At the request of Mr. DURBIN, the names of the Senator from Missouri (Mr. BOND) and the Senator from Illinois (Mr. BURRIS) were added as co-sponsors of S. 979, a bill to amend the Public Health Service Act to establish a nationwide health insurance purchasing pool for small businesses and the self-employed that would offer a choice of private health plans and make health coverage more affordable, predictable, and accessible.

At the request of Mrs. McCASKILL, her name was added as a co-sponsor of S. 982, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

At the request of Mr. ISAKSON, his name was added as a cosponsor of S. 1012, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Mother’s Day.

At the request of Mr. ROCKEFELLER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1012, supra.

At the request of Mr. DORGAN, the name of the Senator from Mississippi (Mr. WICKER) 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.

At the request of Mr. CORNYN, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 1026, a bill to amend the Uniformed and Overseas Citizens 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.

At the request of Mr. SCHUMER, the name of the Senator from Michigan (Ms. STARENOW) was added as a cosponsor of S. 1066, a bill to amend title XVIII of the Social Security Act to preserve access to ambulance services under the Medicare program.

At the request of Mr. CHAMBLISS, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1071, a bill to protect the national security of the United States by limiting the immigration rights of individuals detained by the Department of Defense at Guantanamo Bay Naval Base.

At the request of Mr. BUNNING, the names of the Senator from West Virginia (Ms. CANTWELL), the Senator from New Mexico (Mr. UDALL), the Senator from Florida (Mr. NELSON) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. Res. 151, a resolution expressing support for a national day of remembrance on October 30, 2009, for nuclear weapons program workers.

At the request of Mr. SCHUMER, his name was added as a cosponsor of S. Res. 151, supra.

At the request of Mr. JOHANNES, his name was added as a cosponsor of amendment No. 1133 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

At the request of Mr. VITTER, his name was added as a co-sponsor of amendment No. 1138 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

At the request of Mr. INHOFE, his name was added as a cosponsor of amendment No. 1139 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

At the request of Mr. INHOFE, his name was added as a cosponsor of amendment No. 1140 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

At the request of Mr. RISCH, the name of the Senator from Idaho (Mr. CRAPPO) was added as a cosponsor of amendment No. 1143 proposed to H.R. 2346, supra.

At the request of Mr. RISCH, the name of the Senator from Missouri (Mr. BOND) was withdrawn as a cosponsor of amendment No. 1143 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

At the request of Mr. CRAM, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of amendment No. 1144 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

At the request of Mr. CHAMBLISS, the names of the Senator from Oklahoma (Mr. COBURN), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Kansas (Mr. RAPER) were added as cosponsors of amendment No. 1144 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

At the request of Mr. DORAN, Mr. DORGAN, Mr. JOHNSON, and Mr. GRASSLEY:

S. 1066. A bill to amend the Packers and Stockyards Act, 1921, to prohibit the use of certain anti-competitive forward contracts; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. ENZI, President, I rise to speak on the introduction of the Livestock Marketing Fairness Act. I want to also acknowledge that I am joined in introducing this legislation by Senators DORGAN, GRASSLEY, and JOHNSON. The Public Health Service Act of 1921 was enacted at a time when there was significant concentration in the livestock and poultry industry. That law has since provided livestock producers, the family farmers and ranchers of our country, with a remedy to protect themselves against manipulative and anti-competitive practices in the marketplace. However, since the early 1920s our domestic livestock industry has changed significantly and so too have the ways in which producers market their livestock. Gone are the days when a simple handshake between buyer and seller was all you needed. Changes in marketing have introduced new ways for bad actors to manipulate prices and this legislation is designed to strengthen the laws originally enacted in the Packers and Stockyards Act.

