Medal of Honor represents and how ordinary Americans, through courage, sacrifice, selfless service and patriotism, can challenge fate and change the course of history.

S. 908
At the request of Mr. McConnell, his name was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 947
At the request of B. Ayh, the name of the Senator from New Hampshire (Mrs. Shaheen) was added as a cosponsor of S. 906, supra.

S. 97
At the request of Mrs. Lincoln, the name of the Senator from Mississippi (Mr. Cochran) was added as a cosponsor of S. 947, a bill to amend title XVIII of the Social Security Act to provide for the treatment of certain physician pathologies services under the Medicare program.

S. 962
At the request of Mr. Cardin, his name was added as a cosponsor of S. 962, a bill to authorize appropriated funds for fiscal years 2009 through 2013 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes.

S. 977
At the request of Mr. Durbin, the name of the Senator from New Hampshire (Mr. Shaheen) was added as a cosponsor of S. 977, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 1023
At the request of Mr. Dorgan, the name of the Senator from Montana (Mr. Tester) was added as a cosponsor of S. 1023, a bill to establish a non-profit corporation to communicate United States entry policies and otherwise promote leisure, business, and scholarly travel to the United States.

S. 1035
At the request of Mr. Cornyn, the names of the Senator from Florida (Mr. Martinez), the Senator from Montana (Mr. Tester) and the Senator from Tennessee (Mr. Corker) were added as cosponsors of S. 1035, a bill to amend the Federal Uniformed Services Absentee Voting Act to improve procedures for the collection and delivery of marked absentee ballots of absent overseas uniformed service voters, and for other purposes.

S. 1050
At the request of Mr. Rockefeller, the name of the Senator from the Rhode Island (Mr. Whitehouse) was added as a cosponsor of S. 1050, a bill to amend title XXVII of the Public Health Service Act to establish Federal standards for health insurance forms, quality, fair marketing, and honesty in out-of-network coverage in the group and individual health insurance markets, to improve transparency and accountability in those markets, and to establish a Federal Office of Health Insurance Oversight to monitor performance in those markets, and for other purposes.

S. 1075
At the request of Mr. Feingold, the name of the Senator from Connecticut (Mr. Lieberman) and the Senator from Illinois (Mr. Durbin) were added as cosponsors of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord’s Resistance Army through effective United States policy and strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord’s Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1099
At the request of Mr. Coburn, the name of the Senator from South Carolina (Mr. Graham) was added as a cosponsor of S. 1099, a bill to provide comprehensive solutions for the health care system of the United States, and for other purposes.

S. 1156
At the request of Mr. Harkin, the name of the Senator from Illinois (Mr. Durbin) was added as a cosponsor of S. 1156, a bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to reauthorize and improve the safe routes to school program.

S. 1157
At the request of Mr. Conrad, the names of the Senator from Utah (Mr. Hatch) and the Senator from Maine (Ms. Collins) were added as cosponsors of S. 1157, a bill to amend title XVIII of the Social Security Act to protect and preserve the Medicare savings plan, the Civil Service Retirement, the Civil Service Retirement, and the Federal Employees’ Retirement System, and for other purposes.

S. 1158
At the request of Ms. Stabenow, the names of the Senator from Vermont (Mr. Sanders) and the Senator from Ohio (Mr. Brown) were added as cosponsors of S. 1158, a bill to authorize the Secretary of Health and Human Services to conduct activities to rapidly advance treatments for spinal muscular atrophy, neuromuscular disease, and other pediatric diseases, and for other purposes.

S. 1160
At the request of Mr. Schumer, the name of the Senator from Alaska (Mr. Begich) was added as a cosponsor of S. 1160, a bill to provide housing assistance for very low-income veterans.

S. 1171
At the request of Mr. Pryor, the name of the Senator from Illinois (Mr. Durbin) was added as a cosponsor of S. 1171, a bill to amend title XVIII of the Social Security Act to restore State authority to waive the 35-mile rule for designating critical access hospitals under the Medicare Program.

S. 1180
At the request of Mr. Brownback, the name of the Senator from South Dakota (Mr. Johnson) was added as a cosponsor of S. J. Res. 14, a joint resolution to acknowledge a long history of official deprivations and ill-conceived policies by the Federal Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

S. CON. RES. 14
At the request of Mrs. Lincoln, the name of the Senator from Nebraska (Mr. Johanns), the Senator from Florida (Mr. Martinez), the Senator from Kentucky (Mr. Bunning) and the Senator from Colorado (Mr. Udall) were added as cosponsors of S. Res. 167, a bill commending the people who have sacrificed their personal freedoms to bring about democratic change in the People’s Republic of China and expressing sympathy for the families of the people who were killed, wounded, or imprisoned, on the occasion of the 20th anniversary of the Tiananmen Square Massacre in Beijing, China from June 3 through 4, 1989.

AMENDMENT NO. 1242
At the request of Mr. Bayh, the name of the Senator from Alabama (Mr. Begich) was added as a cosponsor of amendment No. 1242 intended to be proposed to H. R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees’ Retirement System, and for other purposes.

AMENDMENT NO. 1245
At the request of Ms. Stabenow, the name of the Senator from Maine (Ms. Collins) was added as a cosponsor of amendment No. 1245 intended to be proposed to H. R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees’ Retirement System, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS
By Mr. Akaka:
S. 1180. A bill to provide for greater diversity within, and to improve policy (Mr. Johanns) was added as a cosponsor of the Executive Service; to the Committee on Homeland Security and Governmental Affairs.
Mr. AKAKA. Mr. President, I rise today to join my colleague in the House of Representatives, Congressman DANNY K. DAVIS, to reintroduce the Senior Executive Service Diversity Assurance Act of 2009. This legislation promotes greater diversity among the Federal Government’s elite corps of senior executives and establishes a central office of management for these top-level Federal executives. Last year, we introduced this bill. Unfortunately, the Senate was not able to pass the bill before the adjournment of the 110th Congress.

The Senior Executive Service, SES, is the most senior level of career civil servants in the Federal Government. Senior executives are essential to an efficient and effective Federal Government in management and operations. Over the next ten years, ninety percent of the career SES will be eligible to retire. As agencies begin to consider employees for SES positions, it is important that they develop pipelines into highly qualified candidate pools that represent diverse backgrounds, and ensure that applicants of all races, ethnicities, genders, and abilities be equally considered. According to reports that they develop and manage Accountability Office, a diverse SES can bring a greater variety of perspectives and approaches to policy development, strategic planning, problem solving, and decision making.

A 2007 Federal Equal Opportunity Recruitment Program report by the Office of Personnel Management, OPM, showed that the percentage of minorities and women at senior pay levels in the Federal Government, including SES, is lower than in the total civilian labor force and the Federal workforce as a whole. According to a 2007 GAO report, only 15.8 percent of the SES was minorities compared to 32.8 percent of the entire workforce. The Senior Executive Service Diversity Assurance Act directly addresses this gap.

This legislation would require Federal agencies to submit a plan to OPM on how the agency is removing barriers to minorities, women, and individuals with disabilities to obtain appointments in the SES.

The bill encourages agencies, to the extent practicable, to include minorities, women, and individuals with disabilities to obtain appointments in the SES.

The bill establishes the Senior Executive Service Resource Office, SESSO, at OPM, which dissolved during an internal reorganization of OPM in 2003. This bill would restore SESSO’s responsibilities of overseeing and managing the corps of senior executives. SESSO would serve as a central resource for agencies and provide oversight of agency recruitment and candidate development. Additionally, it would be responsible for ensuring diversity within the SES through strategic partnerships, mentorship programs, and more stringent reporting requirements. For too long, ethnic minorities, women, and persons with disabilities have been under-represented and this bill attempts to reform shortcomings in the system.

In America’s workforce, we need leadership that reflects its varied cultures and backgrounds. A more diverse SES will better ensure that the executive management of the Federal Government is responsive to the needs, policies, and goals of the Nation.

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:

SEC. 1. SHORT TITLE.

This Act may be cited as the “Senior Executive Service Diversity Assurance Act of 2009”.

SEC. 2. FINDINGS.

Congress finds that—

(1) according to the most recent findings from the Government Accountability Office, a diverse SES can bring a greater variety of perspectives and approaches to policy development, strategic planning, problem solving, and decision making.

(2) the Federal Executive Service Diversity Assurance Act of 2009 shall be to—

(A) make recommendations to the Director with respect to regulations; and

(B) provide guidance to agencies, concerning the structure, management, and diverse composition of the Senior Executive Service.

(3) the term “agency” means the Director of OPM; and

(4) the term “Senior Executive Service” means the Senior Executive Service Resource Office established under section 4.

SEC. 4. SENIOR EXECUTIVE SERVICE RESOURCE OFFICE.

(a) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Director shall establish within the Office of Personnel Management an office to be known as the Senior Executive Service Resource Office.

(b) MISSION.—The mission of the SES Resource Office shall be to—

(1) improve the efficiency, effectiveness, and productivity of the Senior Executive Service through policy formulation and oversight;

(2) advance the professionalism of the Senior Executive Service; and

(3) ensure that, in seeking to achieve a Senior Executive Service reflective of the Nation’s diversity, recruitment is from qualified individuals from appropriate sources.

(c) FUNCTIONS.—In order to carry out the purposes of this section, the SES Resource Office shall—

(A) take such actions as the SES Resource Office considers necessary to manage and promote an efficient, elite, and diverse corps of senior executives by—

(i) creating policies for the management and improvement of the Senior Executive Service;

(ii) providing oversight of the performance, structure, and composition of the Senior Executive Service; and

(iii) providing guidance and oversight to agencies in the management of senior executive positions and candidates for the Senior Executive Service;

(B) be responsible for the performance management, and oversight of the Senior Executive Service pay and performance management system;

(C) develop standards for certification of each agency’s Senior Executive Service performance management system and evaluate all agency applications for certification;

(D) be responsible for coordinating, promoting, and monitoring programs for the advancement and training of senior executives, including the Senior Executive Service Federal Candidate Development Program;

(E) provide oversight of, and guidance to, agencies and candidates for the Senior Executive Service;

(F) be responsible for the administration of the qualifications review board;

(G) establish and maintain annual statistical data in a form that renders such statistics useful to appointing authorities and candidates on—

(i) the total number of career reserved positions at each agency; and

(ii) the total number of vacant career reserved positions at each agency;

(H) the composition of the Senior Executive Service with regard to race, ethnicity, sex, age, and individuals with disabilities;

(I) the composition of the Senior Executive Service with regard to race, ethnicity, sex, age, and individuals with disabilities;

(J) the composition of the Senior Executive Service with regard to race, ethnicity, sex, age, and individuals with disabilities.

(K) the composition of the Senior Executive Service with regard to race, ethnicity, sex, age, and individuals with disabilities.

(L) the composition of the Senior Executive Service with regard to race, ethnicity, sex, age, and individuals with disabilities.

(M) the composition of the Senior Executive Service with regard to race, ethnicity, sex, age, and individuals with disabilities.

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(Q) the composition of the Senior Executive Service with regard to race, ethnicity, sex, age, and individuals with disabilities.

(R) the composition of the Senior Executive Service with regard to race, ethnicity, sex, age, and individuals with disabilities.

(S) the composition of the Senior Executive Service with regard to race, ethnicity, sex, age, and individuals with disabilities.

(T) the composition of the Senior Executive Service with regard to race, ethnicity, sex, age, and individuals with disabilities.

(U) the composition of the Senior Executive Service with regard to race, ethnicity, sex, age, and individuals with disabilities.

(V) the composition of the Senior Executive Service with regard to race, ethnicity, sex, age, and individuals with disabilities.

(W) the composition of the Senior Executive Service with regard to race, ethnicity, sex, age, and individuals with disabilities.

(X) the composition of the Senior Executive Service with regard to race, ethnicity, sex, age, and individuals with disabilities.

(Y) the composition of the Senior Executive Service with regard to race, ethnicity, sex, age, and individuals with disabilities.

(Z) the composition of the Senior Executive Service with regard to race, ethnicity, sex, age, and individuals with disabilities.
SEC. 5. CAREER APPOINTMENTS.

(a) PROMOTING DIVERSITY IN THE CAREER APPOINTMENT PROCESS.—Section 3396(a)(8)(B) of title 5, United States Code, is amended by inserting after the first sentence the following:

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(8) The Director shall, to the extent practicable, ensure diversity of the board of any agency and of any group theretofore or other evaluation panel related to the merit staffing process, by including members of racial and ethnic minority groups, and women, and individuals with disabilities.
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(b) REGULATIONS.—Not later than 1 year after the date of the enactment of this Act, the Director shall promulgate regulations to implement subsection (a).

(c) PROTECTION OF INDIVIDUALLY IDENTIFIABLE INFORMATION.—For purposes of subsection (c)(2)(H) of section 3396(a) of title 5, United States Code, the SES Resource Office shall combine data for any agency that is not named in section 901(b) of chapter 31, in consultation with the Office of Personnel Management, the data collected under subparagraph (G);

(I) establish and promote mentoring programs to assist minority and other historically underrepresented members of the SES with advancing their careers; and

(J) conduct a continuing program for the recruitment and hiring of minority and other historically underrepresented members of the SES.

SEC. 6. ENCOURAGING A MORE DIVERSE SENIOR EXECUTIVE SERVICE.

(a) SENIOR EXECUTIVE SERVICE DIVERSITY PLANS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, each agency, in consultation with the Office of Personnel Management and the Chief Human Capital Officers Council, shall submit to the Office of Personnel Management a plan to enhance and maximize opportunities for the advancement and appointment of minorities, women, and individuals with disabilities in the agency to the Senior Executive Service. Agency plans shall be reflected in the strategic human capital plan.

(2) CONTENT.—The plans shall address how the agency is identifying and eliminating barriers that impair the ability of minorities, women, and individuals with disabilities to obtain appointments to the Senior Executive Service and any actions the agency is taking to provide advancement opportunities, including—

(A) conducting a review of minority, women, and individuals within the agency and outside the agency;

(B) establishing and maintaining training and education programs to foster leadership development;

(C) identifying career enhancing opportunities for agency employees;

(D) assessing internal availability of candidates for Senior Executive Service positions; and

(E) conducting an inventory of employee skills and potential gaps in skills and the distribution of skills.

(b) SUMMARY AND EVALUATION.—Not later than 180 days after the deadline for the submission of any report or update under subsection (a), the Director shall transmit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report summarizing and evaluating the agency plans or updates (as the case may be) so submitted.

(c) COORDINATION.—The Office of Personnel Management shall, in carrying out subsection (b), consult with the Office of the Director of Management of the Office of Management and Budget, the Office of the Director of National Intelligence, the Office of Personnel Management, the data collected under section 3396(a) of title 5, United States Code; and

(D) R EQUIREMENTS.—Not later than 1 year after the date of the enactment of this Act, the Director shall promulgate regulations to ensure that agencies conduct appropriate outreach to other agencies to identify candidates for Senior Executive Service positions.

(e) COOPERATION OF AGENCIES.—The Head of each agency shall provide the Office of Personnel Management with such information as the Office may require in order to carry out subsection (f).

(f) STAFFING.—The Director of the Office of Personnel Management shall make such appointments as necessary to staff the SES Resource Office.
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health screening conducted by the state or local public health department or its designee. An individual health screening will include the appropriate test for diabetes, high blood pressure, high cholesterol, obesity, and tobacco use. Insured individuals who screen positive for disease or obesity would be referred for treatment and for mental health screening and treatment to their existing providers or in-network providers. Individuals identified with chronic disease risk factors, such as high blood pressure or obesity, would be engaged in the community health interventions funded through the demonstration, such as walking programs, group exercise classes, or anti-smoking programs. Uninsured individuals who screen positive for chronic disease would be referred to the pre-selected clinical referral source for the demonstration site. Uninsured individuals who do not screen positive for chronic disease will receive information on healthy lifestyle choices and may also enroll in community level prevention interventions.

This program will not only conduct community-based prevention strategies, screenings and health assessments, but also help support follow-up care for uninsured individuals identified with chronic diseases, including determining eligibility for public programs. I would like to thank Dr. Mary Pulce and each of you who will be working in my office through the American Psychological Association and the American Association for the Advancement of Science, and Daniella Gratasse from Trust for America’s Health, for their work on this important prevention bill. I urge all of my colleagues to support this important legislation to help Americans adopt the healthiest lifestyles possible and to prevent chronic diseases in later life.

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.

SEC. 1. SHORT TITLE.

This Act may be cited as the "Healthy Living and Health Aging Demonstration Project Act of 2009".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Chronic diseases are the leading cause of death and disability in the United States. Seven in every 10 deaths are attributable to chronic disease, with more than 1,700,000 Americans dying each year. Approximately 131,000,000 Americans, representing 45 percent of the Nation’s population, have at least 1 chronic disease.

(2) In 2007, the United States spent over $2,200,000,000,000 on health care, with 75 cents out of every dollar spent going towards treatment of chronic disease. In public programs, treatment for chronic diseases constitutes an even higher percentage of total spending, with 83 cents of every dollar spent by Medicaid programs and more than 95 cents of every dollar spent by the Medicare program going towards costs related to chronic disease.

(3) Since 1987, the rate of obesity in the United States has doubled, accounting for a 20 to 30 percent increase in health care spending. Additionally, the percentage of young Americans who are overweight has tripled since 1987. If the prevalence of obesity were to level off at the rate from 1987, health care spending would be nearly 10 percent lower per person, for a total savings of nearly $300,000,000,000.

(4) The vast majority of cases of chronic disease could be better prevented or managed. The World Health Organization has estimated that if the major risk factors for chronic diseases were eliminated, at least 80 percent of all cases of heart disease, stroke, and type 2 diabetes could be prevented, while also averting more than 40 percent of cancer cases.

(5) Depressive disorders are also becoming increasingly common, chronic, and costly. In 2009, the University of Michigan Health System identified major depression as the fourth leading cause of disease worldwide, leading to more cases of disability than ischemic heart disease, cerebrovascular disease, or cancer. Research has shown that mental health screenings following disease diagnosis for diabetic patients can improve health while remaining cost-effective.

(6) A report by the Trust for America’s Health found that an annual investment of $10 per person in proven community-based programs to increase physical activity, improve nutrition, and prevent tobacco use and smoking could, within 5 years, save the United States more than $16,000,000,000 annually, with savings of more than $5,000,000,000 for Medicare and $1,900,000,000 for Medicaid, as well as over $9,000,000,000 in savings for private health insurance payers.

SEC. 3. DEMONSTRATION PROJECT FOR COMMUNITY-LEVEL PUBLIC HEALTH INTERVENTIONS.

(a) DEFINITIONS.—In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Centers for Medicare and Medicaid Services.

(2) CHRONIC DISEASE OR CONDITION.—The term "chronic disease or condition" means diabetes, hypertension, pulmonary diseases (including asthma), obesity, and any other disease or condition as determined by the Secretary of Health and Human Services.

(3) COMMUNITY-BASED PREVENTION AND INTERVENTION STRATEGY.—The term "community-based prevention and intervention strategy" means programs and services intended to prevent or reduce the incidence of chronic disease, including walking programs, group exercise classes, anti-smoking programs, healthy eating programs, increased access to nutritious and organic foods, programs and services that have been recommended by the Task Force on Community Preventive Services, and any programs or services that have been proposed by an eligible partnership and certified by the Director of the Centers for Disease Control and Prevention as evidence-based.

(4) DIRECTOR.—The term "Director" means the Director of the Centers for Disease Control and Prevention.

(5) MEDICARE.—The term "Medicare" means Medicare Part A and Part B as defined under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(6) PRE-MEDICARE ELIGIBLE INDIVIDUAL.—The term "Eligible Individual" means an individual who has attained age 55, but not age 65.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary, acting through the Administrator and in consultation with the Director, shall establish a demonstration project under which eligible partnerships, as described in subsection (d)(1), are awarded grants to examine whether community-based prevention and intervention strategies, targeted towards pre-Medicare eligible individuals, result in—

(A) lower rates of chronic diseases and conditions after such individuals become eligible for benefits under Medicare; and

(B) lower costs under Medicare.

(2) FEDERAL AGENCY RESPONSIBILITIES.—

(A) CENTERS FOR MEDICARE & MEDICAID SERVICES.—The Administrator shall have primary responsibility for administering and evaluating the demonstration project established under this section.

