

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

S. 1302

*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 “Veterans Health Care Improvement Act of 2009”.

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Veterans of the Armed Forces have made tremendous sacrifices in the defense of freedom and liberty.

(2) Congress recognizes these great sacrifices and reaffirms America’s strong commitment to its veterans.

(3) As part of the on-going congressional effort to recognize the sacrifices made by America’s veterans, Congress has dramatically increased funding for the Department of Veterans Affairs for veterans health care in the years since September 11, 2001.

(4) Part of the funding for the Department of Veterans Affairs for veterans health care is allocated toward community-based outpatient clinics (CBOCs).

(5) Many CBOCs are administered by private contractors.

(6) CBOCs administered by private contractors operate on a capitated basis.

(7) Some current contracts for CBOCs may create an incentive for contractors to sign up as many veterans as possible, without ensuring timely access to high quality health care for such veterans.

(8) The top priorities for CBOCs should be to provide quality health care and patient satisfaction for America’s veterans.

(9) The Department of Veterans Affairs currently tracks the quality of patient care through its Computerized Patient Record System. However, fees paid to contractors are not currently adjusted automatically to reflect the quality of care provided to patients.

(10) A pay-for-performance payment model offers a promising approach to health care delivery by aligning the payment of fees to contractors with the achievement of better health outcomes for patients.

(11) The Department of Veterans Affairs should begin to emphasize pay-for-performance in its contracts with CBOCs.

#### SEC. 3. PAY-FOR-PERFORMANCE UNDER DEPARTMENT OF VETERANS AFFAIRS CONTRACTS WITH COMMUNITY-BASED OUTPATIENT HEALTH CARE CLINICS.

(a) **PLAN REQUIRED.**—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to Congress a plan to introduce pay-for-performance measures into contracts which compensate contractors of the Department of Veterans Affairs for the provision of health care services through community-based outpatient clinics (CBOCs).

(b) **ELEMENTS.**—The plan required by subsection (a) shall include the following:

(1) Measures to ensure that contracts of the Department for the provision of health care services through CBOCs begin to utilize pay-for-performance compensation mechanisms for compensating contractors for the provision of such services through such clinics, including mechanisms as follows:

(A) To provide incentives for clinics that provide high-quality health care.

(B) To provide incentives to better assure patient satisfaction.

(C) To impose penalties (including termination of contract) for clinics that provide substandard care.

(2) Mechanisms to collect and evaluate data on the outcomes of the services gen-

erally provided by CBOCs in order to provide for an assessment of the quality of health care provided by such clinics.

(3) Mechanisms to eliminate abuses in the provision of health care services by CBOCs under contracts that continue to utilize capitated-basis compensation mechanisms for compensating contractors.

(4) Mechanisms to ensure that veterans are not denied care or face undue delays in receiving care.

(c) **IMPLEMENTATION.**—The Secretary shall commence the implementation of the plan required by subsection (a) unless Congress enacts an Act, not later than 60 days after the date of the submittal of the plan, prohibiting or modifying implementation of the plan. In implementing the plan, the Secretary may initially carry out one or more pilot programs to assess the feasibility and advisability of mechanisms under the plan.

(d) **REPORTS.**—Not later than 180 days after the date of the enactment of this Act and every 180 days thereafter, the Secretary shall submit to Congress a report setting forth the recommendations of the Secretary as to the feasibility and advisability of utilizing pay-for-performance compensation mechanisms in the provision of health care services by the Department by means in addition to CBOCs.

### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 189—EX-PRESSING THE SENSE OF THE SENATE THAT THE TRIAL BY THE RUSSIAN GOVERNMENT OF BUSINESSMEN MIKHAIL KHODORKOVSKY AND PLATON LEBEDEV CONSTITUTES A POLITICALLY-MOTIVATED CASE OF SELECTIVE ARREST AND PROSECUTION THAT SERVES AS A TEST OF THE RULE OF LAW AND INDEPENDENCE OF THE JUDICIAL SYSTEM OF RUSSIA

Mr. WICKER (for himself and Mr. CARDIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 189

Whereas on April 1, 2009, President Barack Obama and President Dmitry Medvedev issued a joint statement affirming that “[i]n our relations with each other, we also seek to be guided by the rule of law, respect for fundamental freedoms and human rights, and tolerance for different views”;

Whereas the United States and Russia, in a spirit of cooperation, will continue the dialogue on the issues affirmed in such joint statement at an upcoming summit to be held in June 2009;

Whereas it has been the long-held position of the United States to support the development of democracy, rule of law, judicial independence, freedom, and respect for human rights in the Russian Federation;

Whereas Russian President Medvedev has called Russia a country of “legal nihilism” and issued a new foreign policy doctrine citing “the supremacy of law in international relations” as one of the top priorities of Russia;

Whereas 2 prominent cases involve the Yukos Oil Company and its president, Mikhail Khodorkovsky and his partner, Platon Lebedev, who were convicted and sentenced in May 2005 to serve 9 years in a remote penal camp;

Whereas Russian authorities confiscated Yukos assets and assigned ownership to a

state company that is chaired by an official in the Kremlin; harassed, exiled, persecuted, and imprisoned many Yukos officers and legal representatives; and issued a series of court rulings against Mr. Khodorkovsky and Mr. Lebedev that violate international legal norms;

Whereas at a press conference in May 2005, President George Bush stated, “it appeared to . . . people in my Administration, that . . . [Mikhail Khodorkovsky] had been judged guilty prior to having a fair trial. In other words, he was put in prison, and then was tried”;

Whereas on October 25, 2005, Congressmen Roger Wicker and Tom Lantos introduced H. Res. 525, which noted the actions that the Russian government had taken with respect to Yukos, Mr. Khodorkovsky, and Mr. Lebedev, and called upon Russian authorities to prove that the cases were not politically motivated, that the Russian judicial system is truly independent and not simply an instrument of the Kremlin, and that the state was not engaged in a campaign to selectively reclaim or re-nationalize private enterprises;

Whereas on November 18, 2005, Senators Joe Biden, Barack Obama, and John McCain introduced S. Res. 322, which called the cases against Mr. Khodorkovsky and Mr. Lebedev “politically motivated”, noted that Mr. Khodorkovsky and Mr. Lebedev had not been accorded fair, transparent, and impartial treatment, and deplored their transfer to remote prison camps;

Whereas Amnesty International, Freedom House, and other prominent international human rights organizations have cited the conviction and imprisonment of Mikhail Khodorkovsky as evidence of the arbitrary and political use of the legal system and the lack of a truly independent judiciary in the Russian Federation;

Whereas governments, courts, journalists, and human rights organizations around the world have expressed concern about the prosecution, trial, imprisonment, and treatment of the individuals in the Yukos case, and have called on President Medvedev to honor his pledge to end “legal nihilism” in Russia;

Whereas on February 5, 2007, on the eve of their eligibility for parole, Russian prosecutors brought new charges against Mr. Khodorkovsky and Mr. Lebedev, accusing them of embezzling \$20,000,000,000 in Yukos oil revenues;

Whereas in May 2007 the Prosecutor General in Moscow attempted to disbar Karinna Moskalenko, one of Russia’s most distinguished and renown human rights lawyers and defense counsel to Mikhail Khodorkovsky, in apparent reprisal for actions she had taken on behalf of her client;

Whereas in August 2007 the highest court of Switzerland denied Russian authorities access to Yukos documents on the basis that the case against Yukos and its principal executives and core shareholders, specifically Mikhail Khodorkovsky and Platon Lebedev, had a “political and discriminatory character. . . undermined by the infringement of human rights and the right to defense”;

Whereas courts in Great Britain, the Netherlands, Cyprus, Liechtenstein, Lithuania, and Switzerland have described the Yukos proceeding as politically motivated and have rejected motions from Russian prosecutors seeking the extradition of Yukos officials or materials for use in trials in Russia;

Whereas on October 25, 2007, the European Court of Human Rights ruled that Platon Lebedev’s rights to liberty and security were violated during his arrest and subsequent pretrial detention;