It is no secret that the packing industry in the U.S. has again become increasingly consolidated. In 1985, the four largest packers accounted for 39 percent of all cattle slaughtered in the U.S. Twenty years later, the top four firms controlled over 69 percent of the domestic cattle slaughter and this statistic continues to grow. Acquisitions that have taken place in the industry since 2007. Being big in agriculture is not bad, but it does present opportunities for a select few to manipulate the market for their own gain. The Livestock Marketing Fairness Act strikes at the heart of one particular anti-competitive practice. Over the years, livestock producers, feeders, and packers have been given a number of new marketing tools for price discovery and hedging risk. One of those tools is the forward contract where a buyer and seller agree to a transaction at a specified point of time in the future. However, certain types of forward contracting agreements have become ripe for price manipulation. This is because a growing number of packing operations own their own livestock or control them through marketing agreements. These firms then can buy from themselves when prices are high and buy from others when prices are low. Captive suppliers are animals that packers own and control prior to slaughter. The Livestock Marketing Fairness Act prohibits certain arrangements that provide packers with the opportunity use their captive supplies to manipulate livestock and wholesale market prices. First, the legislation requires that forward contracts contain a “firm base price” which is derived from an external source. Though not outlined in the legislation, commonly used external sources of price include the live cattle futures market or wholesale market. This ensures that both buyers and sellers have a basis for how pricing in a contract will be derived at the time
the contract is agreed upon. Second, the bill requires that forward contracts be traded in open, public markets. This guarantees that multiple buyers and sellers can witness bids as well as offer their own. The Livestock Marketing Fairness Act also ensures that trading of contracts be done in a manner that provides small and large buyers and sellers access to the market. Contracts are to be traded in sizes approximate to the common number of cattle or pigs transported in a trailer, but the law does not prohibit trading from occurring in multiples of those contracts for larger livestock orders.

I travel to Wyoming nearly every weekend and have heard the same concerns from many of our ranchers. They want to be competitive in the market and sell the best animals possible so that they can continue the work that so many in their family have done for so many years. However, this problem is not isolated to Wyoming. Livestock producers across the country are reporting that with consolidation there are fewer and fewer buyers for their animals and their options for marketing too are being lost. This legislation not only increases openness in forward contracting but preserves the right for ranchers to choose the best methods for selling their animals without worry that their agreements will be subject to manipulation. The bill does not apply to producer cooperatives who often own their processing facility. The legislation only carefully targets the problem—large packers owning captive supplies—by also exempting packers that only own one facility and those that do not report for mandatory price reporting. The Livestock Marketing Fairness Act does not apply to agreements based on quality grading nor does it affect a producer’s ability to negotiate contracts one-on-one with buyers. Therefore, sellers can still choose from a variety of methods including the spot market, futures market, or other alternative marketing arrangements.

This bill is common sense and ensures that our ranchers have access to a competitive market in these difficult economic times. Ranchers aren’t asking for a handout. What I am asking for is a level-playing field and an equal opportunity for all buyers and sellers access to the market.

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 Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the "Livestock Marketing Fairness Act".

SECTION 2. PURPOSE.
The purpose of the amendments made by this Act is to prohibit the use of certain anti-competitive forward contracts—
(1) to require a firm base price in forward contracts (or equivalent); and
(2) to require that forward contracts be traded in open, public markets.

SECTION 3. LIMITATION ON USE OF ANTI-COMPETITIVE FORWARD CONTRACTS.
(a) In GENERAL.—Section 202 of the Packers and Stockyards Acts, 1921 (7 U.S.C. 192), is amended—
(1) by striking "Sec. 202. It shall be" and inserting the following:
"SEC. 202. UNLAWFUL PRACTICES.
(a) In General.—
(1) A packer shall not—
(A) require a firm base price in forward contracts (or equivalent); or

"(b) DEFINITIONS.—Section 2(a) of the Packers and Stockyards Acts, 1921 (7 U.S.C. 192a) is amended by adding at the end the following:
"(15) FIRM BASE PRICE.—The term ‘firm base price’ means a transaction using a reference price from a recognized internal source.

"(c) EXEMPTION FOR COOPERATIVES.—Subsection (a)(6) of section 2(c) shall not apply to—
(1) a cooperative or entity owned by a cooperative, if a majority of the ownership interest in the entity is held by active cooperative members that—
(A) own, feed, or control livestock; and
(B) provide the livestock to the cooperative for slaughter;
(2) a packer that is not required to report to the Secretary on each reporting day (as defined in section 212 of the Agricultural Marketing Act of 1949) in which information on the price and quantity of live-
stock purchased by the packer; or

"(16) FORMULA PRICE.—
"(A) IN GENERAL.—The term ‘formula price’ means any price term that establishes a base from which a purchase price is calculated on the basis of a price that will not be determined or reported until a date after the date the forward price is established.

"(B) EXCLUSION.—The term ‘formula price’ does not include—
(i) any price term that establishes a base from which a purchase price is calculated on the basis of a futures market price; or
(ii) any adjustment to the base for quality, grade, or other factors relating to the value of livestock or livestock products that are readily verifiable market factors and are outside the control of the packer.