(B) CENTERS FOR DISEASE CONTROL AND PREVENTION.—The Director shall—

(i) certify that community-based prevention and intervention strategies proposed by eligible partnerships are evidence-based;

(ii) administer and provide grants for health screenings and risk assessments and community-based prevention and intervention strategies conducted by eligible partnerships; and

(iii) provide grants to designated clinical referral sites (as described in subsection (d)(1)(B)(ii)(I)) for reimbursement of administrative costs associated with their participation in the demonstration project.

(c) DURATION AND SELECTION OF PARTNERSHIPS.—

(1) DURATION.—The demonstration project shall be conducted for a 5-year period, beginning not later than 2010.

(2) NUMBER OF PARTNERSHIPS.—The Administrator, in consultation with the Director, shall select not more than 6 eligible partnerships.

(d) SELECTION OF PARTNERSHIPS.—

(1) ELIGIBLE PARTNERSHIPS.—Eligible partnerships shall be selected by the Administrator in a manner that ensures community-based partnerships represent racially, ethnically, economically, and geographically diverse populations, including urban, rural, and underserved areas; and gives priority to partnerships that include employers (as described in subsection (d)(1)(C)).

(2) REQUIRED ENTITIES.—An eligible partnership shall consist of a partnership between the following:

(I) A State or local public health department that shall—

(i) serve as the lead organization for the eligible partnership;

(ii) develop appropriate community-based prevention and intervention strategies and present such strategies to the Director for certification; and

(iii) administer certified community-based prevention and intervention strategies and conduct such strategies in association with local community organizations.
that desires to participate in the demonstration project in a manner that is consistent with State law and applicable clinic policy; and

(IV) provide mental health services or obtain an agreement with a designated mental health provider for referral and provision of such services.

(C) Optional Entities.—An eligible partnership may include other organizations as practicable and necessary to assist in community activities and to engage health care providers, insurers, employers, and other community stakeholders in meeting the goals of the demonstration project.

(2) Applications.—An eligible partnership that desires to participate in the demonstration project shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

(e) Use of Funds.—

(A) In General.—An eligible partnership shall use funds received under this section to conduct community-based prevention and intervention strategies and health screenings and risk assessments for Medicare-eligible individuals from a diverse selection of ethnic backgrounds and income levels.

(B) Community-Based Prevention and Intervention Strategy.—An eligible partnership, acting through the State or local health department, shall promote healthy lifestyle choices among pre-Medicare eligible individuals by implementing and conducting a certified community-based prevention and intervention strategy that shall be made available to all such individuals.

(3) Individual Health Screenings and Risk Assessments.—An eligible partnership, acting through the State or local public health department (or an appropriately designated facility), shall agree to provide the following:

(a) Screenings for Chronic Diseases and Conditions.—Individual health screenings for chronic diseases or conditions, which shall include appropriate tests for—

(i) hemoglobin A1c;

(ii) blood pressure;

(iii) high cholesterol;

(iv) body mass index;

(v) physical inactivity;

(vi) poor nutrition;

(vii) tobacco use; and

(viii) any other chronic disease or condition as determined by the Director.

(B) Mental Health Screenings.—A mental health screening and, if appropriate, referral for additional mental health services, for any individual who has been screened and diagnosed with a chronic disease or condition.

(4) Clinical Treatment for Chronic Diseases.—The eligible partnership shall agree to provide the following:

(A) Treatment and Prevention Referrals for Insured Individuals.—To refer an individual determined to be covered under a health benefit plan or coverage to a health provider for referral and provision of the following:

(i) to a provider under such program for further medical or mental health treatment; and

(ii) for enrollment in an appropriate community-based prevention and intervention strategy program.

(B) Treatment and Prevention Referrals for Uninsured Individuals.—To refer an individual determined to be without coverage under a health insurance program who has been screened for chronic disease or chronic disease risk factors (including high blood pressure, high cholesterol, obesity, or tobacco use) to the designated clinical referral site.

(i) for determination of eligibility for public health programs, or appropriate treatment (including, but not limited to) pursuant to the facility’s existing authority and funding and in accordance with applicable fees and payment collection as described in subsection (d)(4)(B)(i)(II); and

(ii) for enrollment in an appropriate community-based prevention and intervention strategy program.

(C) Healthy Individuals.—To provide an individual who is not diagnosed with a chronic disease and does not exhibit any chronic disease risk factors with appropriate information on healthy choices and available community-based prevention and intervention strategies.

(D) Rule of Construction.—Nothing in this section shall be construed as entitling an individual who participates in the demonstration project to benefits under Medicare.

(E) Monitoring.—The Secretary shall develop and administer a program to evaluate the effectiveness of the demonstration project by collecting the following:

(i) Health Risk Assessment Results.—Each eligible partnership shall maintain records of health information and results obtained during each individual’s health screening and risk assessment to establish baseline data for continued monitoring and assessment of such individuals.

(ii) Medicare Examination Results.—The Secretary shall collect medical information obtained during the initial preventive physical examination under Medicare (as defined in section 1861(r) of the Social Security Act (42 U.S.C. 1395 agenda) for the individuals who received health screenings and risk assessments through the demonstration project.

(F) Evaluation.—

(A) Independent Research.—The Secretary, in consultation with the Director and the Administrator, shall enter into a contract with an independent entity or organization that has demonstrated—

(i) prior experience in population-based assessment of health interventions designed to prevent or treat chronic diseases and conditions; and

(ii) knowledge and prior study of the general health and lifestyle behaviors of pre-Medicare eligible individuals.

(B) Evaluation Design.—The entity or organization selected by the Secretary under paragraph (A) shall—

(i) develop and conduct an evaluation of the demonstration project, including—

(A) population-based design that compares those populations targeted under the demonstration project with a matched control group; and

(B) a follow-up design that measures changes in health indicators (including improved diet or increased physical activity) and health outcomes in the targeted populations who participated in individual health risk assessments and, prior to completion of the demonstration project, became eligible for benefits under Medicare.

(h) Reporting.—

(I) Progress Report.—Not later than 3 years after implementation of the demonstration project, the Secretary shall prepare and submit a report on the status of the project to Congress, including—

(A) the progress and results of any activities conducted under the demonstration project; and

(B) identification of health indicators (such as improved diet or increased physical activity) that have been determined to be associated with controlling or reducing the level of chronic disease for pre-Medicare eligible individuals.

(2) Final Report.—Not later than 18 months after completion of the demonstration project, the Secretary shall prepare and submit a final report and evaluation of the project to Congress, including—

(A) the results of the assessment conducted under subsection (g)(2); and

(B) a description of community-based prevention and intervention strategies that have been determined to be effective in controlling or reducing the level of chronic disease for pre-Medicare eligible individuals.

(i) Authorization of Appropriations.—

For the purpose of carrying out the demonstration project established under this section, there is authorized to be appropriated to the Secretary for the period of fiscal years 2010 through 2016.

S. 1183. A bill to authorize the Secretary of Agriculture to provide assistance to the Government of Haiti to end within 5 years the deforestation in Haiti and restore within 30 years the extent of tropical forest cover in existence in Haiti in 1990, and for other purposes; to the Committee on Foreign Relations.

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

There being no objection, the bill was ordered to be printed in the Record.

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Federal Government is to support and seek protection of tropical forests around the world; and

(2) tropical forests provide a wide range of benefits—

(A) harboring a major portion of the biological and terrestrial resources of Earth and providing habitats for an estimated 10,000,000 plant and animal species, including species essential to medical research and agricultural productivity;
(B) playing a critical role as carbon sinks that reduce greenhouse gases in the atmosphere, as 1 hectare of tropical forest can absorb up to approximately 3 tons of carbon dioxide, the rights of potentially global climate change; and
(C) regulating hydrological cycles upon which agricultural and coastal resources depend;
(3) tropical forests are also a key factor in reducing rates of soil loss, particularly on hilly terrain;
(4) while international efforts to stem the tide of tropical deforestation have accelerated during the past 2 decades, the rapid rate of tropical deforestation continues unabated; and
(5) the loss of over 60 percent of the land of Haiti was forested but, by 2006, that percentage had decreased to less than 2 percent;
(6) during the period beginning in 2000 and ending in 2005, the deforestation rate in Haiti accelerated by more than 20 percent over the deforestation rate in Haiti during the period beginning in 1990 and ending in 1999;
(7) as a result, during the period described in paragraph (6), Haiti lost—
(A) nearly 10 percent (approximately 11,000 hectares) of the forest cover of Haiti; and
(B) approximately 22 percent of the total forest and woodland habitat of Haiti;
(8) poverty and economic pressures are—
(A) two factors that underlie the tropical deforestation of Haiti; and
(B) supported particularly through the clearing of vast areas of forest for conversion to agricultural uses;
(9) the unemployment rate of Haiti is approximately 80 percent;
(10) the per capita income of Haiti is $450 per year, which is barely one-tenth of the per capita income of Latin America and the Caribbean;
(11) two-thirds of the population of Haiti depend on the agricultural sector, which consists mainly of small-scale subsistence farming;
(12) 60 percent of the population of Haiti relies on charcoal produced from cutting down trees for cooking fuel;
(13) soil erosion represents the most direct effect of the deforestation of Haiti, as the erosion has—
(A) reduced the productivity of the land due to the poor soils underlying the tropical forests;
(B) worsened the severity of droughts;
(C) significantly decreased the quality and, as a result, quantity of freshwater and clean drinking water available to the population of Haiti;
(D) increased the pressure on the remaining land and trees in Haiti;
(14) tropical forests provide forest cover to soften the effect of heavy rains and reduce erosion by anchoring the soil with their roots;
(15) when trees are cleared, rainfall runs off the surface, thus contributes to floods and further erosion;
(16) in 2004, Hurricane Jeanne struck Haiti, killing approximately 3,000, and affecting over 300,000 people, partly because deforestation had resulted in the clearing of large hillsides, which enabled rainwater to run off directly to settlements located at the bottom of those hillsides.
(17) research conducted by the United Nations Environmental Programme has revealed a direct (89 percent) correlation between the extent of the deforestation of a country and the incidence of victims per weather event in the country;
(18) finding economic benefits for local communities, sustainable uses of tropical forests is critical for the long-term protection of the tropical forests in Haiti; and
(19) tropical reforestation efforts would provide new sources of jobs, income, and investments in Haiti by—
(A) providing employment opportunities in tree-planting programs, forest tree-planting and management, sustainable agricultural initiatives, sustainable and managed timber harvesting, and wood products milling and finishing services;
(B) enhancing community enterprises that generate income through the trading of sustainable forest resources, many of which exist on small scales in Haiti and in the rest of the region.
(b) PURPOSE.—The purpose of this Act is to provide assistance to the Government of Haiti to—
(1) reduce deforestation and forest degradation in Haiti; and
(2) increase annual rates of afforestation and reforestation in a measurable, reportable, and verifiable manner—
(A) to eliminate within 5 years after the date of enactment of this Act any further net deforestation of Haiti; and
(B) to restore within 30 years after the date of enactment of this Act the forest cover of Haiti to the extent that the forest cover had occupied in 1990.
SEC. 5. DEFINITIONS.
In this Act:
(1) ADMINISTRATOR.—The term "Administrator" means the Secretary of Agriculture.
(2) AFFORESTATION.—(A) IN GENERAL.—The term "afforestation" means the establishment of a new forest through the seeding of, or planting of trees on, a parcel of nonforested land.
(B) INCLUSION.—The term "afforestation" includes the introduction of a tree species to a parcel of nonforested land of which the species is not a native species.
(C) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.
TITLE I—FORESTATION ASSISTANCE TO GOVERNMENT OF HAITI
SEC. 101. FORESTATION ASSISTANCE.
(a) AUTHORITY OF SECRETARY.—In accordance with paragraph (2), the Secretary, in consultation with the Administrator, may offer to enter into agreements with the Government of Haiti to provide financial assistance, technology transfers, or capacity building assistance for the conduct of activities to develop and implement 1 or more forestation proposals described in the proposal submitted by the Government of Haiti under that subparagraph is compatible with—
(i) broader development, poverty alleviation, and natural resource conservation objectives and initiatives in Haiti; and
(ii) the development, poverty alleviation, disaster risk management, and climate resilience programs of the Department of Agriculture.
(b) ELIGIBLE ACTIVITIES.—Any assistance received by the Government of Haiti under subsection (a)(1) shall be used to implement a proposal developed under subsection (a)(2), which may include—
(I) the provision of technologies and associated support for activities to reduce deforestation or increase afforestation and reforestation rates, including—
(aa) fire reduction initiatives;
(bb) forest law enforcement initiatives;
(cc) the development of timber tracking systems;
(dd) initiatives to increase agricultural productivity;
(EE) tree-planting initiatives; and
(FF) programs that are designed to focus on market-based solutions, including programs that leverage the international carbon-offset market.
(2) the enhancement and expansion of governmental and nongovernmental institutional capacity to effectively design and implement a proposal developed under subsection (a)(2) through initiatives, including—
(A) the establishment of transparent, accountable, and inclusive decisionmaking processes relating to deforestation and reforestation in Haiti; and
(B) the promotion of enhanced coordination among ministries and agencies responsible for agroecological zoning, mapping, land planning and permitting, sustainable agriculture, forestry, and law enforcement; and
(C) the clarification of land tenure and resource rights of affected communities, including local communities and indigenous peoples; and
(d) development and support of institutional capacity to measure, verify, and report the activities carried out by the Government of Haiti to reduce deforestation and increase afforestation and reforestation rates through the use of appropriate methods, including—
(I) the use of best practices and technologies to monitor any change in the forest cover of Haiti;
(II) the Government of Haiti will establish and enforce legal regimes, standards, and safeguards; and
(aa) to prevent violations of human rights and the rights of local communities and indigenous people; and
(bb) to prevent harm to vulnerable social groups; and
(c) to ensure that members of local communities and indigenous people in affected areas, as partners and primary stakeholders, will be engaged in the design, planning, implementation, monitoring, and evaluation of the policies and initiatives.
(b) DETERMINATION OF COMPATIBILITY WITH CURRANT PROGRAMS.—In evaluating each proposal under subparagraph (A), the Secretary shall ensure that each policy and initiative described in the proposal submitted by the Government of Haiti under that subparagraph is compatible with—
(i) broader development, poverty alleviation, and natural resource conservation objectives and initiatives in Haiti; and
(ii) the development, poverty alleviation, disaster risk management, and climate resilience programs of the Department of Agriculture.
(b) ELIGIBLE ACTIVITIES.—Any assistance received by the Government of Haiti under subsection (a)(1) shall be used to implement a proposal developed under subsection (a)(2), which may include—
(I) the provision of technologies and associated support for activities to reduce deforestation or increase afforestation and reforestation rates, including—
(aa) fire reduction initiatives;
(bb) forest law enforcement initiatives;
(cc) the development of timber tracking systems;
(dd) initiatives to increase agricultural productivity;
(EE) tree-planting initiatives; and
(FF) programs that are designed to focus on market-based solutions, including programs that leverage the international carbon-offset market.
(2) the enhancement and expansion of governmental and nongovernmental institutional capacity to effectively design and implement a proposal developed under subsection (a)(2) through initiatives, including—
(A) the establishment of transparent, accountable, and inclusive decisionmaking processes relating to deforestation and reforestation in Haiti; and
(B) the promotion of enhanced coordination among ministries and agencies responsible for agroecological zoning, mapping, land planning and permitting, sustainable agriculture, forestry, and law enforcement; and
(C) the clarification of land tenure and resource rights of affected communities, including local communities and indigenous peoples;
(e) development and support of institutional capacity to measure, verify, and report the activities carried out by the Government of Haiti to reduce deforestation and increase afforestation and reforestation rates through the use of appropriate methods, including—
(A) the use of best practices and technologies to monitor any change in the forest cover of Haiti;
(B) the monitoring of the impacts of policies and initiatives on—
(i) affected communities; and
(ii) the biodiversity of the environment of Haiti; and
(C) independent and participatory forest monitoring.
(c) DEVELOPMENT OF PERFORMANCE METRICS.—

(1) IN GENERAL.—If the Secretary provides assistance under subsection (a)(1), in accordance with the requirements under subsection (a)(1) and any other applicable law, the Secretary, in cooperation with the Government of Haiti and, if necessary, in consultation with the Administrator, shall develop appropriate performance metrics to measure, verify, and report—

(A) the conduct of each policy and initiative to be carried out by the Government of Haiti; and
(B) the results of each policy and initiative with respect to the tropical forests of Haiti; and
(C) each impact of each policy and initiative on the local communities and indigenous people of Haiti.

(2) REQUIREMENTS.—Performance metrics developed under paragraph (1) shall, to the maximum extent practicable, include short-term and long-term metrics to evaluate the implementation of each policy and initiative contained in each proposal developed under subsection (a)(2).

(d) REPORTS.—

(1) INITIAL REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that describes the activities that the Secretary has taken, and plans to take—

(A) to engage with the Government of Haiti, nongovernmental stakeholders, and public and private nonprofit organizations to implement this section; and
(B) to enter into agreements with the Government of Haiti under subsection (a)(1).

(2) BIENNIAL REPORTS.—Not later than 2 years after the date on which the Secretary first provides assistance to the Government of Haiti under subsection (a)(1) and biennially thereafter, the Secretary shall submit to Congress a report that describes the progress of the Government of Haiti in implementing each policy and initiative contained in the proposal submitted under subsection (a)(2).

(e) ADDITIONAL ASSISTANCE.—The Secretary may provide financial and other assistance to nongovernmental stakeholders to ensure—

(1) the access by local communities and indigenous people of Haiti to project-based and other assistance to the Government of Haiti through funds made available under subsection (a)(1); and
(2) that the groups described in paragraph (1) have an appropriate opportunity to participate effectively in the design, implementation, and independent monitoring of each policy and initiative.

(f) NONGOVERNMENTAL ORGANIZATION.—At the election of the Government of Haiti, or on the determination of the Secretary, in cooperation with the Government of Haiti, the Secretary may enter into an agreement with a private, nongovernmental conservation organization authorizing the organization to act on behalf of the Government of Haiti for the purposes of this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

TITLE II—GRANTS FOR REFORESTATION

SEC. 201. REFORESTATION GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary, in consultation with the Administrator, shall establish a grant program to carry out the purposes of this Act, including reversing deforestation and improving reforestation and afforestation and the purposes of this section, including reversing deforestation and improving reforestation and afforestation in Haiti.

(b) MANNER OF FUNDS.—(1) IN GENERAL.—The Secretary is authorized to award grants and contracts to public and private nonprofit organizations to carry out projects that, in the aggregate, reverse deforestation and improve reforestation and afforestation.

(2) MAXIMUM AMOUNT.—(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may not award a grant under this section in an amount greater than $500,000 per year.

(B) EXCEPTION.—The Secretary may award a grant under this section in an amount greater than $500,000 per year if the Secretary determines that the recipient of the grant has demonstrated success with respect to a project that was the subject of a grant under this section.

(3) DURATION.—The Secretary shall award grants under this section for a period not to exceed 3 years.

(c) USE OF FUNDS.—(1) IN GENERAL.—Grants awarded pursuant to subsection (b) may be used for activities such as—

(A) providing a financial incentive to protect trees;
(B) providing hands-on management and oversight of replanting efforts;
(C) focusing on sustainable income-generating growth;
(D) providing seed money to start co-operative reforestation and afforestation efforts and providing subsequent conditional funding for such efforts contingent upon required tree care and maintenance activities;

(E) promoting the use of improved cooking stove technologies and the development of liquid biofuels, to the extent that neither results in the harvesting of tropical forest growth; and

(F) securing the involvement and commitment of local communities and indigenous peoples—

(i) to protect tropical forests in existence as of the date of enactment of this Act; and
(ii) to carry out afforestation and reforestation activities.

(2) CONSISTENCY WITH PROPOSALS.—To the maximum extent practicable, a project carried out using grant funds shall support and be consistent with the proposal developed under section 101(a)(2) that is the subject of the project.

(d) APPLICATION.—(1) IN GENERAL.—To be eligible for a grant under this section, an entity shall prepare and submit an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

(2) CONTENT.—Each application submitted under paragraph (1) shall include—

(A) a description of the objectives to be attained;

(B) a description of the manner in which the grant funds will be used;

(C) a plan for evaluating the success of the project based on verifiable evidence; and

(D) to the extent that the applicant intends to use nonnative species in reforestation efforts, an explanation of the benefit to be derived from the use of nonnative species over native species.

(e) PREFERENCE FOR CERTAIN PROJECTS.—In awarding grants under this section, the Secretary shall give preference to applicants that propose—

(A) to develop market-based solutions to the problems of deforestation and reforestation in Haiti, including the use of conditional cash transfers and similar financial incentives to protect reforestation efforts;

(B) to partner with local communities and cooperatives; and

(C) to focus on efforts that build local capacity to sustain growth after the completion of the reforestation project.