Whereas the 2008 Department of State Human Rights Report stated: “The arrest and conviction of Khodorkovsky raised concerns about the right to due process and the

rule of law, including the independence of courts and the lack of a predictable tax regime.”;

Whereas on March 13, 2008, the European Parliament issued a resolution calling on the Russian President to “review the treatment of imprisoned public figures (among them Mikhail Khodorkovsky and Platon Lebedev), whose imprisonment has been assessed by most observers as having been politically motivated”;

Whereas in July 2008, President Dmitry Medvedev said it was essential that Russia “take all necessary means to strengthen the independence of judges” since “it goes without saying that pressure is applied, influence is exerted, and direct bribery is often used”;

Whereas on August 22, 2008, Mikhail Khodorkovsky was denied parole on the grounds that he refused to take part in vocational training in sewing and that he allegedly failed to keep his hands behind his back during a jail walk;

Whereas on October 25, 2008, the State Department issued a statement marking the fifth anniversary of Mikhail Khodorkovsky’s arrest, stating “the conduct of the cases against Khodorkovsky and his associates has eroded Russia’s reputation and public confidence in Russian legal and judicial institutions”;

Whereas on December 22, 2008, the European Court of Human Rights ordered the release of the terminally ill former Yukos oil executive Vasily Aleksanyan, who had been held in detention since April 6, 2006, despite repeated orders by the European Court that Mr. Aleksanyan be treated in a humane fashion for cancer and AIDS;

Whereas in February 2009, Andrei Illarionov, former chief economic advisor to President Vladimir Putin, stated that “[o]ne of the best known political prisoners is Mikhail Khodorkovsky who has been sentenced to 9 years in the Siberian camp Krasnokamensk on the basis of purely fabricated case against him and his oil company Yukos”;

Whereas on February 24, 2009, human rights lawyer Karinna Moskalenko, said that “[a]ll verdicts are possible in this country. But for people like Khodorkovsky, everything is already planned out and decided as long as the political will does not change”;

Whereas on February 25, 2009, Olga Kudeshkina, former Moscow court judge who was dismissed from her duties in 2004, stated that Moscow City Court “has turned into an institution of settling political, commercial and other scores” and that “nobody can be sure that the case will be resolved in accordance with the law”;

Whereas on April 2, 2009, Senator Ben Cardin, chair of the Helsinki Commission, issued a statement in the Senate in which he noted that “the Council of Europe, Freedom House and Amnesty International, among others, have concluded that Mr. Khodorkovsky was charged and imprisoned in a process that did not follow the rule of law and was politically influenced...” and that “the current charges...amount to legal hooliganism and highlight the petty meanness of the senior government officials behind this travesty of justice...should be dropped and the new trial should be abandoned”;

Whereas on April 10, 2009, the New York Times published an editorial noting that the new charges and trial against Mikhail Khodorkovsky “are for show, intended only to keep [him] and his colleague in prison forever”;

Whereas on April 11, 2009, the Washington Post wrote: “If Mr. Medvedev allows [the Khodorkovsky trial] to go forward to its scripted conclusion—a lengthy extension of Mr. Khodorkovsky’s sentence to a Siberian

prison camp—the point will be proved that Russia still has no rule of law but only a ruler”;

Whereas on April 21, 2009, Freedom House, Amnesty International, Human Rights First, Human Rights Watch, the International League for Human Rights, the Lantos Foundation for Human Rights and Justice, and the Jacob Blaustein Institute for the Advancement of Human Rights joined in a letter to President Medvedev in which they note “the serious human rights concerns raised by the case so far” and call on the Russian Government to “ensure that international observers are allowed unhindered access to the courtroom” to monitor the trial, to “ensure that the rule of law is upheld” and that it “meets the standards of the Russian Constitution and international law”;

Whereas the selective disregard for the rule of law by Russian officials undermines the standing and status of the Russian Federation among the democratic nations of the world; and

Whereas both Russia and the United States have recently elected new presidents that provide the opportunity to review past policies and pursue a new era of mutual cooperation: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) Mikhail Khodorkovsky and Platon Lebedev are prisoners who have been denied basic due process rights under international law for political reasons;

