASTEN of Illinois. Madam Speaker, I rise today to commemorate the 50th birthday of the city of Darien, Illinois.

On December 13, 1969, the communities of Marion Hills, Brookhaven, Farmingdale and Hinsbrook united to incorporate as the city of Darien. Today, Darien is known as “A Nice Place to Live,” which perfectly describes this city.

The area was initially inhabited by the Potowatami and Ottawa Native Americans with the surrounding waterways serving as their trade routes. The farming communities of Cass and Lace were established along a stagecoach line in the early 1800s. An inn, tavern and post office served 15 stagecoaches that transited the area. Today, Darien continues to serve as a transportation center with easy access to the commuter train line, as well as Interstate 55, 355 and 294.

The six square mile town is home to approximately 6500 families. Darien is a vibrant, growing community dedicated to its citizens. The Indian Prairie Public Library has grown from a volunteer-operated bookmobile to a state-of-the-art facility. Darien’s library is a center for learning and community activities. The Park District Sportsplex includes three National Hockey League sized ice rinks as well as an
indoor soccer field, enabling children and adults from surrounding areas to hone their athletic skills. Civic pride and a commitment to others is demonstrated by organizations such as the Darien Woman’s Club, Rotary Club, Chamber of Commerce, Good Work Sunny Patch Project, VFW, and the Darien Lions Club, which is one of the largest in the state. These groups serve others through food pantries, holiday giving, clothing drives, art and writing events, and scholarships.

It is an honor and privilege to congratulate Darien on its 50 years of growth and accomplishments. I congratulate Mayor Joseph Marchese, the City of Darien’s Birthday Committee, and each of its citizens on this wonderful milestone.

PERSONAL EXPLANATION

HON. GWEN MOORE
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 12, 2019
Ms. MOORE. Madam Speaker, on December 10th, I missed roll call vote 660. Had I been present, I would have voted AYE.

HONORING THE WILLINGBORO HIGH SCHOOL CHIMERAS FOR WINNING THE NJSIAA REGIONAL FOOTBALL CHAMPIONSHIP

HON. ANDY KIM
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 12, 2019
Mr. KIM. Madam Speaker, I rise today to congratulate the Willingboro High School Chimeras football team, who last week won the NJSIAA Group 1 South Regional Championship.

Led by head coach Steve Everette and a strong roster from starters to reserves, the Chimeras showed outstanding teamwork and perseverance all season. From a dominant offensive line to their lockdown defense, the team’s balance and focus helped them bring home the Group 1 South Regional title.

In the final, Willingboro’s strong defense, rushing attack and ability to stretch the field helped propel them to a 50–14 victory over Penns Grove. The Chimeras played through pressure in the final to finish the season on a 12-game winning streak, ending the year 12–1.

I’m proud to be able to celebrate the success of some of the talented student-athletes from my district in New Jersey. I want to congratulate Coach Everette and the Willingboro team on their tremendous season, and for bringing the title back to Burlington County.

PERSONAL EXPLANATION

HON. JASON CROW
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 12, 2019
Mr. CROW. Madam Speaker, on December 11, 2019, I was unable to be present to cast my vote on the Motion to Table the Motion to Reconsider H.R. 729, because I was unaware that an additional vote had been called. Had I been present for roll call No. 671, I would have voted “AYE.”

IN RECOGNITION OF THE GUADALUPE CENTERS CHARTER HIGH SCHOOL BOYS SOCCER TEAM

HON. EMANUEL CLEAVER
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 12, 2019
Mr. CLEAVER. Madam Speaker, I rise today to commemorate the victory of the Guadalupe Centers Charter High School boys soccer team. This victory establishes the team as Missouri’s Class 2 Champions—the first championship title in school and program history. The achievement of such a title undoubtedly required strong leadership matched with unparalleled levels of passion and dedication. I am proud to represent the exemplary work of athletes like these in Missouri’s Fifth Congressional District.

Not only did they finish this season with a winning 22–2 record, the team—comprised of first or second-generation Americans—demonstrates a uniquely American story of hard work, diversity, sacrifice, and perseverance. Embracing both their differences and their similarities, this united identity gave the team a unique sense of purpose and comradery that eventually led them down the path to victory. For many, the struggles along the path to this achievement were symbolic of the sacrifices many of their parents and loved ones made for them to have this opportunity.

Under the direction of head coach, Ricky Olivares, the Guadalupe Center Aztecs made their first tournament appearance in school history. They eventually reached the state final by beating Southern Boone High School 2–0 with sophomore Luckyboy Tarley scoring both goals in the shutout. On November 23, 2019, Guadalupe Centers High School went head-to-head with St. Louis Priory School. In a tense game, senior leader David Portillo scored three of the four goals, Tarley scoring the other. With the support of freshman goalkeeper Henry Godinez and the rest of the team, the Aztecs pulled off a 4–3 win over the four-time state champions, Priory.