(f) DISSEMINATION OF INFORMATION.—The Secretary shall collect and widely disseminate information about the effectiveness of the demonstration projects assisted under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 202. FOREST PROTECTION GRANTS.

Chapter 7 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2281 et seq.) is amended by inserting after section 466 the following new section:

"SEC. 467. PILOT PROGRAM FOR HAITI.

"(a) SUBMISSION OF LIST OF AREAS OF SEVERELY Degraded NATURAL RESOURCES.—The Administrator of the Agency for International Development, in cooperation with nongovernmental conservation organizations, shall invite the Government of Haiti to submit a list of the territory of Haiti in which tropical forests are seriously degraded or threatened.

(b) REVIEW OF LIST.—The Administrator shall assess the list submitted by the Government of Haiti under subsection (a) and shall seek to reach agreement with the Government of Haiti for the restoration and future sustainable use of those areas.

(c) GRANT PROGRAM.—

(1) GRANTS AUTHORIZED.—The Administrator of the Agency for International Development is authorized to make grants, in consultation with the International Forestry Division of the Department of Agriculture and on such terms and conditions as may be necessary, to nongovernmental organizations for the purchase on the open market of discounted commercial debt of the Government of Haiti in exchange for commitments by the Government of Haiti to restore tropical forests identified by the Government under subsection (a) or for commitments to develop plans for sustainable use of such tropical forests.

(2) MANAGEMENT OF PROTECTED AREAS.—Each recipient of a grant under this section shall participate in the ongoing management of the area or areas protected pursuant to such grant.

(d) REQUIREMENT OF PROCEEDS.—Notwithstanding any other provision of law, a grantee (or any subgrantee) of the grants referred to in section (a) may retain, without deposit in the treasury of the United States and without further appropriation by Congress, interest earned on the proceeds of any reforestation efforts attributable to the disbursements of such proceeds and interest approved program purposes, which may include the establishment of an endowment, the income of which is used for such purposes.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

".

By Mr. BINGAMAN:

S. 1185. A bill to amend titles XVIII and XIX of the Social Security Act to ensure that Low-income beneficiaries have improved access to health care under the Medicare and Medicaid programs to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Medicare Financial Stability for Beneficiaries Act of 2009.

This legislation would ensure that low-income Medicare beneficiaries can access the benefits to which they are entitled through one of the Medicare Savings Programs, MSP, and/or the Part D Low-Income Subsidy, LIS.

More than 13 million Medicare beneficiaries have incomes below 150 percent of the Federal Poverty Level,
FPL, and are eligible for assistance with their Medicare costs. Another 6 million have incomes under 200 percent FPL. These nearly 20 million beneficiaries are poorer than other Medicare beneficiaries. They also tend to be sicker, more isolated and have limited educational and employment opportunities. Ineligibility some beneficiaries face due to financial assistance with their out-of-pocket costs.

Although seniors and younger people with disabilities would benefit tremendously from greater access to needed health care services and financial savings, the Congressional Budget Office has estimated that about 67 percent to 97 percent of individuals eligible for various MSP services do not receive benefits. Additionally, the Centers for Medicare & Medicaid Services state that more than 13 million individuals are eligible for Part D LIS but only about 1 million are enrolled. Most of those 9 million get the subsidy automatically without having to apply, due to their eligibility for other programs.

The lives of low-income beneficiaries would improve significantly with improved financial assistance provided by these important programs. Barriers to enrollment in MSP and LIS include: lack of effective outreach, lack of knowledge of the programs, language issues, social and physical isolation, restrictive asset limits, income and asset documentation complexities, and other daunting application requirements. Another major barrier is the lack of alignment of eligibility rules and application processes between MSP and LIS, although both programs serve the same general population.

The Medicare Financial Stability for Beneficiaries Act of 2009 decreases these barriers through:

1. Aligning the programs by eliminating the recurring short-term reauthorizations of one of the MSPs—the Qualified Individual, QI, program and the roller-coaster eligibility/loss of eligibility some beneficiaries face due to the effects of the subsidies on eligibility for other benefits.

2. Increasing access to financial assistance for low-income beneficiaries. Research supports the conclusion that financial assistance results in greater access and better health outcomes for millions more seniors and younger people with disabilities.

3. Aligning the rules for MSP and LIS programs to make cross-deeming so that qualifying for one program would automatically qualify an individual for the other programs. Currently, income and asset eligibility rules for MSP and LIS are similar, but not identical. Individuals eligible for MSP benefits are deemed eligible for LIS, without having to apply or take any other action. The reverse, however, is not true. Greater alignment of the rules of both programs makes cross-deeming sensible, and ensures that individuals will receive both benefits regardless of where they first seek assistance. The legislation will also assist LIS beneficiaries in receiving Supplemental Nutritional Assistance Program, SNAP, food stamp, and vice versa.

4. Simplifying outreach and enrollment for low-income Medicare programs by authorizing the Social Security Administration to have access to Internal Revenue Service records to identify potentially eligible beneficiaries; by making more materials, including applications, available in additional languages; and by other simplifications of the application process. These provisions will benefit the millions of Americans who desperately need assistance, and will cut down on unnecessary and duplicative work for the Social Security Administration and for State Medicaid agencies.

There is strong support for this important legislation from many organizations including the American Association of Retired Persons, National Senior Citizens Law Center, Medicare Rights Center, Center for Medicare Advocacy, Inc, Families USA, National Council on Aging, National Patient Advocate Foundation, American Federation of Labor and Congress of Industrial Organizations, APL-CIO, and the National Committee to Preserve Social Security and Medicare.

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. 1188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Medicare Financial Stability for Beneficiaries Act of 2009”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Eligibility for other programs.
Sec. 3. Cost-sharing protections for low-income subsidy-eligible individuals.
Sec. 4. Modification of resource standards for determination of eligibility for LIS; no consideration of pension or retirement plan in determination.
Sec. 5. Increase in income levels for eligibility.
Sec. 6. Effective date of MSP benefits.
Sec. 7. Expanding special enrollment process to individuals eligible for an income-related subsidy.
Sec. 8. Enhanced cost-sharing protections for full-benefit dual eligible individuals and qualified Medicare beneficiaries.
Sec. 9. Two-way deeming between Medicare Savings Program and Low-Income Subsidy Program.
Sec. 10. Improving linkages between health programs and snap.
Sec. 11. Expediting low-income subsidies under the Medicare prescription drug program.
Sec. 12. Enhanced oversight and enforcement relating to reimbursements for retroactive LIS enrollment.
Sec. 13. Intelligent assignment in enrollment.
Sec. 14. Medicare enrollment assistance.
Sec. 15. QMB buy-in for part A and part B premiums.
Sec. 16. Increasing availability of MSP applications through availability on the internet and designation of preferred language.
Sec. 17. State Medicaid agency consideration of low-income subsidy application and data transmission.

SEC. 2. ELIGIBILITY FOR OTHER PROGRAMS.

(a) LIS.—Section 1860D-1-14(a)(3) of the Social Security Act (42 U.S.C. 1395w-114(a)(3)), as amended by section 116 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by striking “subparagraph (F)” and inserting “subparagraphs (F) and (H)”;

(2) by inserting after paragraph (5) the following new paragraph:

“(H) DISREGARD OF PREMIUM AND COST-SHARING SUBSIDIES FOR PURPOSES OF FEDERAL AND STATE PROGRAMS.—Notwithstanding any other provision of law, any premium or cost-sharing subsidy with respect to a subsidy-eligible individual under this section shall not be considered income in determining eligibility for, or the amount of assistance or benefits provided under, any other public benefit provided under Federal law or the law of any State or political subdivision thereof.”.

(b) MSP.—Section 1905(p) of the Social Security Act (42 U.S.C. 1395w(p)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following new paragraph:

“(6) Notwithstanding any other provision of law, any medical assistance for some or all Medicare cost-sharing under this title shall not be considered income in determining eligibility for, or the amount of assistance or benefits provided under, any other public benefit provided under Federal law or the law of any State or political subdivision thereof.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to eligibility for benefits on or after January 1, 2010.

SEC. 3. COST-SHARING PROTECTIONS FOR LOW-INCOME SUBSIDY-ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Section 1860D-14(a) of the Social Security Act (42 U.S.C. 1395w-114(a)) is amended—
SEC. 4. MODIFICATION OF RESOURCE STANDARDS FOR DETERMINATION OF ELIGIBILITY FOR LIS; NO CONSIDERATION OF PENSION OR RETIREMENT PLAN IN DETERMINATION OF RESOURCES.

(a) ELIMINATING THE REPLICATION OF RESOURCE STANDARDS.—


(A) in subparagraph (D), by inserting “or (IV)” after “subclause (II)”.

(2) Effective date.—The amendments made by subsection (a) shall apply as of January 1, 2010.

(b) Effective date.—The amendments made by subsection (a) shall apply as of January 1, 2011.

(c) Conforming amendment.—


(d) Effective date.—The amendments made by this subsection shall apply to determinations made on or after January 1, 2011.

(e) Clarification relating to including retirement benefits as income.—Section 1860D–14(a)(3)(C) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)(C)) is amended—

(A) by striking “inserting ‘alternative’ and inserting ‘applicable’”; and

(B) in clause (i)—

(A) in subparagraph (I), by striking “and” at the end;

(B) in subparagraph (ii)—

(i) by inserting “(before 2011)” after “a subsequent year”;

(ii) by striking the period at the end and inserting a semicolon; and

(iii) by inserting before the flush sentence at the end the following: “as so determined”;

(IV) by striking “as so determined” after “subparagraph (C)”;

(B) Conforming amendment.—


(A) by striking “except that support and maintenance furnished in kind shall not be counted as income after “(2)”;

(B) Conforming amendment.—


(A) by striking “inserting ‘alternative’ and inserting ‘applicable’”; and

(B) in clause (i)—

(A) in subparagraph (I), by striking “and” at the end; and

(B) in subparagraph (II)—

(i) by inserting “(before 2011)” after “a subsequent year”;

(ii) by striking “as so determined” after “subparagraph (C)”;

(III) by striking “as so determined” after “subparagraph (C)”; and

(iv) by striking “as so determined” after “subparagraph (C)”.

(C) Exclusion of Pension and Retirement Benefits From Resources.—

Section 1860D–14(a)(3)(C) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)) as amended by section 2, is amended—

(A) in subparagraph (E)(i), in the matter preceding subparagraph (I), by inserting “and the pension or retirement plan exclusion provided under subparagraph (I)” after “(G)”;

(B) in the heading, by striking “or (IV)” after “subclause (II)”; and

(C) by inserting after subparagraph (I) the following:

(IV) in the case of any individual (and the eligible spouse of the individual, if any) under section 1613 for purposes of subparagraph (E) no balance in, or benefits received under, an employee pension benefit plan (as defined in section 3 of the Employee Retirement Income Security Act of 1974) shall be taken into account.

(2) Effective date.—The amendments made by this subsection shall apply to determinations made on or after January 1, 2011.

(d) Effective date.—The amendments made by this subsection shall apply to determinations made on or after January 1, 2011.

(2) Application of applicable resource standard and exemptions from income and resources.—

(1) In general.—Section 1905(p)(1)(C) of the Social Security Act (42 U.S.C. 1396d(p)(1)(C)) is amended—

(A) by inserting “without taking into account any part of the value of any life insurance policy or any balance in, or benefits received under, an employee pension benefit plan (as defined in section 3 of the Employee Retirement Income Security Act of 1974)” after “(as so determined)”;

(B) by striking “subparagraph (D)” and all that follows through “section” and inserting “section 1860D–14(a)(3)(E)(ii)”.

(2) Exemption of in-kind support and maintenance.—

(A) In general.—Section 1905(p)(1)(B) of the Social Security Act (42 U.S.C. 1396d(p)(1)(B)) is amended by inserting “and except that support and maintenance furnished in kind shall not be counted as income” after “(2)”.

(B) Conforming amendment.—

Section 1860D–14(a)(3)(C)(i) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)(C)(i)) is amended by striking “except that support and maintenance furnished in kind shall not be counted as income” after “(2)”.

(3) Effective date.—The amendments made by this subsection shall apply to determinations made on or after January 1, 2011.

(B) Revision to description.—

Section 1905(p)(1)(C)(i) of the Social Security Act (42 U.S.C. 1396d(p)(1)(C)(i)) is amended by striking “who would be qualified medicare” and all that follows through “and is less than”.

(C) Exclusion of support and maintenance replaced by providing for the support and maintenance furnished in kind by the applicant’s spouse for at least one-half of their financial support.

(C) Revision to description.—

Section 1905(p)(1)(C)(i) of the Social Security Act (42 U.S.C. 1396d(p)(1)(C)(i)) is amended by striking “who would be qualified medicare” and all that follows through “and is less than”.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act, shall apply to calendar quarters beginning on or after January 1, 2011.

(3) Providing 100 percent federal financing.—

The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396b(b)(1)) is amended by inserting before the period at the end the following: “, with respect to medical assistance for medicare cost-sharing provided under clause (i) of section 1902(a)(10)(E) for individuals with incomes greater than 100 percent of the official poverty line described in subparagraph (p)(2)(A) and less than or equal to 150 percent of such official poverty line, and with respect to medical assistance for medicare cost-sharing provided under clause (iii) of such section”.

(E) Effective date.—

(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect on January 1, 2011, and, with respect to title XIX of the Social Security Act, shall apply to calendar quarters beginning on or after January 1, 2011.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation applying solely to the amendments made by this subsection),
the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the second calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

For previous years, the amendments affecting a case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 6. EFFECTIVE DATE OF MSP BENEFITS.

(a) IN GENERAL.—

(1) EFFECTIVE DATE OF MSP BENEFITS.—Section 1902(e)(3) of the Social Security Act (42 U.S.C. 1396a(e)(8)) is amended by striking at the end of such section the first sentence.

(B) Section 1144(c) of the Social Security Act (42 U.S.C. 1396a(n)), as amended, is deemed, for purposes of title XIX, to be a subsidy eligible individual described in paragraph (1) and to have been determined eligible for premium and cost-sharing subsidies under—

(A) section 1860D–14(a)(1),

(B) section 1860D–14(a)(1)(A), and

(C) section 1860D–14(a)(2), as applicable.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2010, and shall not result in eligibility for benefits for medicare cost-sharing for months before January 1, 2010.

SEC. 7. EXPANDING SPECIAL ENROLLMENT PROCESS TO INDIVIDUALS ELIGIBLE FOR AN INCOME-RELATED SUBSIDY.

(a) IN GENERAL.—Section 1860D–1(b)(1)(C) of the Social Security Act (42 U.S.C. 1395w–101(b)(1)(C)) is amended—

(1) by striking “a full-benefit dual eligible individual” (as defined in section 1395w–1(g)(3)) and inserting “a full-benefit dual eligible individual”;

(2) in the definition of “full-benefit dual eligible individual” as defined in section 1395w–1(a)(3); and

(3) by inserting “a part D eligible individual” before “who is not enrolled in a Medicare Advantage plan”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to enrollment on or after January 1, 2010.

SEC. 8. ENHANCED COST-SHARING PROTECTIONS FOR FULL-Benefit DUAL ELIGIBLE INDIVIDUALS AND QUALIFIED MEdicare BENEFICIARIES.

(a) ELIMINATION OF PART D COST-SHARING FOR MEdicare BENEFICIARIES.—Institutionalized Individuals—Full-Benefit Dual Eligible Individuals.—


(1) in the heading, by inserting “institutions for benefits under the Medicare Savings Program and the supplemental nutrition assistance program.”; and

(2) by adding a new clause to subsection (a)—

“(I) Institutionalized individuals.—In”, and

(III) by inserting “institutions for benefits under the Medicare Savings Program and the supplemental nutrition assistance program.”; and

(III) by inserting “institutions for benefits under the Medicare Savings Program and the supplemental nutrition assistance program.”.

(b) PROVIDER AGREEMENTS.—


(1) by striking paragraph (2); and

(2) by striking “the Secretary shall submit to Congress a report that includes a plan for action on how to ensure such enforcement.”.

(c) CONFORMING AMENDMENTS.—

(1) PROVIDER AGREEMENTS.—Section 1902(a)(1)(A) of the Social Security Act (42 U.S.C. 1320a–2(a)(1)(A)) is amended by—

(1) by striking paragraph (2); and

(2) by striking “the Secretary shall submit to Congress a report that includes a plan for action on how to ensure such enforcement.”.

SEC. 9. TWO-WAY DEEMING BETWEEN MEdicare SAVINGS PROGRAM AND LOW-INCOME MEdicare BENEFICIARIES.

(a) LOW-InCOME SUBSIDY PROGRAM.—Section 1807(h)(3)(A) of the Social Security Act (42 U.S.C. 1396w–101(h)(3)(A)) is amended by—

(1) by striking “part D” each place it appears and inserting “part D eligible individual”

(2) by striking “beneficiary” each place it appears and inserting “individual”; and

(3) by striking “beneficiaries” and all that follows through “beneficiary)”. .


(1) by striking paragraph (6) as a paragraph; and

(2) by inserting after paragraph (7) the following new paragraph:

“(B) IN GENERAL.—(i) If a report under clause (i) includes a finding that States are failing to provide such medical assistance, the Secretary shall submit to Congress a report that includes a plan for action on how to ensure such enforcement.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning on or after January 1, 2010.

SEC. 10. IMPROVING LINKAGES BETWEEN HEALTH PROGRAMS AND SNAP.

(a) LOW-InCOME PART D SUBSIDY PROGRAM.—Section 1144(c) of the Social Security Act (42 U.S.C. 1320a–14(c)) is amended—

(1) by striking “the application for benefits under the Medicare Savings Program.”; and

(2) by inserting “the application for benefits under the Medicare Savings Program and the supplemental nutrition assistance program.”.

(b) PROVIDER AGREEMENTS.—Section 1902(a)(1)(A) of the Social Security Act (42 U.S.C. 1320a–2(a)(1)(A)) is amended by—

(1) by striking paragraph (2); and

(2) by inserting “the application for benefits under the Medicare Savings Program and the supplemental nutrition assistance program.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the month beginning on or after January 1, 2010.
SEC. 11. EXPEDITING LOW-INCOME SUBSIDIES UNDER THE MEDICARE PRESCRIPTION DRUG PROGRAM.

(a) TARGETED OUTREACH FOR LOW-INCOME SUBSIDIES.

(1) IN GENERAL.—Section 1906(d)-14 of the Social Security Act (42 U.S.C. 1396w-114) is amended by adding at the end the following new subsection:

"(1) TARGETED IDENTIFICATION OF SUBSIDY-ELIGIBLE INDIVIDUALS.—

"(A) IN GENERAL.—The Commissioner of Social Security shall provide for the identification of individuals who are potentially eligible for low-income assistance under this section through requests to the Secretary of the Treasury in accordance with the criteria established under section 6101(c)(21) of the Internal Revenue Code of 1986 for information indicating whether an individual is likely eligible for such assistance.

"(B) INITIATION OF IDENTIFICATIONS.—Not later than 90 days after the date of enactment of this subsection, the Commissioner of Social Security shall begin the identification of individuals through the process described in subparagraph (A) and, by such date as the Commissioner shall provide to the Secretary of the Treasury requests for part D eligible individuals who the Commissioner has identified as potentially eligible for low-income subsidies under this section for a period of not more than 2 years after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

(2) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report on the process each State uses to meet the requirements under section 1902(a)(74) of the Social Security Act, as added by subsection (a) of section 4.

Sec. 11.

EXPEDITING LOW-INCOME SUBSIDIES

under the Medicare Prescription Drug Program

(a) Targeted Outreach for Low-Income Subsidies

(1) In General.—Section 1906(d)-14 of the Social Security Act (42 U.S.C. 1396w-114) is amended by adding at the end the following new subsection:

"(1) Targeted Identification of Subsidy-Eligible Individuals.—In the case of each individual who has not otherwise applied for, or been determined eligible for, benefits under this section (or who has elected to continue the individual’s targeted identification) and who the Commissioner determines to be potentially eligible for low-income assistance under this section before such date of enactment.