(2) in light of the record of selective prosecution, politicization, and abuse of process involved in their cases, and as a demonstration of Russia’s commitment to democracy, human rights, and the rule of law, the new criminal charges brought by Russian authorities against Mr. Khodorkovsky and Mr. Lebedev should be withdrawn;

(3) the standing of the Russian Federation as a nation supporting democracy, freedom of expression, an independent judiciary, human rights, and the rule of law would move closer to validation by paroling Mr. Khodorkovsky and Mr. Lebedev, both of whom have served more than half their sentences; and

(4) the Russian Federation is encouraged to take these actions to support democratic principles and human rights in furtherance of a new and more positive relationship between the United States and Russia and a new era of mutual cooperation.

#### SENATE RESOLUTION 190—SUPPORTING NATIONAL MEN’S HEALTH WEEK

Mr. CRAPO (for himself and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

##### S. RES. 190

Whereas, according to the National Cancer Institute—

(1) despite advances in medical technology and research, men continue to live an average of more than 5 years less than women, and African-American men have the lowest life expectancy;

(2) 9 of the 10 leading causes of death, as defined by the Centers for Disease Control and Prevention, affect men at a higher percentage than women;

(3) between ages 45 and 54, men are 3 times more likely than women to die of heart attacks;

(4) men die of heart disease at 1½ times the rate of women;

(5) men die of cancer at almost 1½ times the rate of women;

(6) testicular cancer is 1 of the most common cancers in men aged 15 to 34, and when detected early, has a 96 percent survival rate;

(7) the number of cases of colon cancer among men will reach almost 75,590 in 2009, and almost ½ of those men will die from the disease;

(8) the likelihood that a man will develop prostate cancer is 1 in 6;

(9) the number of men developing prostate cancer in 2009 will reach more than 192,280, and an estimated 27,360 of them will die from the disease;

(10) African-American men in the United States have the highest incidence in the world of prostate cancer;

(11) significant numbers of health problems that affect men, such as prostate cancer, testicular cancer, colon cancer, and infertility, could be detected and treated if men’s awareness of such problems was more pervasive;

(12) more than ½ of the elderly widows now living in poverty were not poor before the death of their husbands, and by age 100, women outnumber men 8 to 1;

(13) educating both the public and health care providers about the importance of early detection of male health problems will result in reducing rates of mortality for these diseases;

(14) appropriate use of tests such as prostate specific antigen exams, blood pressure screenings, and cholesterol screenings, in conjunction with clinical examination and self-testing for problems such as testicular cancer, can result in the detection of many problems in their early stages and increase the survival rates to nearly 100 percent;

(15) women are twice as likely as men to visit the doctor for annual examinations and preventive services; and

(16) men are less likely than women to visit their health center or physician for regular screening examinations of male-related problems for a variety of reasons, including fear, lack of health insurance, lack of information, and cost factors;

Whereas National Men’s Health Week was established by Congress in 1994 and urges men and their families to engage in appropriate health behaviors, and the resulting increased awareness has improved health-related education and helped prevent illness;

Whereas the governors of more than 45 States issue proclamations annually declaring Men’s Health Week in their States;

Whereas since 1994, National Men’s Health Week has been celebrated each June by dozens of States, cities, localities, public health departments, health care entities, churches, and community organizations throughout the Nation that promote health awareness events focused on men and family;

Whereas the National Men’s Health Week Internet website has been established at [www.menshealthweek.org](http://www.menshealthweek.org) and features governors’ proclamations and National Men’s Health Week events;

Whereas men who are educated about the value that preventive health can play in prolonging their lifespan and their role as productive family members will be more likely to participate in health screenings;

Whereas men and their families are encouraged to increase their awareness of the importance of a healthy lifestyle, regular exercise, and medical checkups; and

Whereas June 15 through June 21, 2009, is National Men’s Health Week, which has the purpose of heightening the awareness of preventable health problems and encouraging early detection and treatment of disease among men and boys: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the annual National Men’s Health Week in 2009; and