"(17) FORWARD CONTRACT.—The term ‘forward contract’ means an oral or written contract for the purchase of livestock that provides for the delivery of the livestock to a packer at a date that is more than 7 days after the date on which the contract is entered into, without regard to whether the contract is for—
(A) a specified lot of livestock; or
(B) a specified number of livestock over a certain period of time.

By Mr. KERRY:
S. 1067. A bill to amend the Internal Revenue Code of 1986 to repeal certain tax incentives related to oil and gas; to the Committee on Finance.

Mr. KERRY. Mr. President, today I am introducing the Energy Fairness for America Act which repeals tax incentives for the oil and gas industry. This is the third consecutive Congress in which I have introduced this legislation. Some of the provisions of prior versions of my legislations were enacted last year, but more can be done. At a time when we are trying to incentivize clean energy, we must not continue to provide unnecessary tax incentives to the oil and gas industry.

The Energy Fairness for America Act would repeal the section 199 manufacturing deduction for income attributable to domestic production of oil and gas. The domestic manufacturing deduction was designed to replace export-related tax benefits that were successfully challenged by the European Union. Producers of oil and gas did not benefit from this tax break. Initial legislation proposed to address the repeal of the export-related tax benefits and to replace them with a new domestic manufacturing deduction. That legislation only provided the deduction to industries that benefited from the export-related tax benefits. However, the final product extended the deduction to include the oil and gas industry as well.

The tax code provides numerous other preferences to the oil and gas industry. This legislation would repeal provisions that do not promote low-carbon energy sources and further our addiction to oil. The Energy Fairness
for America Act would repeal the credit for the crude oil and natural gas produced from marginal wells, expensing of intangible drilling costs and 60-month amortization and capitalized intangible drilling costs, exception from the passive loss rules for working interests in oil and gas properties, and percentage depletion for oil and gas wells. In addition, it would increase the amortization period from two years to seven years for geological and geophysical expenditures incurred by independent producers in connection with oil and gas exploration in the U.S.

This legislation will help align our tax code with our broader energy goals. Our focus should be on lowering carbon emissions and encouraging renewable energy sources, not rewarding the oil and gas industry. I urge my colleagues to join me in eliminating these unnecessary tax breaks.

By Mr. BAUCUS (for himself, Mr. CRAPO, Ms. CANTWELL, Mr. ROBERTS, Ms. LANDRIEU, Mr. BINGAMAN, Mrs. LINCOLN, Mr. HARKIN, Mrs. MURRAY, Mr. PEYOR, Mr. BOND, Mr. JOHNSON, Mr. DURBIN, Mr. WYDEN, Mr. LUGAR, Mr. MCCASKILL, and Mr. ENZI):

S. 1089. A bill to facilitate the export of United States agricultural commodities and products to Cuba as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000, to establish and cultural export promotion program with respect to Cuba, to remove impediments to the export to Cuba of medical devices and medicines, to allow travel to Cuba by United States citizens and legal residents, to establish an agricultural export promotion program with respect to Cuba, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, this Nation and this body have debated divisive trade issues more than a century. In the 1820s, the cotton, indigo, and rice exporting southern States quarreled with northern States intent on protecting nascent manufacturing. In the 1930s, President Hoover’s appeals to save American jobs brought the Smoot-Hawley tariff.

Since the Second World War, America has moved to open the world’s markets and our own. We are better for it. But divisive trade debates do and will continue to have a 90 percent interest. In the 1820s, the cotton, indigo, and rice exporting southern States quarreled with northern States intent on protecting nascent manufacturing. In the 1930s, President Hoover’s appeals to save American jobs brought the Smoot-Hawley tariff.

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I am introducing legislation today to bring this divisive debate to an end. I do so not as an ideologue or a partisan. I am neither the Cuban government’s friend nor its staunchest enemy. I instead am a Montanan. Like most Montanans, I take no pleasure in disagreement. Like most Montanans, I try to make a deal when I can. Like most Montanans, I stick to the facts.

Here are the facts. Opening Cuba to our exports means money in the pockets of farmers and ranchers across America. Lifting financing and other restrictions on U.S. agriculture could increase U.S. beef exports from states like Montana and Colorado from $1 million to as much as $13 million. Lifting these restrictions could allow agricultural exporters in States like North Dakota and Arkansas to obtain nearly 40 percent of its rice market, nearly 40 percent of its poultry market. Lifting these restrictions could allow America’s farmers and ranchers to export as much as $2 billion in total agricultural goods to Cuba.