It is my pleasure to congratulate each of the vitally important team members that helped Guadalupe Centers Charter High School claim this title, and I encourage each player to continue challenging themselves to pursue all that they do with the same passion and tenacity displayed in this historic season.

Madam Speaker, please join with Missouri’s Fifth Congressional District in celebrating the victories of the Guadalupe Centers Aztecs, and I encourage my fellow citizens and constituents to unite together under the same spirit of perseverance, collaboration, and hard work that led this remarkable team to their monumental victory.

PERSONAL EXPLANATION

HON. RON ESTES
OF KANSAS
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 12, 2019
Mr. ESTES. Madam Speaker, I was not present for Roll Call vote No. 675 on Motion to table the motion to reconsider H.R. 5038. If present, I would have voted “nay.”

MR. HENRY COLE’S 100TH BIRTHDAY

HON. JOHN LEWIS
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 12, 2019
Mr. LEWIS. Madam Speaker, on Thursday, December 19, 2019, Mr. Henry Cole of Washington, D.C. will celebrate his centennial birthday.

Mr. Cole and his nine siblings were born and raised right here in the nation’s capital, where he developed a love for his family, his hometown, and his nation. During World War II, Mr. Cole honorably served in the United States Navy and was stationed at Pearl Harbor in Honolulu, Hawaii.

After the war, he returned home to Washington, D.C., where he continued his pursuit of the American Dream. Mr. Cole worked as a machinist at the Washington Navy Yard, opened a family-owned restaurant with his sister, and eventually retired from the United States Postal Service in 1980 after a long, distinguished career in public service.

I believe one of the most moving and inspirational aspects of Mr. Cole’s legacy and life is the love affair he shared with Gloria, his beloved wife of 68 years. Together, they raised seven children—Theodore, Sheila, Sylvia, Linda, Rex, Alice and Don. Those seeds planted with love continue to flourish in their 25 grandchildren, great-grandchildren, and great-great-grandchildren.

Madam Speaker, there is an African proverb that says, “What you help a child to love can be more important than what you help him to learn.” Mr. Cole adored his family, his country, and his community; however, he never restricted his devotion and wisdom to his immediate family and maintained an open door and served as a father figure and role model to countless others.

As we strive towards realizing the dream of a nation at peace with itself and her neighbors, Mr. Cole witnessed and was an agent of change. On the behalf of a grateful nation, I thank this beloved patriarch for embodying courage, character, compassion for the last century.

For these reasons, Madam Speaker, I am proud to join the family and all who know and love Mr. Henry Cole in honoring him on the occasion of his 100th birthday.
December 12, 2019

CONGRESSIONAL RECORD — Extensions of Remarks

E1585

RECOGNIZING JAMES W. OXFORD, NATIONAL COMMANDER OF THE AMERICAN LEGION, FOR HIS DECADES OF SERVICE

HON. HARLEY ROUDA OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 2019

Mr. ROUDA. Madam Speaker, I rise today to recognize James W. “Bill” Oxford as the National Commander of the American Legion, for his service to our nation and his dedication to the American Legion.

Mr. Oxford served in the Marine Corps during the Vietnam War, was discharged as a sergeant in 1970, and later joined the North Carolina National Guard. He ultimately retired from the U.S. Army Reserve as a colonel after more than 34 years of military service.

Mr. Oxford, a Legionnaire since 1986, was elected National Commander of the American Legion on August 29, 2019, during the American Legion’s 101st National Convention.

Orange County is thrilled to welcome Mr. Oxford as he visits our beloved American Legion Post 291, which has been a fixture in the Newport Beach community for nearly 100 years.

I urge all members to join me in recognizing Mr. Oxford for his work on behalf of American veterans and legionnaires across the United States.

HONORIZING BITTLE PORTERFIELD III

HON. H. MORGAN GRIFFITH OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 2019

Mr. GRIFFITH. Madam Speaker, I rise in honor of Bittle Porterfield III, a Roanoke native, businessman, and champion of the area’s education and arts, who died on November 29, 2019 at the age of 75. Mr. Porterfield was incredibly involved in the Roanoke community, and his goal was to make the Roanoke Valley and Virginia a better place to live.

Bittle Porterfield III was born on March 9, 1944. He attended Roanoke College for his undergraduate degree. After graduating, Mr. Porterfield served in the United States Army for two years. He then earned a master’s in business administration at Virginia Tech. Mr. Porterfield worked in the beverage industry for most of his career, leading two family-run businesses.