"(2) Notification of Potentially Eligible Individuals.—In the case of each individual identified under paragraph (1) who has not otherwise applied for, or been determined eligible for, benefits under this section (or who has elected to continue the individual’s targeted identification) and who the Commissioner determines to be potentially eligible for such benefits based on excess income, resources, or both, the Commissioner shall transmit by mail to the individual a letter including the information and application materials under this section through requests to the Secretary of the Treasury in accordance with the criteria established under section 6101(c)(21) of the Internal Revenue Code of 1986 for information indicating whether an individual is likely eligible for such assistance.

Sec. 11.

Targeted Outreach for Low-Income Subsidies

(a) Targeted Outreach for Low-Income Subsidies

(1) In General.—Section 1906(d)-14 of the Social Security Act (42 U.S.C. 1396w-114) is amended by adding at the end the following new subsection:

"(1) Targeted Identification of Subsidy-Eligible Individuals.—In the case of each individual who has not otherwise applied for, or been determined eligible for, benefits under this section (or who has elected to continue the individual’s targeted identification) and who the Commissioner determines to be potentially eligible for such benefits based on excess income, resources, or both, the Commissioner shall transmit by mail to the individual a letter including the information and application materials under this section through requests to the Secretary of the Treasury in accordance with the criteria established under section 6101(c)(21) of the Internal Revenue Code of 1986 for information indicating whether an individual is likely eligible for such assistance.

Sec. 11.

Targeted Outreach for Low-Income Subsidies

(a) Targeted Outreach for Low-Income Subsidies

(1) In General.—Section 1906(d)-14 of the Social Security Act (42 U.S.C. 1396w-114) is amended by adding at the end the following new subsection:

"(1) Targeted Identification of Subsidy-Eligible Individuals.—In the case of each individual who has not otherwise applied for, or been determined eligible for, benefits under this section (or who has elected to continue the individual’s targeted identification) and who the Commissioner determines to be potentially eligible for such benefits based on excess income, resources, or both, the Commissioner shall transmit by mail to the individual a letter including the information and application materials under this section through requests to the Secretary of the Treasury in accordance with the criteria established under section 6101(c)(21) of the Internal Revenue Code of 1986 for information indicating whether an individual is likely eligible for such assistance.

Sec. 11.

Targeted Outreach for Low-Income Subsidies

(a) Targeted Outreach for Low-Income Subsidies

(1) In General.—Section 1906(d)-14 of the Social Security Act (42 U.S.C. 1396w-114) is amended by adding at the end the following new subsection:

"(1) Targeted Identification of Subsidy-Eligible Individuals.—In the case of each individual who has not otherwise applied for, or been determined eligible for, benefits under this section (or who has elected to continue the individual’s targeted identification) and who the Commissioner determines to be potentially eligible for such benefits based on excess income, resources, or both, the Commissioner shall transmit by mail to the individual a letter including the information and application materials under this section through requests to the Secretary of the Treasury in accordance with the criteria established under section 6101(c)(21) of the Internal Revenue Code of 1986 for information indicating whether an individual is likely eligible for such assistance.

Sec. 11.

Targeted Outreach for Low-Income Subsidies

(a) Targeted Outreach for Low-Income Subsidies

(1) In General.—Section 1906(d)-14 of the Social Security Act (42 U.S.C. 1396w-114) is amended by adding at the end the following new subsection:

"(1) Targeted Identification of Subsidy-Eligible Individuals.—In the case of each individual who has not otherwise applied for, or been determined eligible for, benefits under this section (or who has elected to continue the individual’s targeted identification) and who the Commissioner determines to be potentially eligible for such benefits based on excess income, resources, or both, the Commissioner shall transmit by mail to the individual a letter including the information and application materials under this section through requests to the Secretary of the Treasury in accordance with the criteria established under section 6101(c)(21) of the Internal Revenue Code of 1986 for information indicating whether an individual is likely eligible for such assistance.

Sec. 11.

Targeted Outreach for Low-Income Subsidies

(a) Targeted Outreach for Low-Income Subsidies

(1) In General.—Section 1906(d)-14 of the Social Security Act (42 U.S.C. 1396w-114) is amended by adding at the end the following new subsection:

"(1) Targeted Identification of Subsidy-Eligible Individuals.—In the case of each individual who has not otherwise applied for, or been determined eligible for, benefits under this section (or who has elected to continue the individual’s targeted identification) and who the Commissioner determines to be potentially eligible for such benefits based on excess income, resources, or both, the Commissioner shall transmit by mail to the individual a letter including the information and application materials under this section through requests to the Secretary of the Treasury in accordance with the criteria established under section 6101(c)(21) of the Internal Revenue Code of 1986 for information indicating whether an individual is likely eligible for such assistance.

Sec. 11.

Targeted Outreach for Low-Income Subsidies

(a) Targeted Outreach for Low-Income Subsidies

(1) In General.—Section 1906(d)-14 of the Social Security Act (42 U.S.C. 1396w-114) is amended by adding at the end the following new subsection:

"(1) Targeted Identification of Subsidy-Eligible Individuals.—In the case of each individual who has not otherwise applied for, or been determined eligible for, benefits under this section (or who has elected to continue the individual’s targeted identification) and who the Commissioner determines to be potentially eligible for such benefits based on excess income, resources, or both, the Commissioner shall transmit by mail to the individual a letter including the information and application materials under this section through requests to the Secretary of the Treasury in accordance with the criteria established under section 6101(c)(21) of the Internal Revenue Code of 1986 for information indicating whether an individual is likely eligible for such assistance.
section after the date of the enactment of this subsection be less than such level of ef-
before such date of enactment until at least 90 percent of such potentially eligible
individuals have affirmatively responded.

‘‘(7) GAO REPORT TO CONGRESS.—Not later
than 2 years after the date of the first sub-
motion to the Secretary of the Treasury de-
scribed in paragraph (1)(B), the Comptroller
General of the United States shall submit to
Congress a report, with respect to the 18-
month period following the establishment of
the process described in paragraph (1)(A), on:

(A) the extent to which the percentage of
individuals who are eligible for low-income assistance under this section but not en-
rolled under this part has decreased during
such period;

(B) the Commissioner of Social Securi-
ty has used any savings resulting from the implementation of this section and section
6103(b)(21) of the Internal Revenue Code of
1986 to improve outreach to individual de-
scribed in subparagraph (A) to increase en-
rollment of such individuals under this part;

(C) the effectiveness of using information from
the Commissioner of the Treasury in ac-
cordance with section 6103(1)(21) of the Inter-
nal Revenue Code of 1986 for purposes of indi-
cating whether individuals are eligible for
low-income assistance under this section; and

(D) the effectiveness of the outreach con-
ducted by the Commissioner of Social Secu-
ity based on the data described in subpara-
graph (C).’’.

(2) CONFORMING AMENDMENT.—Section
114(a)(1) of the Social Security Act (42 U.S.C.
1320d-13(14)(a)(1)) is amended by inserting ‘‘(including through request to the Secretary
of the Treasury pursuant to section 6103(1)(C))’’.

(a) IMPROVEMENTS TO THE LOW-INCOME SUB-
SIDY APPLICATIONS.—Section 1860D-14(a)(3)
of the Social Security Act (42 U.S.C. 1395w-
114(a)(3)) is amended—

(1) in subparagraph (E), by striking clauses
(ii) and (iii) and redesignating clause (iv) as
clause (ii);

(2) by redesigning subparagraphs (F) and
(G) as subparagraphs (G) and (H), respecti-
vely; and

(3) by inserting after subparagraph (E) the
following new subparagraph:

‘‘(F) SIMPLIFIED LOW-INCOME SUBSIDY AP-
PLICATION AND PROCESS.—(1) In general.—The Secretary, jointly with the Commissioner of Social Security,
shall—

(A) develop a model, simplified application
form and policies consistent with clause (ii)
for the determination and verification of a
part D eligible individual’s assets or re-
sources under this paragraph; and

(B) prescribe such form to States.

(2) PROCEDURES AND RECORDKEEPING RE-
LATED TO DISCLOSURES.—(Paragraph (4) of
section 6103(p) of such Code is amended by strik-
ing ‘‘or (17)’’ each place it appears and in-
serting ‘‘or (17), or (21)’’.

(3) EFFECTIVE DATE.—The amendments
made by this subsection shall apply to dis-
closures made after the date of the enact-
ment of this Act.

SEC. 12. ENHANCED OVERSIGHT AND ENFORCE-
MENT RELATING TO REIMBURSE-
MENTS FOR RETROACTIVE LIS EN-
ROLLMENT.

(a) IN GENERAL.—In the case of a retro-
active LIS enrollment beneficiary (as defined
in subsection (e)(4)(A)(i) who is enrolled under
a prescription drug plan or MA–PD plan under
part D of title XVIII of the Social Security Act
(42 U.S.C. 1320d-1)), and in the case of such a
beneficiary, the Secretary shall provide to the
plan, on behalf of such beneficiary, a clear
process that the beneficiary is eligible for assis-
tance described in subsection (e)(4)(A)(i) with-
out further information required to be filed
with the plan by the beneficiary; and

(b) NOTICE REQUIREMENT.—(1) BY SECRETARY OF HHS AND COMMISSIONER OF THE SOCIAL SECURITY ADMINISTRATION.—The Secretary, jointly with the Commis-
sioner of the Social Security Administra-
tion, shall ensure that each retroactive LIS enrollment beneficiary receives, with any letter or notice of eligibility for a low-
income subsidy under section 1860D-14 of the Social Security Act, a notice of their right to reimbursement described in subsection (a)(1) for covered drug costs incurred during the retroactive coverage period of the ben-
eficiary. Such notice shall—

(A) with respect to a beneficiary described in subsection (e)(4)(A)(i), inform the bene-
ficiary that the plan must provide auto-
matic reimbursement as described in sub-
section (a)(1); and

(B) with respect to a beneficiary described in subsection (e)(4)(A)(ii), provide a descrip-
tion of a clear process that the beneficiary
should follow to seek such reimbursement.
(2) BY PRESCRIPTION DRUG PLANS.—
(A) IN GENERAL.—Each prescription drug plan under part D of title XVIII of the Social Security Act (and MA-PD plan under part C of such Act) that is in a position to offer to a beneficiary described in subsection (a)(2) enrollment in a prescription drug plan to the extent such beneficiary is eligible for such enrollment shall make such model notice available to all prescription drug plans under part D of title XVIII of the Social Security Act (and MA-PD plans under part C of such Act).

(b) MODEL NOTICE.—The Secretary, jointly with the Commissioner of Social Security, shall develop a model notice for purposes of subparagraph (A) and shall make such model notice available to all prescription drug plans under part D of title XVIII of the Social Security Act (and MA-PD plans under part C of such Act).

(d) PUBLIC POSTING TO TRACK PAYMENTS.—
(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Secretary shall (and annually update) on the public Internet website of the Department of Health and Human Services information concerning payments made for at least the 10 previous years.

(c) RULE OF CONSTRUCTION.—Nothing in this Act shall create a right to payment or establish a cause of action.

(2) SPECIFIC INFORMATION.—Such information posted shall include:
(A) in 2010 or in a subsequent year before 2016, the name of the prescriber and the name of the pharmacy that is the source of the prescription drug information.
(B) in the following year, shall include:
(i) beginning on the date the individual is both entitled to benefits under part A, or enrolled under part B, of title XVII of the Social Security Act and eligible for medical assistance under a State plan under title XIX of such Act, and
(ii) ending on the date the plan effectuates the status of such individual as a full-benefit dual eligible individual (as defined in section 1855(c)(6) of such Act).

(3) RETROACTIVE COVERAGE PERIOD.—The term “retroactive coverage period” means:
(A) with respect to a prescription drug plan under part D of title XVIII of the Social Security Act (or an MA–PD plan under part C of such Act), the period:
(i) beginning on the date the individual is both entitled to benefits under part A, or enrolled under part B, of title XVII of the Social Security Act and eligible for medical assistance under a State plan under title XIX of such Act; and
(ii) ending on the date the plan effectuates the status of such individual as a full-benefit dual eligible individual (as defined in section 1855(c)(6) of such Act).

(B) RETROACTIVE LIS ENROLLMENT BENEFICIARY.—(A) IN GENERAL.—The term “retroactive LIS enrollment beneficiary” means an individual who:
(i) is enrolled in a prescription drug plan under part D of the Social Security Act (or an MA–PD plan under part C of such title) and subsequently becomes eligible as a full-benefit dual eligible individual (as defined in section 1855(c)(6) of such Act), an individual receiving a low-income subsidy under section 1860D–14 of such Act, an individual receiving assistance under the Medicare Savings Program implemented under paragraphs (1), (ii), (iii), and (iv) of section 1902(a)(10)(E) of such Act, or an individual receiving assistance under the supplemental security income program under section 1611 of such Act; and
(ii) subject to subparagraph (B)(ii), is a full-benefit dual eligible individual (as defined in section 1855(c)(6) of such Act), who is automatically enrolled in such a plan under section 1860D–1(b)(1)(C) of such Act.

(B) EXCEPTION FOR BENEFICIARIES ENROLLED IN RFP PLAN.—(i) IN GENERAL.—In no case shall an individual described in subparagraph (A)(ii) include an individual who is enrolled, pursuant to subparagraph (B)(ii), in a prescription drug plan offered by the sponsor of such plan awarded such contract.

(ii) RFP CONTRACT DESCRIBED.—The RFP contract described in this subparagraph is a contract entered into between the Secretary and a sponsor of a prescription drug plan pursuant to the Centers for Medicare & Medicaid Services’ request for proposals issued on February 17, 2009, relating to Medicare part D retroactive coverage for certain low income beneficiaries, or a similar subsequent request for proposals.

(f) GAO REPORT.—Not later than 24 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the extent to which the provisions of this section improve reimbursement for covered drug costs to retroactive enrollment beneficiaries and lower the amounts of payments made by the Secretary, with respect to such beneficiaries, to prescription drug plans under part D of title XVIII of the Social Security Act (and MA–PD plans under part C of such title).

(g) REPORT TO CONGRESS.—In the case that an RFP contract described in subsection (e)(4)(B)(ii) is awarded, not later than two years after the effective date of such contract, the Secretary and the Human Services shall submit to Congress a report evaluating the program carried out through such contract.

(i) EFFECTIVE DATE.—Paragraphs (2) and (3) of subsection (a) and subsections (b) and (c) shall apply to subsidy determinations made on or after the date that is 3 months after the date of the enactment of this Act.

SEC. 13. INTELLIGENT ASSIGNMENT IN ENROLLMENT.
(a) IN GENERAL.—Section 1860D–1(b)(1) of the Social Security Act (42 U.S.C. 1395w– 101(b)(1), as amended by section 7(b), is amended—
(1) in the second sentence of subparagraph (C), by striking “on a random basis among all such plans” and inserting “, subject to subparagraph (E), in the most appropriate plan for such individual”; and
(2) by adding at the end the following new subparagraph:
(3) INTELLIGENT ASSIGNMENT.—In the case of any auto-enrollment under subparagraph (C), no part D eligible individual described in such subparagraph shall be enrolled in a prescription drug plan without first meeting the requirements established by the Secretary.”.
(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to enrollments effected on or after November 15, 2010.
prescription drug benefit under part D of such Act (42 U.S.C. 1396a(a)), as amended by section 15, is amended—

(A) in paragraph (74), by striking “and” at the end;

(B) in paragraph (75), by striking the period at the end and inserting “; and”;

(C) by inserting after paragraph (75) the following new paragraph:

“(76) provide—

“(A) that the application for medical assistance or medical assistance under this title made by the State allows an individual to specify a preferred language for subsequent communication and, in the case in which a language other than English is specified, provide that subsequent communications under this title to the individual shall be in such language; and

“(B) that the State makes such application available through an Internet website and provides for such application to be completed on such website.”.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection take effect on the date that is 1 years after the date of enactment of this Act.

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

(B) REQUIREMENT FOR THE SECRETARY.—

Section 1905(p)(5) of the Social Security Act (42 U.S.C. 1396d(p)(5)) is amended by adding at the end the following new sentence: “Such forms shall allow an individual to identify a preferred language for subsequent communication.”.

SEC. 17. STATE MEDICARE AGENCY CONSIDERATION OF LOW-INCOME SUBSIDY APPLICATION AND DATA TRANSMITTAL.

(a) TECHNICAL AMENDMENTS.—

(1) IN GENERAL.—Section 114(c)(3)(A)(i) of the Social Security Act (42 U.S.C. 1320b–14(c)(3)(A)(i)), as amended by section 10, is amended—

(A) by striking “transmittal”; and

(B) by inserting “(as specified in section 1905(a)(4))” before the semicolon at the end.

(2) EXTENSION OF EFFECTIVE DATE.—

(A) REQUIREMENT FOR STATES.—

Section 1905(a)(4) of the Social Security Act (42 U.S.C. 1396a(a)), as added by section 15, is amended—

(A) in paragraph (74), by striking and “at the end”;

(B) in paragraph (75), by striking the period at the end and inserting “; and”;

(C) by inserting after paragraph (75) the following new paragraph:

“(76) provide—

“(A) that the application for medical assistance or medical assistance under this title made by the State allows an individual to specify a preferred language for subsequent communication and, in the case in which a language other than English is specified, provide that subsequent communications under this title to the individual shall be in such language; and

“(B) that the State makes such application available through an Internet website and provides for such application to be completed on such website.”.

(b) CLARIFICATION OF STATE MEDICARE AGENCY CONSIDERATION OF LOW-INCOME SUBSIDY APPLICATION.—Section 1905(a)(4) of the Social Security Act (42 U.S.C. 1396a(a)), as added by section 15, is amended—

(1) IN GENERAL.—Section 114(c)(3)(A)(i) of the Social Security Act (42 U.S.C. 1320b–14(c)(3)(A)(i)), as amended by section 10, is amended—

(A) by striking “transmittal”; and

(B) by inserting “(as specified in section 1905(a)(4))” before the semicolon at the end.

(2) EXTENSION OF EFFECTIVE DATE.—

(A) REQUIREMENT FOR STATES.—

Section 1905(a)(4) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by section 15, is amended—

(A) in paragraph (74), by striking “at the end”;

(B) in paragraph (75), by striking the period at the end and inserting “; and”;

(C) by inserting after paragraph (75) the following new paragraph:

“(76) provide—

“(A) that the application for medical assistance or medical assistance under this title made by the State allows an individual to specify a preferred language for subsequent communication and, in the case in which a language other than English is specified, provide that subsequent communications under this title to the individual shall be in such language; and

“(B) that the State makes such application available through an Internet website and provides for such application to be completed on such website.”.

(3) REQUIRED USE OF FUNDS.—Each grant made under this title shall be used to provide outreach to individuals regarding the benefits available under title XIX of the Social Security Act (42 U.S.C. 1396a) to the extent that the State is not already doing so.

(4) COORDINATION OF EFFORTS TO INFORM OLDER AMERICANS ABOUT BENEFITS AVAILABLE UNDER FEDERAL AND STATE PROGRAMS.—

(A) IN GENERAL.—The Secretary shall make grants to State and local agencies that are cooperating with related Federal and State agencies to provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395l), in the same proportion as the Secretary determines under section 1833(f) of such Act (42 U.S.C. 1395w–23(f)), of $10,000,000 to the Administration on Aging for fiscal year 2011, to remain available until expended.

(B) FUNDING.—For purposes of making grants under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395l), in the same proportion as the Secretary determines under section 1833(f) of such Act (42 U.S.C. 1395w–23(f)), of $10,000,000 to the Administration on Aging for fiscal year 2011, to remain available until expended.

(C) USE OF FUNDS.—Subject to subparagraph (B), of each grant awarded under this subsection shall be used to provide outreach to individuals regarding the benefits available under title XVIII of the Social Security Act.

(D) FUNDING.—For purposes of making grants under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395l), in the same proportion as the Secretary determines under section 1833(f) of such Act (42 U.S.C. 1395w–23(f)), of $10,000,000 to the Administration on Aging for fiscal year 2011, to remain available until expended.

(E) MEDICARE SAVINGS PROGRAM DEFINED.—For purposes of this section, the term “Medicare Savings Program” means the program established under section 1902(a)(10)(E) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1833(f) of such Act (42 U.S.C. 1395w–23(f)), of $10,000,000 to the Administration on Aging for fiscal year 2011, to remain available until expended.

(F) MEDICARE SAVINGS PROGRAM DEFINED.—For purposes of this section, the term “Medicare Savings Program” means the program established under section 1902(a)(10)(E) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1833(f) of such Act (42 U.S.C. 1395w–23(f)), of $10,000,000 to the Administration on Aging for fiscal year 2011, to remain available until expended.