The facts also show that European and other exporters already reap these benefits. Europe has scraped its Cuba sanctions. Just last week, EU officials were in Havana calling for full normalization of ties. Those officials made no secret of wanting to solidify ties with Cuba now to get the jump on the U.S.

Those are the facts as I see them. But that is not all I see. I am not blind to the Cuban pernicious or the crimes of their government. I am not deaf to the calls for political and religious freedom just 90 miles off our shores. But I also see that increased trade ties historically have led to improved political ties. Between Argentina and Brazil in this hemisphere or between former rival nations in Europe.

Am I certain that increased trade will improve our political ties with Cuba? I am not. But I am certain that we have had these sanctions in place for over 5 decades. I am certain that five decades of sanctions have made no Cuban freer, no nation more prosperous, and no government more democratic. I am certain that one side has gotten its chance and its way. I am certain that the status quo must now change.

Here is how I see the facts. Opening Cuba to our exports means money in the pockets of farmers and ranchers across America. Lifting financing and other restrictions on U.S. agriculture could increase U.S. beef exports from states like Montana and Colorado from $1 million to as much as $13 million. Lifting these restrictions could allow agricultural exporters in States like North Dakota and Arkansas to obtain nearly 40 percent of its rice market, nearly 40 percent of its poultry market. Lifting these restrictions could allow America’s farmers and ranchers to export as much as $2 billion in total agricultural goods to Cuba.

By Mr. WYDEN (for himself and Ms. CANTWELL):
come from. I know that given the right tools and incentives there is no limit to what American ingenuity can achieve. This is why today I am offering a series of proposals to speed up our progress toward a cleaner energy future. In particular, I address the spectrum of solutions needed to get there. They start with harnessing the intellectual power of our colleges and universities to invent new energy technologies. They create new incentives for businesses to turn these technologies into new energy products. They give consumers incentives to buy and install those new energy technologies in their homes and businesses.

If America is going to cut back in its use of oil, then it needs to take a hard look at the single largest user of oil, the transportation sector. Today, I am proposing a three-pronged program to dramatically reduce the amount of oil Americans use every day to get to work, do their errands, and transport America’s goods and services.

First, I propose to dramatically revise the Renewable Fuel Standard that now requires gasoline and diesel fuel providers to blend larger and larger amounts of ethanol and other biofuels into the fuel they sell. I strongly support the continued development of biofuels, especially those that do not require the use of food grains like corn and oils used to make them. But as we have seen in recent years, you cannot divorce large amounts of food grains and oils without impacting the supply and price of those commodities. Last year, nearly a third of the U.S. corn crop was used for ethanol production, leading to more expensive food for families at a time when they can least afford it. That does not make sense to me.

The current standard also does not do enough to genuinely reduce the amount of oil being consumed. In part this is because fuels like ethanol simply do not contain as much energy per gallon as the gasoline it is intended to replace. The existing standard is aimed at replacing less than 15 percent of U.S. gasoline and diesel fuel with renewable fuels. I think we can do better, which is why my proposal aims to replace a third of those fuels with new low-carbon fuels. Right now a third of the United States gasoline is imported from OPEC countries. Let us aim to get this country off OPEC oil once and for all.

I want to make it clear that I am not proposing these changes because I am opposed to using renewable fuels. I have already introduced legislation—S. 536—to allow biomass from Federal lands to be used in the production of biofuels. Under the existing Renewable Fuel Standard, biomass from Federal lands is prohibited from being used as a renewable fuel. This makes no sense from either an energy perspective or an environmental perspective. Allowing for the use of biomass from Federal lands will reduce the threat of catastrophic wildfires, help make those forests healthier, and open up a variety of economic opportunities for hard hit rural communities. It is also a step towards a sound national energy policy.

However, if the U.S. is going to have a Renewable Fuel Standard for motor fuels it should be a national standard open to all renewable fuels, not just a chosen few. This is why my legislation would allow a range of energy sources to qualify as motor “fuels” including electricity for plug-in cars, methane to fuel compressed natural gas vehicles, and hydrogen for fuel cells. Initially, these low-carbon fuels could come from conventional sources, such as electricity from the electric grid, but eventually they would need to come from renewable energy sources.