In addition to business, Mr. Porterfield had a passion for education. He was the president of the Foundation for the Arts and Sciences, where he oversaw maintenance for three museums, three performing arts centers, and the region’s arts council. Mr. Porterfield was also the President of the Taubman Museum of Art.

Mr. Porterfield took any opportunity he saw to benefit the Roanoke Valley. This is evident in his service as Chairman for the Roanoke Valley Resource Authority, the Foundation for the Roanoke Valley, and the Roanoke Valley Business Council. Mr. Porterfield was also the President of the Roanoke Valley Chamber of Commerce.

The effort that Mr. Porterfield poured into education was noticed, and he was appointed to the State Council of Higher Education for Virginia. Additionally, he served on the Radford University Board of Visitors. Mr. Porterfield also used his passion for aviation at the Virginia Aviation Board, where he was a member. He also served as the Chairman of the Roanoke Regional Airport Commission.

The Roanoke Valley and the Commonwealth of Virginia were fortunate to have such a strong proponent and leader of education and business in their community.

Mr. Porterfield’s service also includes Charlotte Kelley Porterfield; his sons Bittle Wilson Porterfield IV and wife, Holly, and Forrest Kelley Porterfield and wife, Katie; and grandchildren Bittle Wilson Porterfield V, Jackson Watkins Porterfield, Forrest Shepperson Porterfield, and William Hines Porterfield. I offer my condolences to the Porterfield family on their loss.

IN RECOGNITION OF STEPHEN L. SANETTI’S DECADES OF SERVICE

HON. ROB BISHOP OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 2019

Mr. BISHOP of Utah. Madam Speaker, I rise today to recognize Stephen L. Sanetti for his decades of dedicated service upon his retirement as Chief Executive Officer of the National Shooting Sports Foundation.

Steve is a fierce defender and ardent supporter of our constitutional right to keep and bear arms, but is first and foremost an American patriot. A member of Virginia Military Institute’s Class of 1971, Steve graduated with honors before earning his Juris Doctor at Washington and Lee University School of Law. While attending VMI, Steve was a member of the Executive Committee, Battalion Operations, president of the Rifle and Pistol Club, and four-year member of the Rifle Team. I venture to say that Steve is a pretty great shot. From 1975 to 1978, Steve proudly wore the uniform of the United States Army in the First Cavalry Division Staff Judge Advocate at Ft. Hood, Texas, attaining the rank of Captain.

Steve continues to live by the Army core values of Loyalty, Duty, Respect, Selfless Service, Honor, Integrity, and Personal Courage to this day and holds true his oath to support the Constitution of the United States.

Following a two-year stint as Litigation Counsel at Marsh, Day & Calhoun in Connecticut, Steve was hired by Bill Ruger in 1980 as the first general counsel for one of the nation’s leading firearm manufacturing companies. For nearly three decades, Steve rose through the ranks to President and has devoted his life to Sturm, Ruger & Company, Inc. Without question, this prepared him well for taking over the helm as President and CEO of the National Shooting Sports Foundation—the trade association for America’s fire-arms and ammunition industry—and the Sporting Arms and Ammunition Manufacturers’ Institute. In his nearly 12 years at NSSF, Steve has guided the foundation through times of both turbulence and growth. Under Steve’s leadership, NSSF’s firearm safety and education program, Project ChildSafe®, has seen tremendous success and new partnerships have been established with the American Foundation for Suicide Prevention and Department of Veterans Affairs to address suicide and with ATF to prevent firearms from landing in the wrong hands. Because of Steve’s unwavering commitment to both developing genuine solutions that make for safer communities and respecting the rights of law-abiding citizens, NSSF continues to be a leading voice in the national conversation to promote firearm safety and responsibility. Steve can certainly take pride in his work at NSSF and in helping to ensure that future generations have opportunities to enjoy the great pastimes of hunting and the shooting sports.

I thank Steve for his service and love of country. As Steve begins the next chapter of his life, spending more time with family—in particular his grandchildren—and growing the next generation of sportsmen, I congratulate him and wish him, his wife Carole, their children and grandchildren all the best.

CONGRATULATING MR. AND MRS. DONALD COLE

HON. ROBERT B. ADERHOLT OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 2019

Mr. ADERHOLT. Madam Speaker, I want to express my sincere congratulations to Mr. and Mrs. Donald Cole on the occasion of their 50th wedding anniversary on December 14, 1991.

Donald Dwight Cole and Edna Earl Mize married on December 14, 1969 at Millport Church of Christ. Their story began when they met in study hall as juniors in high school, and they were the only students in the class. Don grew up Millport, AL, while Edna grew up all over the country as the daughter of a U.S. Air Force veteran until the military brought her to Millport in 1965. It is the classic love story. Don, the football player, and Edna, soon to become Homecoming Queen, fell in love as high school sweethearts and soon found themselves at the University of Alabama.