(G) ADDED FUNDING FOR AGING AND DISABILITY RESOURCE CENTERS.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to Aging and Disability Resource Centers that are providing the services described in subparagraph (B) to States to maintain and update web-based decision support tools, and integrated, person-centered systems, designed to inform older individuals about the full range of benefits for which the individuals may be eligible under Federal and State programs.

(B) FUNDING.—For purposes of making grants under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395l), in the same proportion as the Secretary determines under section 1833(f) of such Act (42 U.S.C. 1395w–23(f)), of $10,000,000 to the Administration on Aging for fiscal year 2011, to remain available until expended.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

(3) REQUIRED USE OF FUNDS.—Each grant awarded under this subsection shall be used to provide outreach to individuals regarding the benefits available under title XVIII of the Social Security Act and under the Medicare Savings Program.

(4) COORDINATION OF EFFORTS TO INFORM OLDER AMERICANS ABOUT BENEFITS AVAILABLE UNDER FEDERAL AND STATE PROGRAMS.—

(A) IN GENERAL.—The Secretary, acting through the Assistant Secretary for Aging, in cooperation with related Federal agencies, shall...
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(1) by striking “PROGRAM.—The State” and inserting “PROGRAM.—

“(A) IN GENERAL.—The State”; 

(2) in subparagraph (A), as inserting by paragraph (1), by striking the second sentence; and 

(3) by adding at the end the following new subparagraphs: 

“(B) For purposes of a State’s obligation under section 1902(a)(8) to furnish medical assistance with reasonable promptness, the date of the electronic transmission by the Commissioner of Social Security to the State Medicaid agency of data under section 1144(c)(3) shall be the date of the filing of such application for benefits under the Medicare Rights Center’s Provider Program. 

“(C) For the purpose of determining when medical assistance shall be made available for medicare cost-sharing under this title, the State shall consider the date of the application for low-income subsidies under section 1860D-14 to be the date of the filing of an application for benefits under the Medicare Savings Program.”

By Mr. BINGAMAN (for himself, Ms. COLLINS, Mr. LIEBERMAN, and Mr. HARKIN): S. 1186. A bill to amend title XVIII of the Social Security Act to eliminate the in the home restriction for Medicare coverage of mobility devices for individuals with expected long-term needs, used in customary settings for the purpose of normal domestic, vocational, or community activities, and with expected long-term need, used in customary settings for the purpose of normal domestic, vocational, or community activities.

As currently interpreted by the Centers for Medicare and Medicaid Services, CMS, the “in the home” restriction under title XVIII of the Social Security Act covers beneficiaries who require power wheelchairs that are necessary for use inside the home. As a result, seriously disabled beneficiaries who would primarily utilize a wheelchair outside the home are prevented from receiving this critical and basic equipment through Medicare. For example, this restriction prevents beneficiaries from receiving wheelchairs to access their work, the community-at-large, place of worship, school, physician’s offices, or pharmacies.

As the Medicare Rights Center in a report entitled “Forced Isolation: Medicare’s ‘In the Home’ Coverage Standards for Wheelchairs” in March 2004 notes, “This effectively disqualifies you from leaving your home without the assistance of others.”

Furthermore, in a Kansas City Star article dated July 3, 2005, Mike Oxford with the National Council on Independent Living noted, “You look at mobility assistance as a way to liberate yourself.” He added that the restriction “is just backward.”

In fact, policies such as these are not only backward but directly contradict numerous initiatives aimed at increasing community integration of people with disabilities, including the Americans with Disabilities Act, the Ticket to Work Program, the New Freedom Initiative, and the Olmstead Supreme Court decision.

According to the Medicare Rights Center update dated March 23, 2006, “This results in arbitrary denials. People with apartments too small for a power wheelchair are denied a device that could allow them to travel down the street. Those in more spacious quarters get coverage, allowing them to scoot from room to room and to the grocery store. People who summon all their willpower and strength to hobble around a small apartment get no help for tasks that are beyond them and their front door.”

In New Mexico, I have heard this complaint about the law repeatedly from our State’s most vulnerable disabled and senior citizens. People argue the provision is being misinterpreted by the administration and results in Medicare beneficiaries being trapped in their home.

The Independence Through Enhancement of Medicare and Medicaid,ITEM, Coalition adds in a letter to CMS on this issue in November 25, 2005, “There continues to be no clinical basis for the in the home restriction and by asking treating practitioners to document medical need only within the home setting, CMS is severely restricting patients from receiving the most appropriate devices to meet their mobility needs.”

My legislation would clarify that this restriction does not apply to mobility devices, including wheelchairs, for people with disabilities in the Medicare Program. The language change is fairly simple and simply clarifies that the in the home restriction for the medical equipment does not apply in the case of mobility devices needed by Medicare beneficiaries with expected long-term needs for use “in customary settings such as normal domestic, vocational, and community activities.”

This legislation is certainly not intended to discourage CMS from dedicating its resources to reducing waste, fraud, and abuse in the Medicare system, as those efforts are critical to ensuring that Medicare remains financially viable and strong in the future. However, it should be noted that neither Medicaid nor the Department of Veterans Affairs impose such in the home restrictions on mobility devices.

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. 1186

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 “Medicare Independent Living Act of 2009”.

SEC. 2. ELIMINATION OF IN THE HOME RESTRICTION FOR MEDICARE COVERAGE OF MOBILITY DEVICES FOR INDIVIDUALS WITH EXPECTED LONG-TERM NEEDS.

(a) IN GENERAL.—Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)) is amended by inserting “or, in the case of a mobility device required by an individual with expected long-term need, used in customary settings for the purpose of normal domestic, vocational, or community activities” after “1919(a)(1)”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after the date of enactment of this Act.

By Mr. REED (for himself, Ms. MURKOWSKI, and Mr. WHITEHOUSE):

S. 1188. A bill to amend the Public Health Service Act with respect to mental health services; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, today I introduce, along with Senators MURKOWSKI and WHITEHOUSE, the Community Mental Health Services Improvement Act. For decades, we have known that people suffering from mental illness die sooner—or 25 years sooner—and have higher rates of disability than the general population. People with mental illness are at greater risk of preventable health conditions such as heart disease and diabetes. But with this legislation, we are taking steps to address these disturbing trends.

We know that mental health and physical health are inter-related. Yet historically mental health and physical health have been treated separately. This legislation would integrate care in one setting.

In a recent survey, 91 percent of community mental health centers said that improving the quality of care is a priority. However, only one-third have the capacity to provide health care on site, and only one-fifth provide medical referrals off site. The centers identified a lack of financial resources as the biggest barrier to integrating treatment.

Accordingly, this legislation provides grants to integrate treatment for mental health, substance abuse, and primary and specialty care. Grantees can use the funds for screenings, basic health care services on site, referrals, or information technology.

This legislation also comprehensively responds to the well identified mental health workforce crisis by providing grants for a wide range of innovative recruitment and retention efforts, including loan-forgive and repayment programs, to placement and support for new mental health professionals, and expanded mental health education and training programs.

Finally, this legislation provides grants for tele-mental health in medically underserved areas, and invests in the quality of mental health services.
health treatment while expanding access to that treatment in rural and underserved areas.

This bipartisan legislation has the overwhelming support of the mental health community. It has been endorsed by the National Council for Community Behavioral Healthcare, the National Alliance on Mental Illness, Mental Health America, the Campaign for Mental Health Reform, and the American Psychological Association. I am especially grateful for the support of the Rhode Island Council of Community Mental Health Organizations, whose members treat close to 15,000 Rhode Islanders of all ages.

As a member of the Senate Committee on Health, Education, Labor, and Pensions, I look forward to our upcoming work on reforming our nation’s health care system—and including important improvements to prevent and treat mental and physical illnesses and conditions. It is my hope that this year we can take meaningful steps to address the challenge of comprehensively improving and expanding access to mental health services.

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

S. 1188

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 “Community Mental Health Services Improvement Act”.

SEC. 2. FINDINGS.

Congress finds that—

(A) Children and adolescents with mental and emotional disturbances who have co-occurring primary care conditions and chronic diseases,

(B) Adults with mental illnesses who have co-occurring primary care conditions and chronic diseases,

(C) Older adults with mental illnesses who have co-occurring primary care conditions and chronic diseases,

(D) Program Authorized.—The Secretary, acting through the Administrator of the Substance Abuse and Mental Health Services Administration and in coordination with the Director of the Health Resources and Services Administration, shall make grants to eligible entities to establish demonstration projects for the provision of coordinated and integrated services to special populations through the co-location of primary and specialty care services in community-based mental and behavioral health settings.

(E) Application.—To be eligible to receive a grant under this section, an eligible entity shall submit an application to the Administrator at such time, in such manner, and with such information as the Administrator may require. Each such application shall include—

(i) an assessment of the primary care needs of the patients served by the eligible entity and a description of how the eligible entity will address such needs; and

(ii) a description of partnerships, cooperative agreements, or other arrangements with local primary care providers, including community health centers, to provide services to special populations.

(F) Use of Funds.—

(i) In General.—For the benefit of special populations, an eligible entity shall use grant funds for—

(A) the provision, by qualified primary care professionals on a reasonable cost basis, of—

(1) primary care services on site at the eligible entity;

(ii) diagnostic and laboratory services; or

(iii) adult and pediatric eye, ear, and dental screenings;

(B) reasonable costs associated with medically necessary referrals to qualified specialty care professionals as well as to other health care providers, as determined by the terms of the grant, for the provision, by qualified specialty care professionals on a reasonable cost basis at site at the eligible entity;

(C) information technology required to accommodate the clinical needs of primary and specialty care professionals; or

(D) facility improvements or modifications needed to bring primary and specialty care professionals on site at the eligible entity.

(ii) Limitation.—Not to exceed 15 percent of grant funds may be used for activities described in subparagraphs (C) and (D) of paragraph (1).

(E) Geographic Distribution.—The Secretary shall ensure that grants awarded under this section are equitably distributed among the geographical regions of the United States and between urban and rural populations.

(F) Evaluation.—Not later than 3 months after a grant or cooperative agreement awarded under this section expires, an eligible entity shall submit to the Secretary the results of an evaluation to be conducted by the entity concerning the effectiveness of the activities carried out under the grant or agreement.

(G) Report.—Not later than 5 years after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report that shall evaluate the activities funded under this section. The report shall include an evaluation of the impact of co-locating primary and specialty care in community behavioral and mental health settings on overall patient health status and recommendations on whether or not the demonstration program under this section shall be made permanent.

(F) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $14,000,000 for fiscal year 2010, $30,000,000 for fiscal year 2011, and such sums as may be necessary for each of fiscal years 2012 through 2014.

SEC. 4. INTEGRATING TREATMENT FOR MENTAL HEALTH, SUBSTANCE ABUSE, AND CO-OCcurring DISORDERS.

Section 5301 of the Public Health Service Act (42 U.S.C. 290bb–40) is amended—

(1) by striking subsection (i) and inserting the following:

(i) FUNDING.—The Secretary shall make available to carry out this section, for fiscal year 2009, $20,000,000; for fiscal year 2010, $20,000,000; for fiscal year 2011, and such sums as may be necessary for each of fiscal years 2012 through 2014. Such sums shall be made available in equal amounts from appropriations under sections 509 and 520A.

(2) by inserting before subsection (j), the following:

(j) COMMUNITY MENTAL HEALTH PROGRAM.—For purposes of eligibility under this section, the term ‘private nonprofit organization’ includes a qualified community mental health program as defined under section 1913(b)(1).’’

SEC. 5. IMPROVING THE MENTAL HEALTH WORKFORCE.

(a) National Health Service Corps.—

(1) Establishment.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall award grants to eligible entities to expand the mental health workforce needs of designated health professional shortage areas.

(2) Use of Funds.—An eligible entity shall use grant funds awarded under this section for—

(i) loan forgiveness and repayment programs (to be carried out in a manner similar to the loan repayment programs carried out under subpart III of part D) for behavioral or mental health professionals who—

(A) agree to practice in designated mental health professional shortage areas;

(B) are graduates of programs in behavioral or mental health; or

(C) agree to serve in community-based non-profit entities, or as public mental health professionals for the Federal, State or local government; and

(ii) use a sliding payment scale for patients who are unable to pay the total cost of services;

(b) Recruitment and Retention of Mental Health Professionals.—

(1) Grants for Recruitment and Retention Efforts.—

(A) National Health Service Corps.—

(i) Establishment.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall award grants to eligible entities to expand the mental health workforce needs of designated health professional shortage areas.

(ii) Use of Funds.—An eligible entity shall use grant funds awarded under this section for—

(A) loan forgiveness and repayment programs (to be carried out in a manner similar to the loan repayment programs carried out under subpart III of part D) for behavioral or mental health professionals who—

(A) agree to practice in designated mental health professional shortage areas;

(B) are graduates of programs in behavioral or mental health; or

(C) agree to serve in community-based non-profit entities, or as public mental health professionals for the Federal, State or local government; and

(D) agree to—

(i) provide services to patients regardless of such patients’ ability to pay; and

(ii) use a sliding payment scale for patients who are unable to pay the total cost of services;

(ii) Behavioral and Mental Health Professional Recruitment and Retention Efforts, with a particular emphasis on candidates...
SEC. 506C. GRANTS FOR BEHAVIORAL AND MENTAL HEALTH EDUCATION AND TRAINING PROGRAMS.

(1) DEFINITIONS.—For the purposes of this section, the term ‘related mental health personnel’ means an individual who—

(1) facilitates access to a medical, social, educational, or mental health professional who is authorized to provide care for individuals suffering from behavioral or mental health disorders.

(2) is not a mental health professional, but who is the first point of contact with persons who are seeking mental health services.

(2) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Substance Abuse and Mental Health Services Administration, shall establish a program to increase the number of trained behavioral and mental health professionals and related mental health personnel. Under the program, grants shall be awarded on a competitive basis to mental and behavioral health nonprofit organizations or accredited institutions of higher education to encourage entities to establish or expand accredited mental and behavioral health education programs.

(3) APPLICATION.—

(a) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) ASSURANCES.—The application shall include assurances that the applicant will meet the requirements of this subsection and that the applicant possesses sufficient infrastructure to manage the activities to be funded through the grant and to evaluate and report on the outcomes resulting from such activities.

(c) MATCHING REQUIREMENT.—The Secretary may not make a grant to an eligible entity under this section unless that entity agrees that, with respect to the costs to be incurred by the entity in carrying out the activities for which the grant was awarded, the entity will provide non-Federal contributions in an amount equal to not less than 35 percent of Federal funds provided under the grant. The entity may provide the contributions in cash or in kind, fairly evaluated, in an amount equal to not less than 35 percent of Federal funds provided under the grant.

(d) GEOGRAPHIC DISTRIBUTION.—The Secretary shall ensure that grants awarded under this section are equitably distributed among the geographical regions of the United States and between urban and rural populations.

(e) EVALUATION.—Not later than 3 months after a grant awarded under this section expires, an eligible entity shall submit to the Secretary the results of an evaluation to be conducted by the entity concerning the effectiveness of the activities carried out under the grant.

(f) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary, acting through the Administrator of the Substance Abuse and Mental Health Services Administration, shall report to the appropriate committees of Congress a report containing data relating to whether grants provided under this section have increased access to behavioral and mental health services in designated mental health professional shortage areas.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $4,000,000 for fiscal year 2010, and such sums as may be necessary for each of fiscal years 2011 through 2014.

SEC. 6. IMPROVING ACCESS TO MENTAL HEALTH SERVICES IN MEDICALLY-UNDERSERVED AREAS.

(a) PROGRAM AUTHORIZED.—The Secretary, acting through the Administrator of the Substance Abuse and Mental Health Services Administration, shall award grants to eligible entities to provide tele-mental health in medically-underserved areas.

(b) ELIGIBLE ENTITY.—To be eligible for a grant under this subsection, an entity shall—

(1) be a qualified community mental health program (as defined in section 1913(b)(1));

(2) have a strategy for providing tele-mental health services; and

(3) meet the requirements of this subsection and the terms and conditions of the grant.

(c) USE OF FUNDS.—Funds awarded under this section shall be used for the following:

(1) establish or expand accredited behavioral and mental health education programs, including the provision of training and related fields placements, or faculty of such programs;

(2) provide interdisciplinary training experiences; and

(3) demonstrate a commitment to training methods and practices that emphasize the integrated treatment of mental health and substance abuse disorders.

Sec. 7. Improving Health Information Technology for Mental Health Providers.

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this section $20,000,000 for fiscal year 2010, and such sums as may be necessary for each of fiscal years 2011 through 2014.
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SEC. 506D. IMPROVING HEALTH INFORMATION TECHNOLOGY FOR MENTAL HEALTH PROVIDERS.

(a) In General.—The Secretary, in consultation with the Secretary of Veterans Affairs, shall collaborate with the Administrator of the Substance Abuse and Mental Health Services Administration and the National Coordinator for Health Information Technology to—

(1) develop and implement a plan for ensuring that various components of the National Health Information Infrastructure, including data and privacy standards, electronic health records, and community and regional health information exchanges, address the needs of mental health and substance abuse treatment providers; and

(2) finance related infrastructure improvements, technical support, personnel training, and ongoing quality improvements.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2010, and such sums as may be necessary for each of fiscal years 2011 through 2014.

By Mr. WYDEN (for himself, Ms. SNOWE, Mrs. MURRAY, Mr. MENENDEZ, Mr. MCCAIN, Mrs. GILLIBRAND, and Mr. ENSIGN):

S. 1192. A bill to restrict any State or local jurisdiction from imposing a new discriminatory tax on mobile wireless communications services, providers, or property; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to join my colleague Senator WYDEN in reintroducing legislation that will stop the increasing financial burden being placed on wireless consumers by discriminatory taxes. On average, the typical consumer pays 15.2 percent of his/her total wireless bill in Federal, State, and local taxes, fees and surcharges—this is compared to the 7.07 percent average tax rate for other goods and services.

The Mobile Wireless Tax Fairness Act of 2009 would ensure that these tax rates don't go any further by prohibiting States and local governments from imposing any new discriminatory tax on mobile services, mobile service providers, or mobile service property for a period of 5 years. The bill defines "new discriminatory tax" as a tax imposed on mobile services, providers, or property that is not generally imposed on other types of services or property, or that is generally imposed at a lower rate.

The wireless era has changed the way the world communicates. To date, there are more than 270 million wireless subscribers in the United States, and consumers used more than 2.2 trillion minutes of airtime from July 2007 to June 2008—that is more than 6 billion minutes per day! And with this growth, more people are using the cell phone as a primary communication device as well as for data and Internet services—approximately 20 percent of households have "cut the cord" and use cell phones exclusively. The increased mobility and access wireless communications provide have improved our lives, our safety, and the efficiency of our work and businesses. It is estimated that the productivity value of all mobile wireless services was worth $185 billion in 2005 alone.

However, as more consumers and businesses embrace wireless technologies and applications, more States and local governments are embracing it as a revenue source by imposing these excessive and discriminatory taxes, which show up on consumers' bills each month. In fact, the effective rate of taxation on wireless services has increased four times faster than the rate on other taxable goods and services between January 2003 and January 2007. These excessive and discriminatory taxes discourage wireless adoption and use, primarily with low-income individuals and families that still view a cellular phone as a luxury when many Americans consider it a necessity. By banning these taxes, we can equalize the taxation of the wireless industry with that of other goods and services and protect the wireless consumer from the weight of exorbitant fees, surcharges, and general business taxes. We cannot allow this essential and innovative industry as well as the consumers who benefit from its amazing services to suffer excessive tax rates.

Placing a moratorium on new discriminatory wireless taxes will ensure that consumers continue to reap the benefits of wireless services. Congress took similar action with the Internet Tax Freedom Act Amendments Act of 2007 last session—because of the incredible impact the Internet will continue to have on consumers and businesses alike. The future of wireless is just as bright and that is why we must ensure its continued growth.

It is confounding that telecommunications, one of the most essential components of our economy and our daily lives, is one of the most highly taxed sectors in the country. That is why I am proud to support the bipartisan legislation so we can continue our efforts to curtail discriminatory taxes on these vital services so that all Americans can leverage the benefits they offer. I would like to thank Senators WYDEN and McCAIN for their leadership on this issue and for co-sponsoring this consumer-friendly legislation.

By Ms. SNOWE (for herself and Ms. KLOBUCHAR):

S. 1193. A bill to amend title 49, United States Code, to enhance aviation safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to join with my colleague, Senator KLOBUCHAR, to introduce legislation that I believe continues to be crucial in the effort to improve aviation safety. Before I begin, I want to recognize the deliberate and unflagging efforts of Senator KLOBUCHAR, whose commitment to improve the safety of commercial aviation in this country is so admirable.