Singling out ethanol as the only additive approved for motor fuel only creates a market for ethanol, which in turn discourages research and investment in other fuels. Creating a technology neutral “low-carbon” standard to replace traditional fossil fuels with alternative lower-carbon domestic fuels opens the door for a whole host of advancements and innovations yet to be discovered.

In addition to supplying new, cleaner, renewable transportation fuels, I will also be introducing legislation to authorize the U.S. Department of Transportation to designate “Energy Star” compliant “alternative fuels” so that these fuels will be readily available for consumers. By working with trucking companies, fuel providers, and State and local officials, the Transportation Department would establish which alternative fuels would be available and where they could be purchased. They would standardize other features such as weight limit standards geared towards reducing fossil fuel use and the release of greenhouse gases. The corridors would also include designations for freight and passenger transportation, such as rail or mass transit—to help reduce transportation fuel use.

Beyond empowering Americans to make more energy efficient choices, my legislation would make sure that energy efficient choices are within the reach of more Americans. Because I believe that energy efficient vehicles should not just be a luxury item for affluent Americans, I will be introducing legislation to introduce tax credits to Americans who purchase fuel efficient vehicles. Vehicles getting at least 10 percent more than national average fuel efficiency would get a $900 tax credit. The credit would increase up to $2,500 as vehicle fuel efficiency is increased. The bill also provides a tax credit for heavy truck owners to install fuel saving equipment. And it would increase both the gas guzzler tax and the civil penalty for vehicle manufacturers who miss their legally-required Corporate Average Fuel Economy, CAFE, requirements. The technology-neutral tax credit is designed to get more fuel efficient vehicles on the road by making fuel-efficient vehicles an affordable choice for more Americans.

But reducing oil use by the transportation sector alone is not enough. Some forty percent of energy use in the U.S. is consumed in buildings. So I am also proposing a three-pronged program to allow homeowners and property owners and small and mid-sized businesses—to save energy and install clean energy equipment. The “Re-Energize America Loan Program” will create a $10 billion revolving loan program to allow homeowners and small and mid-sized businesses, schools, hospitals and others to make clean energy investments. This zero-interest loan program would be administered at the state level, not by bureaucrats in Washington, DC, so it will be tailored to regional needs. It would be financed through the transfer of Federal energy royalties paid on the production of coal, gas and oil, and renewable energy from Federal land. It would empower homeowners and businesses to help themselves and help their community start laying the groundwork for an entirely different energy future.

States like Oregon have enormous potential for development of renewable energy technologies, including wind, solar, wave and tidal. The challenge is to find new ways to harness these energy sources. Renewable energy is also not just about fuel that goes into cars or electricity for homes or buildings. Renewable energy also can help us develop new energy technologies to heat homes and buildings, and power factories and businesses. So I am introducing legislation to provide tax credits for the production of energy from renewable sources, such as steam from geothermal wells, or biogas from feedlots or dairy farms that is sold directly to commercial and industrial customers. A separate credit would be available if this renewable energy is used right on site to heat a building or provide energy for the farm. The credit would help new energy technologies get a foot in the door, and reward solutions that are only eligible for half of the available credits.

The goal of this bill is to foster the development of new renewable energy technologies while expanding the market for renewable energy beyond the wind farms and electric generation plants already in place. The amount of the tax credit will no longer be tied to the way energy is produced but rather the amount of energy produced. This will help new energy technologies get in the game, and reward solutions that continue to make the most energy available to more people at a lower cost. And it will introduce legislation to end the current tax penalty on biomass, hydroelectric, wave and tidal energies and other forms of renewable energy that are only eligible for half of the available Federal production tax credit. America needs all of these resources if it is going to move into a new energy future. My goal is to create a level playing field and give all of these technologies the full tax benefit in order to stimulate investment and get more renewable energy projects built.

One big advantage of renewable energy is that some form of it can be found on every corner, and in every...
corner of the country. Whether it's a solar panel on a home or store—or geothermal power plant—there is renewable energy potential virtually everywhere. One set of technologies that can make renewable energy even more available are energy storage technologies. These are the solutions that can store solar energy during the day for use at night, or store wind energy when the wind blows, to be used when it does not.