After college graduation Don was commissioned in the U.S. Air Force and Edna began learning English. Over the next few decades the Air Force would station them in Aurora, CO; Goldsboro, NC; Washington, DC; Uijeongbu, South Korea; Colorado Springs, CO; Nashville, TN; back to Colorado Springs, CO, and then to their last tour back in Bowie, MD.

In their retirement years they continue to serve in their church, Columbus Church of Christ, run the consignment store Cole’s Collections, serve on the South Lamar Rescue Squad, Millport Chamber of Commerce and the C3 Northwest Alabama Economic Alliance. They learned their strong faith, work and personal ethics from parents, which they’ve also taught by example to their two children, Eric Lee Cole (Kensington, MD) and Emily Cole Monahan (Columbus, MS). They have always stayed close to their roots and family in Lamar County, and remain avid Alabama football fans. Celebrated now by their 2 children (Eric and Emily), 2 grandchildren Thomas Cole Monahan (Columbus, MS) and Ryan Lee Cole (Kensington, MD) . . . theirs is truly a love story of obedience to God, loyalty and perseverance.

Fifty years later their love story, and the Air Force, have taken them all over the world and
included countless adventures and friends, but they will tell you that their faith and their family has been their greatest blessing. Back on November 24, 2019, their children hosted a 50th Wedding Anniversary reception from 2:00 to 4:00 at Columbus Church of Christ in Columbus, Mississippi.

As the Cole’s representative to Congress, I send them my best wishes and my prayers that they will have many more happy years together.

IN RECOGNITION OF CATHY COOMER

HON. MARK MEADOWS
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 12, 2019

Mr. MEADOWS. Madam Speaker, I rise today to honor Ms. Cathy Coomer, who will retire on December 31, 2019 after thirty years of dedicated service with the Buncombe County Government.

Ms. Coomer’s dedication to serving North Carolina began on January 12, 1990. As Safety Officer, Ms. Coomer is responsible for the safety and well-being of a workforce of 1,500 employees. She has been an integral part of the Buncombe County Emergency Services Operation and earned her certificate as a North Carolina Executive Level Emergency Manager.

Throughout her career, Ms. Coomer has held leadership positions on numerous state and local committees. She served as President for the Western North Carolina Safety and Health School and the Western North Carolina Safety Council. She served as President for the North Carolina Association of Local Government Employee Safety Officials. She was also on the Conference Program Committee with the North Carolina Emergency Management Association.

Ms. Coomer’s leadership and dedication to the people in North Carolina was on clear display during her efforts in response to numerous emergency and disaster situations, including the Blizzard of 1993, Hurricane Frances, Hurricane Ivan, Hurricane Irene, and several other various non-declared events.

It is my great pleasure to celebrate Ms. Cathy Coomer before the United States House of Representatives and thank her for diligent service to her community, the great State of North Carolina, and this country.

RECOGNIZING THE CENTENNIAL OF THE SEBASTIAN INLET DISTRICT

HON. BILL POSEY
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 12, 2019

Mr. POSEY. Madam Speaker, this year marks the centennial anniversary of the Sebastian Inlet District, which not only serves as a premier recreational destination for families to enjoy but plays an important role in our local economy.

Created in May of 1919 by a special act of the Florida State Legislature, the Sebastian Inlet District was originally chartered to maintain the navigational channel between the Atlantic Ocean and our Indian River Lagoon. In the mid 1800’s, the first settlers in the town which would become Sebastian, saw the opportunity to create an opening on the barrier island.

By 1905 there had been six attempts to make the official “cut” but it wasn’t until Roy O. Couch, now a very prominent name in the district, formed the Sebastian Inlet Association and persevered to get the necessary permits. His efforts came to fruition in 1919 when the official charter was granted and in 1924, when the Sebastian Inlet was officially opened for business.

Today, the Sebastian Inlet continues to attract visitors and locals alike, having become a popular spot for fishing, boating and surfing, all within the scenic backdrop of Florida’s scenic East Coast. Water sports enthusiasts and naturalists have enjoyed Sebastian State Inlet Park, now one of the most visited parks in Florida, for its wildlife and natural beauty.

Since its establishment, the Sebastian Inlet has played an important role in promoting economic prosperity for the area, having an annual economic impact of 200 million dollars for the region. The inlet is also responsible for protecting our natural treasures such as our Indian River Lagoon, home to some of the most biodiverse marine life in the country.

