

Health and Human Services shall specify, regardless of when the items and services for which such payment is made were furnished.

(b) **MEDICAID PILOT PROJECT.**—

(1) **AUTHORITY TO ESTABLISH.**—The Secretary shall establish a Medicaid pilot project under which payment for items and services furnished by providers or suppliers of items or services under the Medicaid programs of the States selected to participate in the project is in the form of a direct deposit or electronic funds transfer to the provider's or supplier's account, as applicable, at a depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A))).

(2) **DEADLINE FOR IMPLEMENTATION.**—The pilot project established under paragraph (1) shall begin in fiscal year 2012.

(3) **REPORT.**—Not later than September 30, 2014, the Secretary of Health and Human Services shall report to Congress on the pilot project established under this subsection. The report shall include an analysis of the extent to which the project is effective in improving efficiency, reducing administrative costs, and preventing fraud in the Medicaid program and a recommendation as to whether the project should be expanded to additional or all State Medicaid programs.

SA 2999. Ms. SNOWE (for herself, Mr. KERRY, and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 2057, between lines 6 and 7, insert the following:

SEC. ____ . APPLICATION OF CAFETERIA PLANS TO SELF-EMPLOYED INDIVIDUALS.

(a) **IN GENERAL.**—

(1) **APPLICATION TO SELF-EMPLOYED INDIVIDUALS.**—Section 125(d) of the Internal Revenue Code of 1986 (defining cafeteria plan) is amended by adding at the end the following new paragraph:

“(3) **EMPLOYEE TO INCLUDE SELF-EMPLOYED.**—

“(A) **IN GENERAL.**—The term ‘employee’ includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

“(B) **LIMITATIONS.**—

“(i) **IN GENERAL.**—The amount which may be excluded under subsection (a) with respect to a participant in a cafeteria plan by reason of being an employee under subparagraph (A) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the cafeteria plan is established.

“(ii) **LIMITATIONS ON CERTAIN FLEXIBLE SPENDING ARRANGEMENTS.**—No amount shall be excluded under subsection (a) with respect to any plan which provides benefits in the form of a health flexible spending arrangement or a dependent care flexible spending arrangement and in which an individual described in subparagraph (A) participates unless such plan is administered by a person other than the employer.

“(C) **ADDITIONAL TAX ON UNREIMBURSED AMOUNTS.**—

“(i) **IN GENERAL.**—The tax imposed by this chapter on any person who is described in subparagraph (A) and who is a participant in a cafeteria plan which provides benefits in

the form of a health flexible spending arrangement or a dependent care flexible spending arrangement shall be increased by an amount equal to 100 percent of the excess (if any) of—

“(I) the maximum value of the qualified benefit with respect to such person, over

“(II) the amount of covered expenses both incurred during the coverage period for the qualified benefit, and any grace period, and reimbursed during that period or during any appropriate run-out period.

“(ii) **COLLECTION.**—The tax imposed by this subparagraph shall be collected by the person administering the flexible spending arrangement, and to the extent that such person fails to collect such tax, the tax shall be paid by such person.”.

(2) **APPLICATION TO BENEFITS WHICH MAY BE PROVIDED UNDER CAFETERIA PLAN.**—

(A) **GROUP-TERM LIFE INSURANCE.**—Section 79 of the Internal Revenue Code of 1986 (relating to group-term life insurance provided to employees) is amended by adding at the end the following new subsection:

“(f) **EMPLOYEE INCLUDES SELF-EMPLOYED.**—

“(1) **IN GENERAL.**—For purposes of this section, the term ‘employee’ includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

“(2) **LIMITATION.**—The amount which may be excluded under the exceptions contained in subsection (a) or (b) with respect to an individual treated as an employee by reason of paragraph (1) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the individual is so treated.”.

(B) **ACCIDENT AND HEALTH PLANS.**—Subsection (g) of section 105 of such Code (relating to amounts received under accident and health plans) is amended to read as follows:

“(g) **EMPLOYEE INCLUDES SELF-EMPLOYED.**—

“(1) **IN GENERAL.**—For purposes of this section, in the case of any coverage under an accident or health plan which is provided through a simple cafeteria plan under section 125(j), the term ‘employee’ includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

“(2) **LIMITATION.**—The amount which may be excluded under this section by reason of subsection (b) or (c) with respect to an individual treated as an employee by reason of paragraph (1) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the accident or health insurance was established.”.

(C) **CONTRIBUTIONS BY EMPLOYERS TO ACCIDENT AND HEALTH PLANS.**—

(i) **IN GENERAL.**—Section 106 of such Code is amended by inserting after subsection (e) the following new subsection:

“(f) **SPECIAL RULE FOR BENEFITS PROVIDED THROUGH SIMPLE CAFETERIA PLANS.**—

“(1) **IN GENERAL.**—For purposes of this section, in the case of any coverage under an accident or health plan which is provided through a simple cafeteria plan under section 125(j), the term ‘employee’ includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

“(2) **LIMITATION.**—The amount which may be excluded under subsection (a) with respect to an individual treated as an employee by reason of paragraph (1) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the accident or health insurance was established.”.

(ii) **CLARIFICATION OF LIMITATIONS ON OTHER COVERAGE.**—The first sentence of section

162(1)(2)(B) of such Code is amended to read as follows: “Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any subsidized health plan maintained by any employer (other than an employer described in section 401(c)(4) of the taxpayer or the spouse of the taxpayer.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

SA 3000. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title VI insert the following:

SEC. 6303. PROHIBITION ON COMPARATIVE EFFECTIVENESS RESEARCH FOR THE PURPOSE OF DETERMINING COST AND COVERAGE DECISIONS.

Reports and recommendations from the Patient-Centered Outcomes Research Institute, established under section 1181 of the Social Security Act (as added by section 6301), or any other government entity are prohibited from being used by any government entity for payment, coverage, or treatment decisions based on costs. Nothing in the preceding sentence shall limit a physician or other health care provider from using reports and recommendations of such Institute or other government entity when making decisions about the best treatment for an individual patient in an individual circumstance.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN, Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, December 9, 2009, at 9:30 a.m. in room 628 of the Dirksen Senate Office Building to conduct a business meeting on pending committee issues, to be followed immediately by a legislative hearing on S. 1690, a bill to amend the Act of March 1, 1933, to transfer certain authority and resources to the Utah Dineh Corporation, and for other purposes. The Committee will then conduct a hearing entitled “Where's the Trustee? U.S. Department of the Interior Backlogs Prevent Tribes from Using their Lands.”

Those wishing additional information may contact the Indian Affairs Committee at 202-224-2251.

EXECUTIVE SESSION

NOMINATIONS DISCHARGED

Mr. BROWN, Madam President, I ask unanimous consent the Senate proceed to executive session and the Foreign Relations Committee be discharged en bloc from PN1001, PN1002, PN1003, PN1005, PN1016; and then the Senate