We all remember last spring's news: a U.S. carrier continued flying aircraft even though critical safety checks involving cracks in their fuselages had not been performed on approximately 50 jets. In fact, an independent review concluded that these flights potentially endangered over six million passengers. What was the punitive or disciplinary action taken against the inspector who condoned in first instance—those aircraft to continue flying? Nothing. The PMI, or supervising inspector, continued in his role. Also, as many of you will recall, last April, American Airlines cancelled nearly 2,000 flights in order to catch up on inspections of aircraft wiring—inspections that should have been performed previously under its agreement with the FAA.

This startling news was compounded by a Department of Transportation Inspector General's report in June disclosing so-called safety inspectors are turning a blind eye to violations. Now, according to a New York Times article dated June 4, an inspector reported to his superiors that Colgan Air had been having trouble with their most recent purchase, the Bombardier Q400. The same aircraft that crashed outside of Buffalo, New York this past March. What did his superiors do with this information? They transferred the inspector to a different job, and reportedly buried the report.

The FAA's overarching role is to serve as a protector of the public trust; not as a public relations and management tool for the commercial airlines. Whether I find most offensive throughout these reports is the willingness by the FAA to ignore safety concerns or inspection violations, to presume that due to the tremendous level of success regarding safety protections for so long, they no longer need to follow the procedures that created that high level of safety, instead, as the Inspector General's report indicated, they want to "avoid a negative effect on the FAA" by enforcing those measures.

That is why Senator KLOBUCHAR and I are committed to closing the revolving door between the airlines and the FAA. We need to codify our safety expectations into law and hold anyone who tries to undermine the integrity of the safety process accountable. By establishing a cooling-off period so that FAA inspectors cannot immediately go to work for an airline they used to inspect, and demanding that the FAA establish a national review team of experienced inspectors to conduct periodic, unannounced audits of FAA air carrier inspection facilities will guarantee that aircraft inspections are carried out in a rigorous and timely fashion. The American people, not the airlines, are the primary responsibility of the FAA. It is my hope that these provisions will assist in returning the FAA to their core mission: safety.
Ms. CANTWELL (for herself, Ms. SNOWE, Mr. ROCKEFELLER, and Mrs. HUTCHISON):

S. 1194. A bill to reauthorize the Coast Guard for fiscal years 2010 and 2011, and for other purposes; to the Committee on Commerce, Science, and Transportation.

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

This bill is good for taxpayers, good for the Coast Guard, and good for every American depending on them to be, "Always ready."

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:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act for Fiscal Years 2010 and 2011".

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—AUTHORIZATIONS

Sec. 101. Authorization of appropriations.
Sec. 102. Authorized levels of military personnel.

TITLE II—ADMINISTRATION

Sec. 201. Authority to distribute funds through grants, cooperative agreements, and contracts to maritime authorities and organizations.
Sec. 202. Assistance to foreign governments and maritime authorities.
Sec. 203. Cooperative agreements for industrial activities.

TITLE III—ORGANIZATION

Sec. 301. Vice commandant; vice admirals.
Sec. 302. Number and distribution of commissioned officers on the active duty promotion list.

TITLE IV—PERSONNEL

Sec. 401. Leave retention authority.
Sec. 402. Legal assistance for Coast Guard reservists.
Sec. 403. Reimbursement for certain medical related expenses.
Sec. 404. Reserve and commissioned warrant officer to lieutenant program.
Sec. 405. Enhanced status quo officer promotion system.
Sec. 406. Appointment of civilian Coast Guard judges.
Sec. 407. Coast Guard participation in the Armed Forces Retirement Home system.

TITLE V—ACQUISITIONS

Sec. 501. Chief Acquisition Officer.
Sec. 502. Acquisitions.

CHAPTER 15—ACQUISITIONS

'Subchapter 1—General Provisions

"Sec.
SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized to have the following strength of active duty personnel of 49,564 as of September 30, 2010, and 52,452 as of September 30, 2011.

(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,500 student years for fiscal year 2010, and 2,625 student years for fiscal year 2011.

(2) For flight training, 170 student years for fiscal year 2010 and 179 student years for fiscal year 2011.

(3) For professional training in military and civilian institutions, 350 student years for fiscal year 2010 and 368 student years for fiscal year 2011.

(4) For officer acquisition, 1,300 student years for fiscal year 2010 and 1,365 student years for fiscal year 2011.

TITLE II—ADMINISTRATION

SEC. 201. AUTHORITY TO DISTRIBUTE FUNDS THROUGH GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS TO MARITIME AUTHORITIES AND ORGANIZATIONS.

Section 149 of title 14, United States Code, is amended by adding at the end the following:

"(c) GRANTS TO INTERNATIONAL MARITIME ORGANIZATIONS.—The Commandant may, after consultation with the Secretary of State, make grants to, or enter into cooperative agreements, contracts, or other agreements with, international maritime organizations for the purpose of acquiring information or data about merchant vessel inspections, security, safety and environmental requirements, classification, and port state or flag state law enforcement or oversight."

SEC. 202. ASSISTANCE TO FOREIGN GOVERNMENTS AND MARITIME AUTHORITIES.

Section 149 of title 14, United States Code, as amended by section 201, is further amended by adding at the end the following:

"(d) AUTHORIZED ACTIVITIES.—

(1) The Commandant may transfer or expend funds from any appropriation available to the Coast Guard for—

(A) the activities of traveling contact teams, including any transportation expense, translation services, and administrative expense that is related to such activities;

(B) the activities of maritime authority liaison teams, including reciprocal visits to Coast Guard units, including any transportation expense, translation services, or administrative expense that is related to such activities;

(C) seminars and conferences involving members of maritime authorities of foreign governments;

(D) distribution of publications pertinent to engagement with maritime authorities of foreign governments; and

(2) personnel expenses for Coast Guard civilian and military members, to the extent that those expenses relate to participation in an activity described in subparagraph (C) or (D).

(2) An activity may not be conducted under this subsection with a foreign country unless the Secretary of State approves the conduct of such activity in that foreign country.

SEC. 203. COOPERATIVE AGREEMENTS FOR INDUSTRIAL ACTIVITIES.

Section 151 of title 14, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "All orders"; and

(2) by adding at the end the following:

"(b) ORDERS AND AGREEMENTS FOR INDUSTRIAL ACTIVITIES.—Under this section, the Coast Guard industrial activities may accept orders and enter into reimbursable agreements with establishments, agencies, and departments of the Department of Defense and the Department of Homeland Security."

SEC. 204. DEFINING COAST GUARD VESSELS AND AIRCRAFT.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by inserting after section 638 the following new section:

"§ 638a. Coast Guard vessels and aircraft defined.

For the purposes of sections 637 and 638 of this title, the term "Coast Guard vessels and aircraft" means—

(1) any vessel or aircraft owned, leased, transferred to, or operated by the Coast Guard under the command of a Coast Guard member; or

(2) any other vessel or aircraft under the tactical control of the Coast Guard on which one or more members of the Coast Guard are assigned and conducting Coast Guard missions;".

(b) CLERICAL AMENDMENT.—The table of contents for chapter 17 of such title is amended by inserting after the item relating to section 638 the following:

"§ 638a. Coast Guard vessels and aircraft defined."

TITLE III—ORGANIZATION

SEC. 301. VICE COMMANDANT; VICE ADMIRALS.

(a) VICE COMMANDANT.—The fourth sentence of section 47 of title 14, United States Code, is amended by striking "vice admiral" and inserting "admiral".

(b) VICE ADMIRALS.—Section 50 of such title is amended to read as follows:

"§ 50. Vice admirals.

(a)(1) The President may designate no more than 4 positions of importance and responsibility that shall be held by officers who—

(A) while so serving, shall have the grade of vice admiral, with the pay and allowances of that grade; and

(B) shall perform such duties as the Commandant may prescribe.

(2) The President may appoint, by and with the advice and consent of the Senate, and reappoint, by and with the advice and consent of the Senate, to any such position an officer in the Coast Guard who is serving on active duty above the grade of captain.

The Commandant shall make recommendations for such appointments.

(b) An appointment and the grade of vice admiral shall be effective on the date the officer assumes that duty and, except as provided in paragraph (2) of this subsection or in section 31(d) of this title, shall terminate on the date the officer is detached from that duty.

(2) An officer who is appointed to a position designated under subsection (a) shall continue to hold the grade of vice admiral—

(A) while under orders transferring the officer to another position designated under subsection (a), beginning on the day the officer is detached from that duty and terminating on the day before the day the officer assumes the subsequent duty, but not for more than 60 days;

(B) while hospitalized, beginning on the day of the hospitalization and ending on the day the officer is discharged, if discharged, from the hospital, but not for more than 180 days; and

(C) while awaiting retirement, beginning on the day of the hospitalization and ending on the day the officer is discharged from the hospital, but not for more than 60 days.

(c)(1) An appointment of an officer under subsection (a) does not vacate the permanent grade held by the officer—

(2) An officer serving in a grade above rear admiral who holds the permanent grade
of rear admiral (lower half) shall be considered for promotion to the permanent grade of rear admiral as if the officer was serving in the officer’s permanent grade.

(d) Notwithstanding any provision of law, an officer serving in a grade of admiral (lower half), vice admiral, or admiral, is retired while serving in a lower grade, may in the discretion of the President, be retired with the highest grade in which that officer served.

(e) Notwithstanding any provision of law, an officer, other than the Commandant, who, while serving in the grade of admiral (lower half) or vice admiral, is retired for physical disability shall be placed on the retired list with the highest grade in which that officer served.

(f) An officer, other than the Commandant, who is retired while serving in the grade of admiral or vice admiral, or who, after serving at least 2½ years in the grade of admiral (lower half) is retired, while serving in a lower grade, may in the discretion of the President, be retired with the highest grade in which that officer served.

(g) The Secretary of the Navy, who, after serving less than 2½ years in the grade of admiral or vice admiral, is retired while serving in a lower grade, shall be retired in his permanent grade.

(h) An officer, other than the Commandant, who is retired while serving in the grade of admiral or vice admiral, or who, after serving at least 2½ years in the grade of admiral (lower half), is retired while serving in a lower grade, may in the discretion of the President, be retired with the highest grade in which that officer served.

(i) Notwithstanding any provision of law, an officer, other than the Commandant, who, after serving less than 2½ years in the grade of admiral or vice admiral, is retired while serving in a lower grade, shall be retired in his permanent grade.

SEC. 302. NUMBER AND DISTRIBUTION OF COMMISSIONED OFFICERS ON THE ACTIVE DUTY PROMOTION LIST.

(a) In General.—Section 502 of title 14, United States Code, is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

‘‘(a) The total number of Coast Guard commissioned officers on the active duty promotion list, excluding warrant officers, shall not exceed 7,200. This total number may be temporarily increased up to 2 percent for no more than the 60 days that follow the commissioning of a Coast Guard Academy class.

(b) The total number of commissioned officers authorized to be assigned in this section shall be distributed in grade not to exceed the following percentages:

(1) 0.375 percent for rear admiral.

(2) 0.375 percent for rear admiral (lower half).

(3) 6.0 percent for captain.

(4) 15.0 percent for commander.

(5) 22.0 percent for lieutenant commander.

(6) The Secretary shall, at least once a year, compute the total number of commissioned officers authorized to be assigned in each grade by applying the grade distribution percentages of this section to the total number of commissioned officers listed on the current active duty promotion list. In making such calculations, any fraction shall be rounded to the nearest whole number. The number of commissioned officers on the active duty promotion list serving with other departments or agencies on a reimbursable basis or excluded under the provisions of section 294(d) of title 49, shall not be counted against the total number of commissioned officers authorized to serve in each grade.

(2) by striking subsection (e) and inserting the following:

‘‘(e) The number of officers authorized to be serving on active duty in each grade of the permanent commissioned teaching staff of the Coast Guard Academy and of the Reserve commissioned teaching staff, and administering, recruiting, instructing, or training the reserve components shall be prescribed by the President.

(3) by striking the following of such section and inserting the following:

‘‘§ 42. Number and distribution of commissioned officers on the active duty promotion list.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 3 of this title is amended by inserting the item relating to section 42 and inserting the following:

‘‘42. Number and distribution of commissioned officers on the active duty promotion list.’’

TILE IV—PERSONNEL

SEC. 401. LEAVE RETENTION AUTHORITY.

Section 701(c)(2) of title 10, United States Code, is amended by inserting ‘‘or a declaration of a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-398, 42 U.S.C. 5121 et seq.)’’ after ‘‘disaster’’.

SEC. 402. LEGAL ASSISTANCE FOR COAST GUARD RESERVEES.

Section 1094(a)(4) of title 10, United States Code, is amended by inserting—

(1) by striking ‘‘(as determined by the Secretary of Defense),’’ and inserting ‘‘(as determined by the Secretary of Defense and the Secretary of the department in which the Coast Guard is operating, with respect to the Coast Guard when it is not operating as a part of the Navy),’’

(2) by striking ‘‘prescribed by the Secretary of Defense,’’ and inserting ‘‘prescribed by Secretary of Defense and the Secretary of the department in which the Coast Guard is operating, with respect to the Coast Guard when it is not operating as a service of the Navy),’’.

SEC. 403. REIMBURSEMENT FOR CERTAIN MEDICAL-RELATED TRAVEL EXPENSES.

Section 1074(a)(10) of title 10, United States Code, is amended—

(1) by striking ‘‘In General,’’ and inserting ‘‘In General,’’ and

(2) by adding at the end the following:

‘‘(2) In any case in which a covered beneficiary resides on an INCONUS island that lacks public access roads to the mainland and is referred by a primary care physician to a specialty care provider on the mainland who provides services less than 100 miles from the location in which the beneficiary resides, the Secretary shall reimburse the reasonable travel expenses of the covered beneficiary, and, where appropriate, an adult necessary, for a parent or guardian of the covered beneficiary or another member of the covered beneficiary’s family who is not less than 21 years of age.

SEC. 404. RESERVE COMMISSIONED WARRANT OFFICER TO LIEUTENANT PROMOTION LIST.

Section 214(a)(1) of title 14, United States Code, is amended to read as follows:

‘‘(a) The President may appoint temporary commissioned warrant officers serving in the Regular Coast Guard in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers, warrant officers, and enlisted members of the Coast Guard, and from licensed officers of the United States merchant marine; and

‘‘(2) in the Coast Guard Reserve in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers of the Coast Guard Reserve.’’

SEC. 405. ENHANCED STATUS QUO OFFICER PROMOTION LIST.

Section 238(a) of title 14, United States Code, is amended—

(1) by inserting ‘‘and’’ after ‘‘considered,’’ and

(2) by striking ‘‘consideration, and the number of officers the board may recommend for promotion’’ and inserting ‘‘consideration’’.

(b) Section 238 of such title is amended—

(1) by inserting ‘‘(a)’’ before ‘‘The Secretary’’;

(2) by adding at the end the following:

‘‘(b) In addition to the information provided pursuant to subsection (a), the Secretary may furnish the selection board—

‘‘(1) specific direction relating to the needs of the service for officers having particular skills, including direction relating to the need for a minimum number of officers with particular skills within a specialty; and

‘‘(2) other such guidance that the Secretary believes may be necessary to enable the board to properly perform its functions.

Sections made based on the direction and guidance provided under this subsection shall not exceed the maximum percentage of officers who may be selected from below the selected grade on the active duty promotion list.’’

(3) by striking ‘‘(4) 10.0 percent for commander.

(4) 15.0 percent for captain.

(5) 30.0 percent for lieutenant commander.’’

(6) by striking ‘‘(6) 20.0 percent for lieutenant commander.’’
(c) Section 259(a) of such title is amended by striking ‘‘board’’ the second place it appears and inserting ‘‘board, giving due consideration to the needs of the service for officers with identical skills so noted in the specific direction furnished pursuant to section 258 of this title’’,

(d) Section 260(b) of such title is amended by inserting after the need for the services as noted in the specific direction furnished the word section 258 of this title after ‘‘qualified for promotion’’.

SEC. 406. APPOINTMENT OF CIVILIAN COAST GUARD JUDGES.

Section 875 of the Homeland Security Act of 2002 (6 U.S.C. 455) is amended—

(1) by redesignating subsection (c) as subsection (d); and

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

‘‘(C) APPOINTMENT OF JUDGES.—The Secretary may appoint civilian employees of the Department of Homeland Security as appellate military judges, available for assignment to the Coast Guard Court of Criminal Appeals as provided for in section 866(a) of title 10, United States Code.’’.  

SEC. 407. COAST GUARD PARTICIPATION IN THE ARMED FORCES RETIREMENT HOME SYSTEM.

(a) ELIGIBILITY UNDER THE ARMED FORCES RETIREMENT HOME ACT.—Section 1502 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 401) is amended—

(1) by striking ‘‘does not include the Coast Guard when it is not operating as a service of the Navy.’’ in paragraph (4) and inserting ‘‘has the meaning given such term in section 101(4) of title 10.’’;

(2) by striking ‘‘and’’ in paragraph (5)(C);

(3) by striking ‘‘Affairs.’’ in paragraph (5)(D) and inserting ‘‘Affairs; and’’;

(4) by adding at the end of paragraph (5) the following:

‘‘(E) the Assistant Commandant of the Coast Guard for Human Resources.’’; and

(5) by adding at the end of paragraph (6) the following:

‘‘(E) The Master Chief Petty Officer of the Coast Guard.’’.

(b) DEDUCTIONS.—

(1) Section 2772 of title 10, United States Code, is amended—

(A) by striking ‘‘of the military department’’ in subsection (a);

(B) by striking ‘‘Armed Forces Retirement Home Act’’ in subsection (b) and inserting ‘‘Chief Operating Officer of the Armed Forces Retirement Home’’; and

(C) by striking subsection (c).

(2) Section 1007 of title 37, United States Code, is amended—

(A) by striking ‘‘Armed Forces Retirement Home Board’’, in paragraph (3) and inserting ‘‘Chief Operating Officer of the Armed Forces Retirement Home,’’;

(B) by striking ‘‘and’’ in paragraph (4) and inserting ‘‘has the meaning given such term in section 101(4) of title 10.’’;

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first pay period beginning on or after January 1, 2010.

TITLe V.—ACQUISITION REFORM

SEC. 501. CHIEF ACQUISITION OFFICER.

(a) IN GENERAL.—Chapter 3 of title 14, United States Code, is amended by adding at the end the following:

‘‘§ 55. Chief Acquisition Officer

‘‘(a) IN GENERAL.—There shall be in the Coast Guard a Chief Acquisition Officer selected by the Commandant who shall be a Rear Admiral or civilian from the Senior Executive Service (career reserved). The Chief Acquisition Officer shall serve at the Assistant Commandant level and have acquisition management as that individual’s primary duty.

‘‘(b) QUALIFICATIONS.—The Chief Acquisition Officer shall be an acquisition professional with a Level III certification and must have at least 10 years experience in an acquisition position, of which at least 4 years were spent as—

‘‘(1) the program executive officer;

‘‘(2) the program manager of a Level 1 or Level 2 acquisition project or program;

‘‘(3) the deputy program manager of a Level 1 or Level 2 acquisition; or

‘‘(4) a combination of such positions.

‘‘(c) FUNCTION OF THE CHIEF ACQUISITION OFFICER.—The functions of the Chief Acquisition Officer include—

‘‘(1) monitoring the performance of programs and projects on the basis of applicable performance measurements and advising the Commandant, through the chain of command, regarding the appropriate business strategy to achieve the missions of the Coast Guard;

‘‘(2) maximizing the use of full and open competition at the prime contract and subcontract levels in the acquisition of property, capabilities, and services by the Coast Guard by establishing policies, procedures, standards and practices that the Coast Guard receives a sufficient number of competitive proposals from responsible sources to fulfill the Government’s requirements, including performance based schedules, at the lowest cost or best value considering the nature of the property or service procured;

‘‘(3) making acquisition decisions in concurrence with the technical authority, or technical authorities, as appropriate, of the Coast Guard, as designated by the Commandant, concerning other applicable laws and decisions establishing procedures within the Coast Guard;

‘‘(4) ensuring the use of detailed performance specifications in instances in which performance based contracting is used;

‘‘(5) managing the direction of acquisition policy for the Coast Guard, including implementation of the unique acquisition policies, regulations, and standards of the Coast Guard;

‘‘(6) developing and maintaining an acquisition officer management program in the Coast Guard to ensure that there is an adequate acquisition workforce;

‘‘(7) assessing the requirements established for Coast Guard mission performance knowledge and skill in acquisition resources and management and the adequacy of such requirements for facilitating the achievement of the performance goals established for acquisition management;

‘‘(8) developing strategies and specific plans for hiring, training, and professional development;

‘‘(9) reporting to the Commandant, through the chain of command, on the progress made in improving acquisition management capability.