I am proud to be able to celebrate the success of some of the talented student-athletes from my district in New Jersey. I want to congratulate Coach Gushue and the Shawnee team on their tremendous season, and for bringing the title back to Burlington County.
Chamber Action

Routine Proceedings, pages S6999–S7034


Measures Reported:

- S. 877, to prohibit the sale of shark fins. (S. Rept. No. 116–173)
- S. 1822, to require the Federal Communications Commission to issue rules relating to the collection of data with respect to the availability of broadband services, with an amendment in the nature of a substitute. (S. Rept. No. 116–174)
- S. 2641, to promote United States national security and prevent the resurgence of ISIS, with an amendment in the nature of a substitute.
- S. Con. Res. 23, honoring the 75th Anniversary of the Battle of the Bulge fought during World War II, recognizing the valiant efforts of the Allied Forces in December 1944, and remembering those who made the ultimate sacrifice, all of which contributed to the Allied victory in the European Theater, after agreeing to the following amendment proposed thereto: McConnell (for Cramer) Amendment No. 1256, to add language to the preamble.

Measures Passed:

Armenian Genocide: Committee on Foreign Relations was discharged from further consideration of S. Res. 150, expressing the sense of the Senate that it is the policy of the United States to commemorate the Armenian Genocide through official recognition and remembrance, and the resolution was then agreed to.

Legal Representation: Senate agreed to S. Res. 455, to authorize representation by the Senate Legal Counsel in the Case of Richard Arjun Kaul v. Senator Charles Schumer, et al.

Battle of the Bulge: Senate agreed to S. Con. Res. 23, honoring the 75th Anniversary of the Battle of the Bulge fought during World War II, recognizing the valiant efforts of the Allied Forces in December 1944, and remembering those who made the ultimate sacrifice, all of which contributed to the Allied victory in the European Theater, after agreeing to the following amendment proposed thereto:

Conference Reports:

National Defense Authorization Act—Cloture: Senate began consideration of the conference report to accompany S. 1790, to authorize appropriations for fiscal year 2020 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year.

A motion was entered to close further debate on the conference report to accompany the bill, and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, and pursuant to the unanimous-consent agreement of Thursday, December 12, 2019, a vote on cloture will occur at 5:30 p.m., on Monday, December 16, 2019.

A unanimous-consent agreement was reached providing that at approximately 3:00 p.m., on Monday, December 16, 2019, Senate resume consideration of the conference report to accompany the bill; and that notwithstanding the provisions of Rule XXII, the motion to invoke cloture filed during the session of Thursday, December 12, 2019, ripen at 5:30 p.m., on Monday, December 16, 2019.

Appointments:

Board of Visitors of the U.S. Coast Guard Academy: The Chair, on behalf of the Vice President, pursuant to 14 U.S.C. 194(a), as amended by Public Law 101–595, and further amended by Public Law 113–281, appointed the following Senator to the Board of Visitors of the U.S. Coast Guard Academy: Senator Wicker.

Nominations Confirmed: Senate confirmed the following nominations:

- By 52 yeas to 39 nays (Vote No. EX. 395), Aurelia Skipwith, of Indiana, to be Director of the United States Fish and Wildlife Service.
By 70 yeas to 22 nays (Vote No. EX. 396), John Joseph Sullivan, of Maryland, to be Ambassador to the Russian Federation.

By 72 yeas to 18 nays (Vote No. EX. 397), Stephen Hahn, of Texas, to be Commissioner of Food and Drugs, Department of Health and Human Services.

Messages from the House:

Pages S7026

Measures Referred:

Pages S7026

Executive Reports of Committees:

Pages S7026

Additional Cosponsors:

Pages S7027–29

Statements on Introduced Bills/Resolutions:

Pages S7029–33

Additional Statements:

Pages S7024–26

Amendments Submitted:

Page S7033

Authorities for Committees to Meet:

Page S7033

Record Votes: Three record votes were taken today. (Total—397) Pages S7009–10, S7015

Adjournment: Senate convened at 10 a.m. and adjourned at 5 p.m., until 11:45 a.m. on Friday, December 13, 2019. (For Senate’s program, see the remarks of the Majority Leader in today’s Record on page S7034.)

Committee Meetings

(Committees not listed did not meet)

NATIONAL SECURITY ISSUES IN THE MIDDLE EAST

Committee on Armed Services: Committee received a closed briefing on national security issues in the Middle East from John C. Rood, Under Secretary for Policy, Major General Jeffrey B. Taliaferro, USAF, Vice Director for Operations, Joint Staff, and Christopher J. Almont, Defense Intelligence Officer for the Middle East, Defense Intelligence Agency, all of the Department of Defense.

COAST GUARD ARCTIC STRATEGIC OUTLOOK

Committee on Commerce, Science, and Transportation: Subcommittee on Security concluded a hearing to examine expanding opportunities, challenges, and threats in the Arctic, focusing on the Coast Guard Arctic Strategic Outlook, after receiving testimony from Admiral Charles W. Ray, Vice Commandant, Coast Guard, Department of Homeland Security; and Heather A. Conley, Center for Strategic and International Studies, and Sherri Goodman, and Mike Sfraga, both of the Woodrow Wilson International Center for Scholars, all of Washington, D.C.