Simply put, not enough attention has been paid to the use of energy storage technologies, which can also address daily and seasonal peaks in energy demand such as all of those air conditioners that Americans will soon be putting to good use during the summer's hottest days. Federal funding for energy storage technologies has been virtually nonexistent. So I am introducing legislation to create an investment tax credit that will help pay for the installation of energy storage equipment, which can if we can harness the collective ingenuity, talent and energy of the American people. Let us put those resources to work.

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

SEC. 1. SHORT TITLE. This Act may be cited as the “Renewable Energy Parity and Investment Remedy Act” or “REPAIR Act.”

SEC. 2. TAX CREDIT PARITY FOR ELECTRICITY PRODUCED FROM RENEWABLE SOURCES. (a) In General.—Paragraph (1) of section 48(b)(4) of the Internal Revenue Code of 1986 is amended by inserting “and before 2010” after “any calendar year after 2003”.

(b) Definitions.—Section 48(m) of the Internal Revenue Code of 1986 is amended—

(1) by striking “qualified energy storage property” and inserting “qualified onsite energy storage property”;

(2) by inserting “or before 2010” after “any calendar year after 2003”;

(3) by redesignating clause (ii) as clause (iv);

(4) by striking “clause (i)” in clause (ii) and inserting “clause (i) or (ii)”;

(5) by redesignating clause (ii) as clause (iii); and

(6) by inserting after clause (i) the following new clause:

“(ii) 20 percent in the case of qualified onsite energy storage property.”

SEC. 3. ENERGY STORAGE PROPERTY CONNECTED TO THE GRID ELIGIBLE FOR NEW CLEAN RENEWABLE ENERGY BONDS. (a) In General.—Paragraph (1) of section 54(c)(d) of the Internal Revenue Code of 1986 is amended to read as follows:

“(1) QUALIFIED RENEWABLE ENERGY FACILITIES.—The term ‘qualified renewable energy facility’ means a facility which is—

“A. (I) a qualified facility (as determined under section 46(d), without regard to paragraphs (8) and (10) thereof and to any placed in service date), or

“(II) any one or more of the entities described in subparagraphs (A), (B), (C), (D), (E), or (F) of section 55(a), or any taxable corporation which is wholly owned, directly or indirectly, by any one or more of such entities; and

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(f) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 4. ENERGY INVESTMENT CREDIT FOR ON-SITE ENERGY STORAGE. (a) CREDIT ALLOWED.—Clause (1) of section 48A(a)(2)(A) of the Internal Revenue Code of 1986, as amended by this Act, is amended—

(1) by striking “and” at the end of subclause (II) and inserting “or before 2010”;

(2) by striking “the” in clause (ii) and inserting “qualified onsite energy storage property”; and

(3) by striking “before 2010” and inserting “before 2010, or before 2010”.

(4) by inserting after clause (i) the following new clause:

“(V) qualified onsite energy storage property.—

(A) IN GENERAL.—The term ‘qualified onsite energy storage property’ means property—

“(i) which is directly connected to the electrical grid, and

“(ii) which is designed to receive electrical energy, to store such energy, and to convert such energy to electricity and deliver such electricity for sale.
“(a) In General.—The term ‘qualified on-site energy storage property’ means property which—

(i) provides supplemental energy to reduce peak energy requirements primarily on the same site where the storage is located, or

(ii) is designed and used primarily to receive and store intermittent renewable energy and deliver such energy primarily for onsite consumption.

Such term may include property used to charge plug-in and hybrid electric vehicles if such vehicles are equipped with smart grid services which control time-of-day charging and discharging of such vehicles. Such term shall not include any property for which any other credit is allowed under this chapter.

(b) CONFORMING AMENDMENT.—Section 1016(a)(33) of such Code is amended by striking “section 25C(f)” and inserting “section 25C(g)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

S. 1092

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 ‘‘Reenergize America Loan Program Act of 2009’’.

SEC. 2. REENERGIZE AMERICA LOAN PROGRAM.

(a) DEFINITIONS.—In this section:

(1) FUND.—The term ‘fund’ means the Reenergize America Loan Program Fund established by subsection (g).

(2) INDIAN TRIBE.—The term ‘‘Indian tribe’’ means the Secretary of the Interior.

(3) STATE.—The term ‘‘State’’ means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) any other territory or possession of the United States;

(E) an Indian tribe.

(b) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the ‘‘Reenergize America Loan Program Fund’’, consisting of such amounts as are transferred to the Fund under paragraph (2).