‘‘(b) CLERICAL AMENDMENT.—The table of contents for chapter 3 of title 14, United States Code, is amended by adding at the end the following:

‘‘55. Chief Acquisition Officer.’’.

(c) SELECTION DEADLINE.—As soon as practicable after the date of enactment of this Act, but no later than October 1, 2011, the Commandant shall select a Chief Acquisition Officer under section 55 of title 14, United States Code.

SEC. 502. ACQUISITIONS.

(a) IN GENERAL.—Chapter 15 of title 14, United States Code, is amended by inserting after chapter 13 the following:

‘‘CHAPTER 15. ACQUISITIONS

‘‘SUBCHAPTER 1—GENERAL PROVISIONS

‘‘Sec. 561. Acquisition directorate

‘‘Sec. 562. Senior acquisition leadership team

‘‘Sec. 563. Improvements in Coast Guard acquisition management

‘‘Sec. 564. Recognition of Coast Guard personnel for excellence in acquisition management

‘‘Sec. 565. Prohibition on use of lead systems integrators

‘‘Sec. 566. Required contract terms

‘‘Sec. 567. Department of Defense consultation

‘‘Sec. 568. Unidentified contractual actions

‘‘SUBCHAPTER 2—IMPROVED ACQUISITION PROCESS AND PROCEDURES

‘‘Sec. 571. Identification of major system acquisitions

‘‘Sec. 572. Acquisition

‘‘Sec. 573. Preliminary development and demonstration

‘‘Sec. 574. Acquisition, production, deployment, and support

‘‘Sec. 575. Acquisition program baseline breach

‘‘SUBCHAPTER 3—DEFINITIONS

‘‘Sec. 581. Definitions

‘‘SUBCHAPTER 1—GENERAL PROVISIONS

‘‘§ 561. Acquisition directorate

‘‘(a) ESTABLISHMENT.—The Commandant of the Coast Guard shall establish an acquisition directorate to provide policy and oversight for the implementation and management of all Coast Guard acquisition programs, projects, and programs.

‘‘(b) Mission.—The mission of the acquisition directorate is—

‘‘(1) to acquire and deliver assets and systems that increase operational readiness, enhance mission performance, and create a safe working environment; and

‘‘(2) to assist in the development of a workforce that is trained and qualified to further the Coast Guard’s missions and deliver the best value products and services to the Nation.

‘‘§ 562. Senior acquisition leadership team

‘‘(a) ESTABLISHMENT.—The Commandant shall establish a senior acquisition leadership team within the Coast Guard comprised of—

‘‘(1) the Vice Commandant;

‘‘(2) the Deputy and Assistant Commandants;

‘‘(3) appropriate senior staff members of each Coast Guard directorate;

‘‘(4) appropriate senior Coast Guard officer or employee designated by the Commandant;

‘‘(b) FUNCTION.—The senior acquisition leadership team shall—

‘‘(1) meet at the call of the Commandant at such places and such times as the Commandant may require;

‘‘(2) provide advice and information on operational and performance requirements of the Coast Guard;

‘‘(3) identify gaps and vulnerabilities in the operational readiness of the Coast Guard;

‘‘(4) make recommendations to the Commandant and the Chief Acquisition Officer to remedy the identified gaps and vulnerabilities in the operational readiness of the Coast Guard; and

‘‘(5) contribute to the development of a professional, experienced acquisition workforce by providing acquisition-experience tours of duty and educational development for officers and employees of the Coast Guard.

‘‘§ 563. Improvements in Coast Guard acquisition management

‘‘(a) PROJECT AND PROGRAM MANAGERS.—
"(1) Project or program manager defined.—In this section, the term ‘project or program manager’ means an individual designated—

(A) to develop, produce, and deploy a new asset to meet identified operational requirements; and

(B) to manage cost, schedule, and performance of the acquisition or project or program.

"(2) Level 1 projects.—An individual may not be assigned as the project or program manager for a Level 1 acquisition unless the individual holds a Level II acquisition certification as a program manager.

"(3) Level 2 and 3 projects.—An individual may not be assigned as the project or program manager for a Level 2 acquisition unless the individual holds a Level II acquisition certification as a program manager.

"(b) Guidance on tenure and accountability of program and project managers.—Not later than one year after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011, the Commandant shall issue guidance to address the qualifications, resources, responsibilities, authority, accountability of program and project managers for the management of acquisition programs and projects. The guidance shall provide for career progression of those officers, members, and employees of the Coast Guard who wish to pursue careers in acquisition are identified in terms of the education, training, experience, and assignments necessary for career progression of those officers, members, and employees to the most senior positions in the acquisition workforce; and publish information on such career paths.

"§ 564. Recognition of Coast Guard personnel for excellence in acquisition

(a) In general.—Not less than 180 days after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011, the Commandant shall issue guidance to recognize excellent performance by individuals and teams comprised of officers, members, and employees of the Coast Guard that contributed to the success of a Coast Guard acquisition program or project.

(b) Elements.—The program shall include—

(1) specific award categories, criteria, and eligibility and manners of recognition;

(2) procedures for the nomination by personnel of the Coast Guard of individuals and teams comprised of officers, members, and employees of the Coast Guard for recognition under the program; and

(3) procedures for the evaluation of nominations for recognition under the program by one or more panels of individuals from the Government, academia, and the private sector. In each panel, individuals are appointed in such manner as the Commandant shall establish for the purposes of this program.

(c) Award of cash bonuses.—As part of the program required by subsection (a), the Commandant, subject to the availability of appropriations, may award to any civilian employee recognized pursuant to the program a cash bonus to the extent that the performance of such individual so recognized warrants the award of such bonus.

"§ 565. Prohibition on use of lead systems integrators

(a) In General.—Except as provided in subsection (b), the Commandant may not use a private sector entity as a lead systems integrator for the acquisition of a capability or an asset.

(b) Exceptions.—

(1) National Distress and Response System Modernization Program ; National Security Cutters 2 and 3.—Notwithstanding subsection (a), the Commandant may use a private sector entity as a lead systems integrator for the acquisition of the National Distress and Response System Modernization Program, the CHISR projects directly related to the Integrated Deepwater System and National Security Cutters 2 and 3 if the Secretary of Homeland Security certifies that—

(A) the acquisition is in accordance with the Competition in Contracting Act of 1984 (41 U.S.C. 251 note), the amendments made by that Act, and the Federal Acquisition Regulations; and

(B) the acquisition and the use of a private sector entity as a lead systems integrator for the acquisition is in the best interest of the Federal Government.

(2) Termination of statute.—Except for the modification of delivery or task orders pursuant to Parts 4 and 42 of the Federal Acquisition Regulations, the Commandant may not use a private sector entity as a lead systems integrator after the earlier of—

(A) September 30, 2012; or

(B) the date on which the Commandant certifies in writing to the appropriate congressional committees that the Coast Guard has available and can retain sufficient contracting personnel and expertise within the Coast Guard, through an arrangement with other Federal agencies, or through contracts or other arrangements with private sector entities, to perform the functions and responsibilities of the lead system integrator in an efficient and cost-effective manner.

"§ 566. Required contract terms

(a) In General.—The Commandant shall ensure that a contract awarded or a delivery order or task order issued for an acquisition of a capability or an asset with an expected service life of 10 years or with a total acquisition cost that is equal to or exceeds $10,000,000 awarded or issued by the Coast Guard, or for any contract awarded after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011—

(1) provides that all certifications for an end state capability or asset under such contract, delivery order, or task order, respectively, will be conducted by the Commandant or an independent third party, and that self-certification by a contractor or subcontractor is not allowed;

(2) requires that the Commandant maintain the authority to establish, approve, and maintain technical requirements;

(3) requires that any measurement of contractor and subcontractor performance be conducted by the Commandant or an independent third party, including the extent to which the work performed met all performance, cost, and schedule requirements; and

(4) specifies that, for the acquisition or upgrade of air, surface, or shore capabilities and assets for which compliance with TEMPEST certification is a requirement, the Commandant shall certify in writing to the appropriate congressional committees that the work will be the air, surface, or shore standard then used by the Department of the Navy for that type of capability or asset; and

(b) Full and open competition.—The Commandant and any lead systems integrator engaged by the Coast Guard, pursuant to the exceptions described in subsection (a)(2) for determining that a contract or any acquisition contract awarded after the date of enactment of that Act, unless otherwise excepted in accordance with the Competition in Contracting Act of 1984 (41 U.S.C. 251 note), the amendments made by that Act, and the Federal Acquisition Regulations.
"(b) Prohibited Contract Provisions.—The Commandant shall ensure that any contract awarded or delivery order or task order issued by the Coast Guard after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011 does not include any provision allowing for equitable adjustment that is not consistent with the Federal Acquisition Regulations.

"(c) Integrated Product Teams.—Integrated product teams, and all teams that oversee integrated product teams, shall be chaired by the Commandant or an employee or employee of the Coast Guard.

"(d) Deepwater Technical Authorities.—The Commandant may designate technical authorities to establish, approve, and maintain technical requirements. Any such designation shall be made in writing and may not be delegated to the authority of the Chief Acquisition Officer established by section 55 of this title.

§ 567. Department of Defense consultation

"(a) In General.—The Commandant shall make arrangements as appropriate with the Secretary of Defense for support in contracting and management of Coast Guard acquisition programs. The Commandant shall also seek coordination with the Department of Defense contracts, and contracts of other appropriate agencies, to obtain the best possible price for assets acquired for the Coast Guard.

"(b) Inter-Service Technical Assistance.—The Commandant shall seek to enter into a memorandum of understanding or a memorandum of agreement with the Secretary of the Navy to obtain the assistance of the Office of the Assistant Secretary of the Navy for Research, Development, and Acquisition, including Navy Systems Command, with the oversight of Coast Guard major acquisition programs. The memorandum of understanding or memorandum of agreement shall, at a minimum, provide for—

"(1) the exchange of technical assistance and support that the Assistant Commandant for Acquisition, Human Resources, Engineering, and Information Technology may identify;

"(2) the use, as appropriate, of Navy technical and other organic capabilities in the Coast Guard.

"(c) Technical Requirement Approval Procedures.—The Chief Acquisition Officer shall adopt, to the extent practicable, procedures modeled after those used by the Navy Senior Acquisition Official to approve all technical requirements.

§ 568. Unidentified contractual actions

"(a) In General.—The Coast Guard may not enter into an unidentified contractual action unless the contractual action provides for agreement upon contractual terms, specifications, and price by the earlier of—

"(1) the date on which the contractor submits a qualifying proposal to definitize the contractual terms, specifications, and price; or

"(2) the date on which the amount of funds obligated under the contractual action is equal to more than 50 percent of the negotiated overhead ceiling price for the contractual action.

"(b) Limitation of Obligations.—

"(1) In General.—Except as provided in subparagraph (A), if a contractor submits a qualifying proposal to definitize an unidentified contractual action may not obligate under such contractual action an amount that exceeds 50 percent of the negotiated overhead ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

"(2) Exception.—Notwithstanding subparagraph (A), if a contractor submits a qualifying proposal to definitize an unidentified contractual action before an amount that exceeds 50 percent of the negotiated overhead ceiling price is obligated on such action, the contracting officer for such action may not obligate with respect to such contractual action an amount that exceeds 75 percent of the negotiated overhead ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

"(c) Waiver.—The Commandant may waive the application of this subsection with respect to a contract if the Commandant determines that the waiver is necessary to support a—

"(1) contingency operation (as that term is defined in section 101(a)(13) of title 10);

"(2) operations to prevent or respond to a transportation security incident (as defined in section 101(a)(13) of title 10); or

"(3) operations to prevent or respond to a disaster or major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

"(d) Inclusion of Non-Urgent Requirements.—This subsection does not apply to an unidentified contractual action for the purchase of initial spares.

"(e) Inclusion of Non-Urgent Requirements.—For requirements for spare parts and support equipment that are not needed on an urgent basis may not be included in an unidentified contractual action by the Coast Guard for spare parts and support equipment that are needed on an urgent basis unless the Commandant approves such inclusion as being—

"(1) in the best interests of the United States;

"(2) in the best interests of the United States;

"(3) the scope of an unidentified contractual action under which performance has begun may not be modified unless the Commandant approves such modification as being—

"(1) a good business practice; and

"(2) in the best interests of the United States.

"(f) Allowable Profit.—The Commandant shall not authorize profit allowed on an unidentified contractual action for which the final price is negotiated after a substantial portion of the performance required is completed unless that performance is begun under the contractual action.

"(g) Definitions.—In this section:

"(1) Unidentified Contractual Action.—The term ‘unidentified contractual action’ means a new procurement action entered into by the Coast Guard for which the contractual terms, specifications, or prices are not agreed upon before performance is begun under the action.

"(h) Exclusion.—The term ‘unidentified contractual action’ does not include contractual actions with respect to—

"(1) foreign military sales;

"(2) purchases in an amount not in excess of the threshold of the simplified acquisition threshold; or

"(3) special access programs.

"(i) Qualifying Proposal.—The term ‘qualifying proposal’ means a proposal that contains sufficient information to enable complete and meaningful audits of the information contained in the proposal as determined by the contracting officer.

"(j) Subchapter 2—Improved Acquisition Process and Procedures

§ 571. Identification of major system acquisition program

"(a) In General.—

"(1) Support Mechanisms.—The Commandant shall develop and implement mechanisms to support the establishment of mature and stable operational requirements for acquisitions under this subchapter.

"(2) Mission Analysis; Affordability Assessment.—The Commandant may not initiate a Level 1 or Level 2 acquisition project or program under the Commandant—

"(A) completes a mission analysis that—

"(i) identifies any gaps in capability; and

"(ii) develops a clear mission need; and

"(B) prepares a preliminary affordability assessment for the project or program.

"(2) Elements.—

"(1) Requirements.—The mechanisms required by subsection (a) shall ensure the implementation of a formal process for the development of mature and stable operational requirements for acquisitions under this subchapter.

"(2) Assessment of Trade-Offs.—In conducting an affordability assessment under subsection (a)(2),(B), the Commandant shall develop and implement mechanisms to ensure that trade-offs among cost, schedule, and performance are considered in the establishment of preliminary operational requirements for development and production of new assets and capabilities for Level 1 and Level 2 acquisitions programs.

"(c) Human Resource Capital Planning.—

"(1) The Commandant shall develop staffing predictions, define human capital performance initiatives, and identify preliminary training needs for any such project or program.

"(2) DHS Acquisition Approval.—A Level 1 or Level 2 acquisition project or program may not be implemented unless it is approved by the Department of Homeland Security Acquisition Review Board or the Joint Review Board.

§ 572. Acquisition

"(a) In General.—The Commandant may not establish a Level 1 or Level 2 acquisition project or program approved under section 571 unless the Commandant—

"(1) clearly defines the operational requirements for the project or program;
(2) establishes the feasibility of alternatives;
(3) develops an acquisition project or program baseline;
(4) produces a life-cycle cost estimate; and
(5) assesses the relative merits of alternatives to determine a preferred solution in accordance with the requirements of this section.

(b) ANALYSIS OF ALTERNATIVES.—
"(1) In General.—The Commandant shall conduct an analysis of alternatives for the asset or capability to be acquired in an analytic and select phase of the acquisition process.

(2) REQUIREMENTS.—The analysis of alternatives shall be conducted by a Federally-funded research and development center, a qualified entity of the Department of Defense, or a similar independent third-party entity that has appropriate acquisition expertise and has no substantial financial interest in any part of the acquisition project or program that is the subject of the analysis. At a minimum, the analysis of alternatives shall include—

(A) an assessment of the technical maturity, and technical and other risks;
(B) an examination of capability, interoperability, and other disadvantages;
(C) an evaluation of whether different combinations or quantities of specific assets or capabilities could meet the Coast Guard’s overall performance needs;
(D) a discussion of key assumptions and variables, and sensitivity to change in such assumptions and variables;
(E) when an alternative is an existing asset or prototype, an evaluation of relevant safety and performance records and costs;
(F) a calculation of life-cycle costs including—
(i) an examination of likely research and development costs and the levels of uncertainty associated with such estimated costs;
(ii) an examination of likely production and deployment costs and levels of uncertainty associated with such estimated costs;
(iii) an examination of likely operating and support costs and the levels of uncertainty associated with such estimated costs;
(iv) if they are likely to be significant, an examination of likely disposal costs and the levels of uncertainty associated with such estimated costs; and
(v) such additional measures as the Commandant or the Secretary of Homeland Security determines necessary for appropriate evaluation of the asset; and
(G) the business case for each viable alternative.

(c) TEST AND EVALUATION MASTER PLAN.—
"(1) IN GENERAL.—For any Level 1 or Level 2 acquisition project or program the Chief Acquisition Officer shall approve a test and evaluation master plan specific to the acquisition project or program for the capability, asset, or subsystem of the capability or asset intended to minimize technical, cost, and schedule risk as early as practicable in the development of the project or program.

(2) TEST AND EVALUATION STRATEGY.—The master plan shall—
"(A) set forth an integrated test and evaluation strategy that will verify that capability, asset, or subsystem of the capability or asset is approved for production; and
"(B) require that adequate developmental tests and evaluations of operational tests and evaluations established under paragraph (A) are performed to inform production decisions.

(3) OTHER COMPONENTS OF THE MASTER PLAN.—At a minimum, the master plan shall identify—
(A) the key performance parameters to be resolved through an integrated test and evaluation strategy;
(B) critical operational issues to be assessed in addition to the key performance parameters identified;
(C) specific development test and evaluation phases and the scope of each phase; and
(D) modeling and simulation activities to be performed, if any, and the scope of such activities;
(E) early operational assessments to be performed, if any, and the scope of such assessments;
(F) operational test and evaluation phases;
(G) an estimate of the resources, including funds, that will be required for all test, evaluation, assessment, modeling, and simulation activities; and
(H) the Government entity or independent entity that will perform the test, evaluation, assessment, modeling, and simulation activities.

(4) UPDATE.—The Chief Acquisition Officer shall ensure that any updated master plan is submitted to the Chief Acquisition Officer; or

(5) LIMITATION.—The Coast Guard may not—
(A) proceed beyond that phase of the acquisition process that entails approving the supporting acquisition of a capability or asset before the master plan is approved by the Chief Acquisition Officer;
(B) award any production contract for a capability or asset, or subsystem for which a master plan is required under this subsection before the master plan is approved by the Chief Acquisition Officer;
(C) use life-cycle cost estimates that may be developed for each Level 1 or Level 2 acquisition project or program to ensure that these estimates are considered in decisions to develop or produce new or enhanced capabilities and assets; and

(d) LIFE-CYCLE COST ESTIMATES.—
"(1) IN GENERAL.—The Commandant shall implement mechanisms to ensure the development and regular updating of life-cycle cost estimates for each Level 1 or Level 2 acquisition project or program to ensure that these estimates are considered in decisions to develop or produce new or enhanced capabilities and assets.

(2) TYPES OF ESTIMATES.—In addition to life-cycle cost estimates that may be developed by acquisition program offices, the Commandant shall ensure that an independent life-cycle cost estimate be developed for each Level 1 or Level 2 acquisition project or program.

(3) REQUIREMENTS.—For each Level 1 or Level 2 acquisition project or program the Commandant shall require that life-cycle cost estimates shall be updated before each milestone decision is concluded and the project or program enters a new acquisition phase.

(e) DHS Acquisition Proposal APPROVAL.—A project program may enter the obtain phase under section 573 unless the Department of Homeland Security Acquisition Review Board or the Joint Review Board (or other entity exercising comparable responsibility delegated by the Secretary of Homeland Security) has approved the analysis of alternatives for the project. The Joint Review Board may also approve the low rates initial production quantity for the project or program if such an initial production quantity is planned by the acquisition program or program and deemed approved by the Joint Review Board.

§ 573. Preliminary development and demonstration

(a) IN GENERAL.—The Commandant shall ensure that developmental test and evaluation, operational test and evaluation, life cycle cost estimates, and the development and demonstration requirements are met to confirm that the projects or programs meet the requirements described in the mission-need statement and the operational-requires decisions documented in development and demonstration objectives:

(1) To demonstrate that the most promising design, manufacturing, and production option is based upon a stable, producible, and cost-effective product design.