BUSINESS MEETING

Committee on Energy and Natural Resources: Committee ordered favorably reported the following business items:

S. 225, to provide for partnerships among State and local governments, regional entities, and the private sector to preserve, conserve, and enhance the visitor experience at nationally significant battlefields of the American Revolution, War of 1812, and Civil War, with an amendment in the nature of a substitute;

S. 258, to prohibit oil and gas leasing on the National Forest System land in the Ruby Mountains Ranger District located in the Humboldt-Toiyabe National Forest, Elko and White Pine Counties, Nevada, with an amendment in the nature of a substitute;

S. 298, to establish the Springfield Race Riot National Historic Monument in the State of Illinois, with an amendment in the nature of a substitute;

S. 327, to amend the Federal Lands Recreation Enhancement Act to provide for a lifetime National Recreational Pass for any veteran with a service-connected disability, with an amendment in the nature of a substitute;

S. 389, to authorize the Society of the First Infantry Division to make modifications to the First Division Monument located on Federal land in Presidential Park in the District of Columbia, with an amendment in the nature of a substitute;

S. 430, to extend the Secure Rural Schools and Community Self-Determination Act of 2000, with an amendment in the nature of a substitute;

S. 434, to provide for a report on the maintenance of Federal land holdings under the jurisdiction of the Secretary of the Interior, with an amendment in the nature of a substitute;

S. 490, to designate a mountain ridge in the State of Montana as “B-47 Ridge”, with an amendment in the nature of a substitute;

S. 526, to withdraw certain Bureau of Land Management land from mineral development, with an amendment in the nature of a substitute;

S. 641, to update the map of, and modify the maximum acreage available for inclusion in, the Yucca House National Monument, with an amendment in the nature of a substitute;

S. 774, to adjust the boundary of the Santa Monica Mountains National Recreation Area to include the Rim of the Valley Corridor, with an amendment;

S. 1152, to provide for the transfer of administrative jurisdiction over certain parcels of Federal land in Arlington, Virginia, with an amendment;

S. 1262, to designate certain land administered by the Bureau of Land Management and the Forest
Service in the State of Oregon as wilderness and national recreation areas, to withdraw certain land located in Curry County and Josephine County, Oregon, from all forms of entry, appropriation, or disposal under the public land laws, location, entry, and patent under the mining laws, and operation under the mineral leasing and geothermal leasing laws, with an amendment;

S. 1890, to provide for grants for energy efficiency improvements and renewable energy improvements at public school facilities;

S. 2108, to amend section 6903 of title 31, United States Code, to provide for additional population tiers;

S. 2393, to promote a 21st century energy workforce, with an amendment in the nature of a substitute;

S. 2399, to amend the Energy Policy Act of 2005 to improve State loan eligibility for projects for innovative technology, with an amendment;

S. 2660, to establish a grant program for wind energy research, development, and demonstration, with an amendment; and

H.R. 617, to authorize the Department of Energy to conduct collaborative research with the Department of Veterans Affairs in order to improve healthcare services for veterans in the United States.

BUSINESS MEETING

Committee on Health, Education, Labor, and Pensions: Committee ordered favorably reported the following business items:

S. 2971, to amend and reauthorize the Child Abuse Prevention and Treatment Act, with an amendment in the nature of a substitute;

S. 2997, to revise and extend health workforce programs under title VII of the Public Health Service Act, with an amendment in the nature of a substitute;

S. 2683, to establish a task force to assist States in implementing hiring requirements for child care staff members to improve child safety, with an amendment in the nature of a substitute;

S. 2927, to amend the Public Health Service Act to provide that the authority of the Director of the National Institute on Minority Health and Health Disparities to make certain research endowments applies with respect to both current and former centers of excellence; and

The nomination of Crosby Kemper III, of Missouri, to be Director of the Institute of Museum and Library Services.

NOMINATION

Committee on Rules and Administration: Committee concluded a hearing to examine the nomination of J. Brett Blanton, of Virginia, to be Architect of the Capitol, after the nominee testified and answered questions in his own behalf.

House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: 22 public bills, H.R. 5406–5427; and 4 resolutions, H. Con. Res. 79–80; and H. Res. 762–763 were introduced.