(2) TRANSFERS TO FUND.—From any Federal royalties, rents, and bonuses derived from Federal onshore and offshore oil, gas, coal, or alternative energy leases issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) or the Mineral Leasing Act (30 U.S.C. 181 et seq.) that are deposited in the Treasury, and after distribution of any funds described in paragraphs (1) and (3), there shall be transferred to the Fund $1,000,000,000 for each of fiscal years 2010 through 2020.

(c) FUND DISTRIBUTIONS.—The distributions referred to in paragraph (2) are those required by law—

(1) to States and to the Reclamation Fund under the Mineral Leasing Act (30 U.S.C. 181); and

(2) to other funds receiving amounts from Federal oil and gas leasing programs, including—

(i) any recipients pursuant to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g));

(ii) the Land and Water Conservation Fund, pursuant to section 2(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 660–6(c));

(iii) the Historic Preservation Fund, pursuant to section 108 of the National Historic Preservation Act (16 U.S.C. 470); and

(iv) the coastal impact assistance program established under section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a).

(d) EXPENDITURES FROM FUND.—

(A) IN GENERAL.—Subject to subparagraph (B), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines to be necessary to provide allocations to States under subsection (c).

(B) ADMINISTRATIVE EXPENSES.—An amount not exceeding 5 percent of the amounts in the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this subsection.

(e) FUNDING.—Notwithstanding any other provision of law, for each of fiscal years 2010 through 2020, the Secretary shall use to
(a) Short Title.—This Act may be cited as the "OIL-SAVING ACT" or the "OIL-SAVE ACT".

(AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be to be made to the section or other provision of the Internal Revenue Code of 1986.

SEC. 3. TAX CREDIT FOR FUEL-EFFICIENT MOTOR VEHICLES.

(a) In General.—Subpart B of part IV of chapter I of title I of the Internal Revenue Code is amended by inserting after section 30A the following new section:

"SECTION 30B. CREDIT FOR NEW QUALIFIED FUEL-EFFICIENT MOTOR VEHICLE.

"(a) Definition of term.—In this section, the term "new qualified fuel-efficient motor vehicle" means a passenger automobile or non-passenger automobile—

"(1) which is treated as a credit listed in section 38(b) for purposes of subtitle D of title I of the Internal Revenue Code;

"(2) which—

"(A) in the case of a passenger automobile, achieves a fuel economy of not less than 110 percent of the industry-wide average fuel economy standard for the model year for all passenger automobiles; and

"(B) in the case of a non-passenger automobile, achieves a fuel economy of not less than 110 percent of the industry-wide average fuel economy standard for the model year for all non-passenger automobiles;

"(3) which has a gross vehicle weight rating of less than 14,000 pounds;

"(4) the use of which commences with the taxpayer;

"(5) which is acquired for use or lease by the taxpayer and not for resale, and

"(6) which is made by a manufacturer during the period beginning with model year 2011 and ending with model year 2020.

"(b) Credit Amount.—With respect to each new qualified fuel-efficient motor vehicle, the amount determined under this paragraph shall be equal to—

"(1) the applicable amount;

"(2) the amount determined under paragraph (4) which is made by a manufacturer during the period beginning with model year 2011 and ending with model year 2020.

"(c) Application With Other Credits.—

"(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined by paragraph (4)) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

"(2) PERSONAL CREDIT.—

"(A) In general.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subtitle for such taxable year.

"(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

"(1) the sum of the credits allowable under section 30, 30B, or 30D with respect to such vehicle

"(2) the sum of the credits allowable under section 55, over

"(3) the amount of tax imposed on the credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

"(d) Other Definitions.—For purposes of this section—

"(1) MANUFACTURER.—The term "manufacturer" has the meaning given such term in regulations prescribed by the Administrator of the National Highway Traffic Administration, for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).
sec. 4. Increase in gas guzzler tax.

(a) in general.—Subsection (a) of section 4064 (relating to gas guzzler tax) is amended to read as follows:

"(a) imposition of tax.—

"(1) in general.—There is hereby imposed on the sale by the manufacturer of each automobile a tax equal to a tax equal to—

(A) an amount described in subsection (a)(1) of section 4064 (relating to gas guzzler tax) and

(B) in the case of any automobile manufactured in model year 2009, the applicable tax amount determined in accordance with the table contained in paragraph (b), and

"(c) effective date.—The amendments made by this section shall apply to sales made after December 31, 2009.

sec. 5. increase in manufacturer cfe penalties.