(2) To ensure that the product capabilities meet contract specifications, acceptable operational performance requirements, and system security requirements.

(3) To ensure that the product design is mature enough to commit to full production and deployment.

(b) TESTS AND EVALUATIONS.—
"(1) IN GENERAL.—The Commandant shall ensure that the Coast Guard conducts developmental tests and evaluations of operational tests and evaluations of a capability or asset and the subsystems of the capability or asset for which a master plan has been prepared under section 572.

(2) USE OF THIRD PARTIES.—The Commandant shall ensure that the Coast Guard and any independent third parties with expertise in and availability of funding and capability to test, evaluate, and deploy assets and the subsystems of the capabilities or assets being acquired to conduct developmental tests and evaluations and operational tests and evaluations whenever the Coast Guard lacks the capability to conduct the tests and evaluations required by a master plan.

(c) COMMUNICATION OF SAFETY CONCERNS.—
The Commandant shall require that safety concerns identified during developmental or operational tests and evaluations or through independent or Government design assessments of capabilities or assets and subsystems of capabilities or assets to be acquired by the Coast Guard shall be communicated to the program manager as soon as practicable, but not later than 30 days after the completion of the test or assessment event or activity that identified the safety concern, to the program manager for the capability or asset and the subsystems concerned and to the Chief Acquisition Officer.

(d) ASSET ALREADY IN LOW, INITIAL, OR FULL RATE producing capability or asset does not have the capability to conduct development and demonstration test and evaluation on a capability or asset already in low, initial, or full-rate production identifies a safety concern with the capability or asset the Coast Guard plans to purchase, or if a capability or asset not previously identified during developmental or operational test and evaluation, the Commandant shall—
(A) notify the program manager and the Chief Acquisition Officer of the safety concern as soon as practicable, but not later than 30 days after the completion of the test or assessment event or activity that identified the safety concern; and
(B) notify the Chief Acquisition Officer and include in such notification—
(i) an explanation of the actions that will be taken to correct or mitigate the safety concern in all capabilities or assets and subsystems of the capabilities or assets yet to be produced, and the date by which those actions will be taken;
(ii) an explanation of the actions that will be taken to correct or mitigate the safety concern in previously produced capabilities or assets and subsystems of the capabilities or assets, and the date by which those actions will be taken; and
(iii) the assessment of the adequacy of current funding to correct or mitigate the safety concern in capabilities or assets and subsystems of the capabilities or assets in production or previously produced capabilities or assets and subsystems.

(c) TECHNICAL CERTIFICATION.—
“(1) In general.—The Commandant shall—

(a) cause all electronics on all aircraft, surface, and shore assets that require TEMPEST certification and that are delivered after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011 to be tested in accordance with master plan standards and communications security standards by an independent third party that is authorized by the Federal Government to perform such testing; and

(b) certify that the assets meet all applicable TEMPEST requirements.

“(2) Vessel classification.—The Commandant shall cause each cutter, other than the National Security Cutter, acquired by the Coast Guard and delivered after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011 to be classed by the American Bureau of Shipping before final acceptance.

“(d) Acquisition decision.—The Commandant may not proceed to full scale production deployment and support of a Level 1 or Level 2 acquisition project or program unless the Department of Homeland Security Acquisition Review Board has verified that the delivered asset or system meets the project or program performance and cost goals.

§574. Acquisition, production, deployment, and support

“(a) In general.—The Commandant shall—

(1) ensure that there is a stable and efficient production and support capability to develop an asset or system;

(2) conduct follow on testing to confirm and monitor performance and correct deficiencies; and

(3) conduct acceptance tests and trials upon the delivery of each asset or system to ensure the delivered asset or system achieves full operational capability.

“(b) Executive officers.—The Commandant shall—

(1) execute the productions contracts;

(2) ensure the delivered products meet operational performance and schedules requirements established in the acquisition program baseline;

(3) validate manpower and training requirements to meet system needs to operate, maintain, support, and instruct the system; and

(4) prepare a project or program transition plan to enter into programmatic sustainment, operations, and support.

§575. Acquisition program baseline breach

“(a) In general.—The Commandant shall submit a report to the appropriate congressional committees as soon as possible, but not later than 30 days, after the Chief Acquisition Officer of the Coast Guard becomes aware of the breach of an acquisition program baseline for any Level 1 or Level 2 acquisition program, by—

(1) a likely cost overrun of greater than 15 percent of the total acquisition costs of which exceed $1,000,000,000, or

(2) a likely delay of more than 180 days in the delivery schedule for any individual capability or asset or a class of capabilities or assets; or

(3) an anticipated failure for any individual capability or asset or class of capabilities or assets to comply with any key performance threshold or parameter under the acquisition program baseline.

“(b) Content.—The report submitted under subsection (a) shall include—

(1) a detailed description of the breach and an explanation of its cause;

(2) the projected impact to performance, cost, and schedule;

(3) an updated acquisition program baseline and the complete history of changes to the original baseline; and

(4) the updated acquisition schedule and the complete history of changes to the original schedule;

(5) a full life-cycle cost analysis for the capability or asset or class of capabilities or assets;

(6) a remediation plan identifying corrective actions and any resulting issues or risks; and

(7) a description of how progress in the remediation plan will be measured and monitored.

“(c) Substantial variances in costs or schedule.—If a likely cost overrun is greater than 25 percent or a likely delay is greater than 12 months from the costs and schedule described in the acquisition program baseline for any Level 1 or Level 2 acquisition project or program of the Coast Guard, the Commandant shall include in the report a written certification, with a supporting explanation, before final acceptance of the asset that—

(1) the capability or asset or capability or asset class to be acquired under the project or program is essential to the accomplishment of Coast Guard missions;

(2) there are no alternatives to such capability or asset or capability or asset class which will provide equal or greater capability in both a more cost-effective and timely manner;

(3) the new acquisition schedule and estimates for total acquisition costs are reasonable; and

(4) the management structure for the acquisition program is adequate to manage and control performance, cost, and schedule.

“SUBCHAPTER 3—DEFINITIONS

§581. Definitions

“In this chapter:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation.

(2) CHIEF ACQUISITION OFFICER.—The term ‘Chief Acquisition Officer’ means the officer appointed under section 56 of this title.

(3) ‘Commandant’ means the Commandant of the Coast Guard.

(4) ‘Joint Review Board.’—The term ‘Joint Review Board’ means the Department of Homeland Security’s Investment Review Board, Joint Requirements Council, or other entity within the Department designated by the Secretary as the Joint Review Board for purposes of this chapter.

(5) ‘Level 1 acquisition’.—The term ‘Level 1 acquisition’ shall be—

(A) an acquisition by the Coast Guard—

(i) the estimated life-cycle costs of which exceed $1,000,000,000; or

(ii) the estimated total acquisition costs of which exceed $300,000,000; or

(B) any acquisition that the Chief Acquisition Officer of the Coast Guard determines to be a special interest—

(i) due to—

(1) the experimental or technically immature nature of the asset;

(2) the technological complexity of the asset;

(III) the commitment of resources; or

(IV) the nature of the capability or set of capabilities that were awarded under the basis of adequate price competition, as determined by the Commandant; or

(6) LEVEL 2 ACQUISITION.—The term ‘Level 2 acquisition’ means an acquisition by the Coast Guard—

(A) the estimated life-cycle costs of which exceed $100,000,000, but greater than $300,000,000; or

(B) the estimated total acquisition costs of which are equal to or less than $1,000,000,000, but greater than $300,000,000.

(7) LIFE-CYCLE COST.—The term ‘life-cycle cost’ means all costs for development, procurement, construction, and operations and support for a particular capability or asset, without regard to funding source or management control.

(8) SAFETY CONCERN.—The term ‘safety concern’ means any hazard associated with a capability or asset or a subsystem of a capability or asset that is likely to cause serious bodily injury or death to a typical Coast Guard user in testing, maintaining, repairing, or operating the capability, asset, or subsystem or any hazard associated with the capability, asset, or subsystem that is likely to cause major damage to the capability, asset, or subsystem during the course of its normal operation by a typical Coast Guard user.

(b) Conforming amendment.—The part analysis for part 1 of title 14, United States Code, is amended by inserting the item relating to chapter 13 the following:

‘15. Acquisitions’...561’.

SEC. 503. REPORT AND GUIDANCE ON EXCESS PASS-THROUGH CHARGES.

(a) Comptroller General report.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall issue a report on pass-through charges on contracts, subcontracts, delivery orders, and task orders that were executed by a lead systems integrator or a subcontractor, after the date of enactment of this Act.

(2) Matters covered.—The report under this subsection—

(A) shall assess the extent to which the Coast Guard paid excessive pass-through charges to contractors or subcontractors that provided little or no value to the performance of a contract or the production of a procured asset; and

(B) shall assess the extent to which the Commandant has failed to ensure that pass-through charges on any specific category of contracts or by any specific category of contractors.

(b) Guidance required.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, the Commandant shall prepare guidance to ensure that pass-through charges on contracts, subcontracts, delivery orders, and task orders that were executed with a private entity acting as a lead systems integrator by or on behalf of the Coast Guard during the 3 full calendar years preceding the date of enactment of this Act.

(2) Matters covered.—The report under this subsection—

(A) shall assess the extent to which the Coast Guard paid excessive pass-through charges to contractors or subcontractors that provided little or no value to the performance of a contract or the production of a procured asset; and

(B) shall assess the extent to which the Commandant has failed to ensure that pass-through charges on any specific category of contracts or by any specific category of contractors.

(c) Effect of report.—The report required by subsection (a) and the guidance required by subsection (b) shall be—

(1) consistent with the general principles and goals of this section;

(2) include guidance to the commandant to be in the best interest of the Government; and

(3) provide a framework for preventing the payment of excess pass-through charges; and

(4) identify any exceptions determined by the Commandant to be in the best interest of the Government.

(2) Scope of guidance.—The guidance prescribed under this subsection—

(A) shall not apply to any firm, fixed-price contract or subcontract, delivery order, or task order that is—

(i) awarded under the basis of adequate price competition, as determined by the Commandant; or
(ii) for the acquisition of a commercial item, as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)); and

(b) this section shall include such additional exceptions as the Commandant determines to be necessary in the interest of the United States.

(c) EXCESSIVE PASS-THROUGH CHARGE DEFINED.—For purposes of this chapter, the term "excessive pass-through charge", with respect to a contractor or subcontractor that adds no, or negligible, value to a contract or subcontract, means a charge to the Government by the contractor or subcontractor that is for overhead or profit on work performed by a lower-tier contractor or subcontractor, other than reasonable charges for the direct costs of managing lower-tier contractors and subcontracts and overhead and profit based on such direct costs.

(d) APPLICATION OF GUIDANCE.—The guidance prescribed under this section shall apply to contracts awarded to a private entity acting as a lead systems integrator by or on behalf of the Coast Guard on or after the date that is 360 days after the date of enactment of this Act.

TITLE VI—SHIPPING AND NAVIGATION

SEC. 601. TECHNICAL AMENDMENTS TO CHAPTER 733 OF TITLE 46, UNITED STATES CODE.

(a) In General.—Chapter 733 of title 46, United States Code, is amended—

(1) by striking "of Transportation" in sections 73302, 73303, 73321, 73330, and 73343 each place it appears;

(2) by striking "and" after the semicolon in section 73301(5)(F);

(b) Secretary as Mortgagee.—Section 73329(d) of such title is amended by striking "Secretary" and inserting "Secretary of the Department of Homeland Security, unless otherwise noted.

(c) Secretary of Transportation.—Section 73329(d) of such title is amended by striking "Secretary" and inserting "Secretary of Commerce and Transportation, as a mortgagee under this chapter.

(d) Mortgagee.—

(1) Section 73330(a)(1) of such title is amended by striking "Secretary," inserting "Secretary of Commerce and Transportation," and inserting "Secretary of the Department of Homeland Security, unless otherwise noted.

(2) Section 73330(a)(2) is amended—

(A) by inserting "Secretary," after the semicolon in subparagraph (B); and

(B) by striking "Secretary" in subparagraph (C) and inserting "Secretary of the Department of Homeland Security,

(3) by striking paragraph (B) in its entirety.

(e) Vessel Rebuilding and Replacement.—

(1) VESSEL REBUILDING AND REPLACEMENT.—

(A) IN GENERAL.—Notwithstanding the requirements of subsections (b)(2), (c)(1), and (3) of subsection (a), the Commandant may issue regulations necessary to implement this Act for the Coast Guard.Certain Vessels.—

(B) AUTHORIZATION OF APPROPRIATIONS.—There are appropriated to the Commandant for the purpose of supplementing the LORAN-C system and for the transition to eLORAN technology for the purposes of this Act for the Cognitive System of the Commandant and for the purposes of section 321 of title 46, United States Code, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

SEC. 605. VESSEL SIZE LIMITS.

(a) LENGTH, TONNAGE, AND HORSEPOWER.—

(1) VESSEL SIZE LIMITS.—

(2) by striking "tonnage" and inserting "tonnage and horsepower.

(b) VESSEL SIZE LIMITS.—

(1) VESSEL SIZE LIMITS.—

(2) VESSEL SIZE LIMITS.—

(c) VESSEL SIZE LIMITS.—

(1) VESSEL SIZE LIMITS.—

(2) VESSEL SIZE LIMITS.—

(d) VESSEL SIZE LIMITS.—

(1) VESSEL SIZE LIMITS.—
(c)(2) of section 12113 of title 46, United States Code, a vessel that is eligible under subsection (a), (b), (c), (d), or (e) (other than paragraph (2)(i)) and that qualifies to be documented under section 602(a) of the Magnuson-Stevens Act shall be "(1) be based on the catch history determination for the vessel made pursuant to section 679.62 of code of Federal Regulations; and
(2) be assigned, for all purposes, for all purposes, to the right; and
(ii) shall be assigned, for all purposes, to the right; and
(i) a vessel eligible under subsection (a), (b), or (c) that is rebuilt or replaced under this paragraph (1) if the vessel that is replaced is validly documented under section 602(a) of the Magnuson-Stevens Act or is a vessel that is removed pursuant to this subparagraph (A)."

"(A) FISHING ALLOWANCE DETERMINATION.—For purposes of determining the aggregate fishing allowances or the vessels under paragraph (1), if a vessel is removed from the directed pollock fishery, the fishing allowance for pollock for the vessel being removed:
(i) shall be based on the catch history determination for the vessel made pursuant to section 679.62 of title 50, Code of Federal Regulations in effect on the date of enactment of the Coast Guard Authorization Act of 2008; and
(ii) shall be assigned, for all purposes, to the right; and
(i) a vessel eligible under subsection (a), (b), or (c) that is rebuilt or replaced under this subparagraph (A) if the vessel that is replaced is validly documented under section 602(a) of the Magnuson-Stevens Act or is a vessel that is removed pursuant to this subparagraph (A)."

"(5) LIMITATION ON FISHERY ENDORSEMENTS.—Any vessel that is replaced under this subsection shall thereafter not be eligible for a fishery endorsement under section 12113 of title 46, United States Code, unless that vessel is also a replacement vessel described in paragraph (1) or (2).
(6) GULF OF ALASKA LIMITATION.—Notwithstanding standing paragraph (1), the Secretary shall prohibit from participation in the groundfish fisheries of the Gulf of Alaska any vessel that is rebuilt or replaced under this subsection and that exceeds the maximum length overall specified on the license issued under section 679.62 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011.
(7) AUTHORITY OF PACIFIC Council.—Nothing in this section shall be construed to diminish or otherwise affect the authority of the Pacific Council to recommend to the Secretary conservation and management measures to protect fisheries under its jurisdiction, including the Pacific whiting fishery and participants in such fisheries from adverse impacts caused by this Act.''.

"(6) GULF OF ALASKA LIMITATION.—Notwithstanding standing paragraph (1), the Secretary shall prohibit from participation in the groundfish fisheries of the Gulf of Alaska any vessel that is rebuilt or replaced under this subsection and that exceeds the maximum length overall specified on the license issued under section 679.62 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011.
(7) AUTHORITY OF PACIFIC Council.—Nothing in this section shall be construed to diminish or otherwise affect the authority of the Pacific Council to recommend to the Secretary conservation and management measures to protect fisheries under its jurisdiction, including the Pacific whiting fishery and participants in such fisheries from adverse impacts caused by this Act.''.

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(7) AUTHORITY OF PACIFIC Council.—Nothing in this section shall be construed to diminish or otherwise affect the authority of the Pacific Council to recommend to the Secretary conservation and management measures to protect fisheries under its jurisdiction, including the Pacific whiting fishery and participants in such fisheries from adverse impacts caused by this Act.''.

By Mr. SPECTER (for himself and Mr. CASEY):
S. 1195. A bill to require the Secre-
ty of Agriculture to carry out the Phila-
dephia Public Charter School Pilot Program until the last day of the 2012– 2013 school year of the School District of Philadelphia; to the Committee on Agriculture, Nutrition, and Forestry.
Mr. SPECTER. Mr. President, I rise today to speak on the Department of Agriculture’s decision to end the Phila-
dephia School District’s Universal Feeding Pilot Program and to intro-
duce legislation extending the pro-
gram. While changes to the Phila-
dephia program may be necessary, the appropriate time to consider these changes is during congressional reau-
thorization of the Child Nutrition Act. Senator CASEY and I are seeking to ex-
tend the program through the 2012–13 school year. This extension is nec-
essary to ensure that thousands of chil-
dren in Philadelphia’s poorest schools are not deprived of the nutritional as-
sistance they have relied on for over 17 years.
Recognizing the value of proper nu-
trition to successful learning, Con-
gress, in 1946, passed the Richard B. Russell National School Lunch Act. This act provides the authority for the School Lunch Program, as well as sev-
eral other child nutrition initiatives. In 1966 Congress expanded on its com-
mmitment to child nutrition by passing the Child Nutrition Act, which author-
ized the School Breakfast Program. These programs have continued to evolve through changing times and changing technologies to ensure that the goal of providing nutrition assist-
ance to our Nation’s school children is met.
In 1991 the Department of Agri-
culture worked with the Philadelphia School District to develop a more stream-
lined method of reimbursing the School District for meals served under the National School Breakfast and School Lunch Program, and ensuring all eligible students receive free meals.
This new method eliminated paper applications for free school meals, and replaced them with a socioeconomic survey based method of determining reimbursement rates and eligibility. Paper applications are costly, and parents often fail to return them. The socioeconomic survey based approach was chosen because it reduced administrative overhead costs and is thought to better ensure that all eligible students are accounted for. In addition, by providing Universal Service the stigma associated with receiving a free or reduced price school meal is eliminated. Indeed, during the first year of the Universal Feeding Pilot Program in the Philadelphia School District saw a 14 percent increase in lunch participation in elementary schools, a 45 percent increase in middle schools and a 180 percent increase in high schools. The Philadelphia Universal Feeding Pilot Program has successfully increased student participation in the school meal program. Should this program be ended, as the Department of Agriculture would have it, children in the Philadelphia School District will have lost millions of dollars in other state and Federal budgetary problems in relation to the school meal program.

The Philadelphia School District’s Universal Feeding Pilot Program through the close of the 2012-2013 school year to ensure that Philadelphia school children receive the necessary nutritional assistance until Congress can enact a new policy.

Mrs. MURRAY (for herself and Ms. CANTWELL) submitted the following resolution; which was considered and agreed to: S. RES. 168

Whereas on June 2, 2009, for the first time in university history, the University of Washington Women Huskies won the National Collegiate Athletic Association ("NCAA") national softball championship game with a 3-2 victory over the University of Florida Gators;

Whereas University of Washington pitcher Danielle Lawrie was named the Women's College World Series Most Valuable Player and the USA Softball National Collegiate Player of the Year;

Whereas the Huskies finished the 2009 season with an impressive record of 51-12;

Whereas the members of the 2009 University of Washington softball team are excellent representatives of a university that is one of the premier academic institutions in Washington State, producing many outstanding student-athletes and other leaders; and

Whereas the members of the women’s softball team have brought great honor to themselves, their families, the University of Washington, and the State of Washington;

Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Washington softball team for winning the 2009 Women’s College World Series;

(2) recognizes the achievements of the women’s softball team and the university; and

(3) respectfully requests the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) Mark A. Emmert, president of the University of Washington;

(B) Scott Woodward, director of athletics of the University of Washington; and

(C) Heather Tarr, head coach of the University of Washington softball team.