Additional Cosponsors: Page H10259

Reports Filed: Reports were filed today as follows:

H.R. 1620, to amend the Federal Water Pollution Control Act to reauthorize the Chesapeake Bay Program (H. Rept. 116–338);

H.R. 2548, to modify eligibility requirements for certain hazard mitigation assistance programs, and for other purposes, with an amendment (H. Rept. 116–339, Part 1);

H.R. 4719, to amend the Federal share of the fishing safety standards grants, with an amendment (H. Rept. 116–340);

H.R. 3256, to amend the Homeland Security Act of 2002 to reauthorize and improve the Chemical Facility Anti-Terrorism Standards Program, and for other purposes, with an amendment (H. Rept. 116–341, Part 1);

H.R. 4704, to direct the Director of the National Science Foundation to support multidisciplinary research on the science of suicide, and to advance the knowledge and understanding of issues that may be associated with several aspects of suicide including intrinsic and extrinsic factors related to areas such as wellbeing, resilience, and vulnerability, with an amendment (H. Rept. 116–342);

H.R. 5065, to amend the Small Business Act to provide re-entry entrepreneurship counseling and
training services for formerly incarcerated individuals, and for other purposes (H. Rept. 116–343); and

H.R. 5078, to amend the Small Business Act to provide re-entry entrepreneurship counseling and training services for incarcerated individuals, and for other purposes (H. Rept. 116–344). Pages H10256–57

Meeting Hour: Agreed by unanimous consent that when the House adjourns today, it adjourn to meet at 12 noon tomorrow, December 13th. Page H10127


Rejected the Upton motion to recommit the bill to the Committee on Energy and Commerce with instructions to report the same back to the House forthwith with an amendment, by a yea-and-nay vote of 196 yeas to 226 nays, Roll No. 681. Pages H10223–24

Agreed to:

Tonko amendment (No. 2 printed in part B of H. Rept. 116–334) that requires CMS to create and implement a measure in the Star Ratings program evaluating Medicare Advantage and Part D plans on how well they provide access to biosimilar drugs; Pages H10202–04

Peters amendment (No. 3 printed in part B of H. Rept. 116–334) that amends the Public Health Service Act to authorize a pilot program to develop, expand, and enhance the commercialization of biomedical products, and for other purposes; Pages H10204–05

Kennedy amendment (No. 4 printed in part B of H. Rept. 116–334) that requires another Senate confirmed officer with HHS to carry out the negotiation duties should the Secretary of HHS have a conflict of interest; the General Counsel of HHS would be responsible for identifying these conflicts; Pages H10205–06

Kennedy amendment (No. 6 printed in part B of H. Rept. 116–334) that expresses the Sense of Congress regarding the impact of the high cost of prescription drugs on communities of color and persons living in rural or sparsely populated areas of the United States; Pages H10208–10

Axne amendment (No. 8 printed in part B of H. Rept. 116–334) that establishes a grant program for states to reduce the burdens associated with health care administrative work and reduces HHS administrative costs by 50% over 10 years; Pages H10211–14

Finkenauer amendment (No. 9 printed in part B of H. Rept. 116–334) that requires drug companies to disclose truthful and non-misleading pricing information about prescription drugs and biological products when they advertise these products directly to consumers; Pages H10214–15

Houlahan amendment (No. 12 printed in part B of H. Rept. 116–334) that increases funding for clinical trials at NIH and ban the use of spread pricing by PBMs as it relates to Medicaid; Pages H10217–19

O'Halleran amendment (No. 5 printed in part B of H. Rept. 116–334) that creates a grant program within HHS for hospitals located in rural and medically underserved areas, including Critical Access Hospitals, to cover the start-up costs for establishing a Graduate Medical Education (GME) program or a partnership with a hospital that has an existing program; would include a reporting requirement for GAO to analyze whether residents continue to practice in a rural or medically underserved area after completing their training (by a recorded vote of 351 ayes to 73 noes, Roll No. 677); Pages H10206–08, H10220

Gottheimer amendment (No. 7 printed in part B of H. Rept. 116–334) that requires an HHS study to identify conditions without an FDA-approved treatment where the development of a treatment would fill an unmet medical need for a serious or life-threatening condition or rare disease; requires HHS to identify appropriate incentives that would lead to the development of such treatments (by a recorded vote of 380 ayes to 45 noes, Roll No. 678); Pages H10210–11, H10221

Luria amendment (No. 10 printed in part B of H. Rept. 116–334) that makes clear that federal employee health plans are covered by the price reduction provisions of the bill (by a recorded vote of 231 ayes to 192 noes, Roll No. 679); and Pages H10215–16, H10221–22

Cunningham amendment (No. 11 printed in part B of H. Rept. 116–334) that allows the Veteran’s Administration to benefit from Maximum Fair Pricing guidelines (by a recorded vote of 234 ayes to 192 noes, Roll No. 680). Pages H10216–17, H10222

Rejected:

Walden amendment (No. 1 printed in part B of H. Rept. 116–334) that sought to include provisions in the bill related to Medicare Parts B&D, drug price transparency, Medicare Part D benefit redesign, MedPAC, Medicaid, FDA, and revenue provisions (by a recorded vote of 201 ayes to 223 noes, Roll No. 676). Pages H10167–H10202, H10219–20
H. Res. 758, the rule providing for consideration of the bills (H.R. 3) and (H.R. 5038) and the conference report to accompany the bill (S. 1790) was agreed to yesterday, December 11th.

Senate Message: Message received from the Senate today appears on page H10234.

Quorum Calls—Votes: Two yea-and-nay votes and five recorded votes developed during the proceedings of today and appear on pages H10219–20, H10220, H10221, H10221–22, H10222, H10224, and H10225. There were no quorum calls.

Adjournment: The House met at 9 a.m. and adjourned at 4:12 p.m.

Program for Friday: House will meet in Pro Forma session at 12 noon.

Committee Meetings

EXAMINING THE EDUCATION DEPARTMENT’S IMPLEMENTATION OF BORROWER DEFENSE

Committee on Education and Labor: Full Committee held a hearing entitled “Examining the Education Department’s Implementation of Borrower Defense”. Testimony was heard from Betsy DeVos, Secretary, Department of Education.

MEMBER DAY HEARING

Committee on Foreign Affairs: Full Committee held a hearing entitled “Member Day Hearing”. Testimony was heard from Representatives Case, Garamendi, Green of Texas, Hill of Arkansas, Meng, Roy, and Steil.

MISCELLANEOUS MEASURE

Committee on the Judiciary: Full Committee continued a markup on H. Res. 755, the “Articles of Impeachment Against President Donald J. Trump”.

Joint Meetings

No joint committee meetings were held.

COMMITTEE MEETINGS FOR FRIDAY, DECEMBER 13, 2019

(Committee meetings are open unless otherwise indicated)

Senate

No meetings/hearings scheduled.

House

Committee on the Judiciary, Full Committee, continue markup on H. Res. 755, the “Articles of Impeachment Against President Donald J. Trump”, 10 a.m., 1100 Longworth.
Next Meeting of the SENATE
11:45 a.m., Friday, December 13

Senate Chamber

Program for Friday: Senate will meet in a pro forma session.

Next Meeting of the HOUSE OF REPRESENTATIVES
12 noon, Friday, December 13

House Chamber

Program for Friday: House will meet in Pro Forma session at 12 noon.

Extensions of Remarks, as inserted in this issue

HOUSE

Aderholt, Robert B., Ala., E1585
Bishop, Rob, Utah., E1585
Burgess, Michael C., Tex., E1583
Castañeda, Carol, Ill., E1583
Cleaver, Emanuel, Mo., E1581, E1584
Collins, Doug, Ga., E1583
Crow, Jason, Col., E1584
Estes, Ron, Kans., E1584
Garamendi, John, Calif., E1582
Griffith, H. Morgan, Va., E1585
Kim, Andy, N.J., E1583, E1584, E1586
Lewis, John, Ga., E1584
Meadows, Mark, N.C., E1586
Moore, Gwen, Wisc., E1584
Panetta, Jimmy, Calif., E1581
Pappas, Chris, N.H., E1581
Posey, Bill, Fla., E1586
Rouda, Harley, Calif. E1585
Stefanik, Elise M., N.Y., E1582
Trahan, Lori, Mass., E1581

Congressional Record

The Congressional Record (USPS 087–390). The Periodicals postage is paid at Washington, D.C. The public proceedings of each House of Congress, as reported by the Official Reporters thereof, are printed pursuant to directions of the Joint Committee on Printing as authorized by appropriate provisions of Title 44, United States Code, and published for each day that one or both Houses are in session, excepting very infrequent instances when two or more unusually small consecutive issues are printed one time. Public access to the Congressional Record is available online through the U.S. Government Publishing Office, at www.govinfo.gov, free of charge to the user. The information is updated online each day the Congressional Record is published. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202–512–1800, or 866–512–1800 (toll-free). E-Mail, contactcenter@gpo.gov. To place an order for any of these products, visit the U.S. Government Online Bookstore at: bookstore.gpo.gov. Mail orders to: Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197–9000, or phone orders to 866–512–1800 (toll-free), 202–512–1800 (D.C. area), or fax to 202–512–2104. Remit check or money order, made payable to the Superintendent of Documents, or use VISA, MasterCard, Discover, American Express, or GPO Deposit Account. Following each session of Congress, the daily Congressional Record is revised, printed, permanently bound and sold by the Superintendent of Documents in individual parts or by sets. With the exception of copyrighted articles, there are no restrictions on the republication of material from the Congressional Record.

POSTMASTER: Send address changes to the Superintendent of Documents, Congressional Record, U.S. Government Publishing Office, Washington, D.C. 20402, along with the entire mailing label from the last issue received.