(a) in general.—Section 32912 of title 49, United States code, is amended—

(1) by striking "$500" in subsection (b) and inserting "$500", and

(2) by striking "$10" in subsection (a)(1) and inserting "$100".

(b) effective date.—The amendments made by this section shall apply to model years beginning after the date of the enactment of this Act.

sec. 6. deployment of low-greenhouse gas and fuel-saving technologies.

section 756 of the energy policy act of 2005 (42 u.s.c. 16010) is amended—

"(a) definition.—Section 4001 (relating to definitions) is amended by adding at the end the following new paragraph:

"If the fuel economy of the model type in which the automobile fails is:"

<table>
<thead>
<tr>
<th>Fuel Economy</th>
<th>Tax Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 22.2</td>
<td>$0</td>
</tr>
<tr>
<td>At least 21.2 but less than 22.2</td>
<td>$1,000</td>
</tr>
<tr>
<td>At least 20.2 but less than 21.2</td>
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</tr>
<tr>
<td>At least 17.2 but less than 18.2</td>
<td>$3,607</td>
</tr>
<tr>
<td>At least 16.2 but less than 17.2</td>
<td>$4,203</td>
</tr>
<tr>
<td>At least 15.2 but less than 16.2</td>
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<td>$6,801</td>
</tr>
<tr>
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<td>$7,451</td>
</tr>
<tr>
<td>At least 10.2 but less than 11.2</td>
<td>$8,101</td>
</tr>
<tr>
<td>Less than 10.2</td>
<td>$22,737</td>
</tr>
</tbody>
</table>

(c) effective date.—The amendments made by this section shall apply to model years beginning after the date of the enactment of this Act.

SEC. 7. CREDIT FOR FUEL SAVINGS COMPONENTS FOR CERTAIN VEHICLES.

(a) in general.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45R. CREDIT FOR FUEL SAVINGS COMPONENTS FOR CERTAIN VEHICLES.

"(a) general rule.—For purposes of section 38, the fuel savings tax credit determined under this section for the taxable year is an amount equal to the product of—

(1) the amount paid or incurred for a qualifying fuel savings component, placed in service on a qualifying vehicle by a person who owns or operates the qualifying vehicle, and

(2) the applicable percentage.

(b) definition.—Section 4064 (relating to business-related credits) is amended by adding at the end the following new paragraph:

"(b) definition.—Section 4064(b) (relating to definitions) is amended by adding at the end the following new paragraph:

"(8) average fuel economy standard.—

The term 'average fuel economy standard' has the meaning given such term under section 32901 of title 49, United States code.

(c) effective date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.
(1) by striking the section heading and all that follows through the end of subsection (b) and inserting the following:

SEC. 756. DEPLOYMENT OF LOW-GREENHOUSE GAS AND FUEL-SAVING TECHNOLOGIES.

(1) DEFINITIONS.—In this section:

(A) The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

(B) The term ‘advanced truck stop electrification system’ means a stationary system that delivers heat, air conditioning, electricity, or communications, and is capable of meeting reliable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle with, or for delivery, of those services.

(C) AUXILIARY POWER UNIT.—The term ‘auxiliary power unit’ means an integrated system that—

(A) provides heat, air conditioning, engine warming, or electricity to components on a heavy-duty vehicle; and

(B) is certified by the Administrator under part 80 of title 40, Code of Federal Regulations (or any successor regulation), as meeting applicable emission standards.

(D) REDUCTION TECHNOLOGY.—The term ‘idle reduction technology’ means an advanced truck stop electrification system, auxiliary power unit, or other technology that—

(A) is used to reduce idling; and

(B) allows for the main drive engine or auxiliary refrigeration engine to be shut down.

(2) LONG-DURATION IDLING.—

(A) IN GENERAL.—The term ‘long-duration idling’ means the operation of a main drive engine or auxiliary refrigeration engine during a routine stoppage associated with the loading or unloading of a commodity, or congestion.

(B) Low-greenhouse gas and fuel-saving technology deployment program.—

(A) ESTABLISHMENT.—The Secretary of Energy, shall implement, through the Vehicle Inventory and Use Survey as soon as practicable after the date of enactment of the OILSAVE Act, and at least every 5 years thereafter, as part of the Economic Census required under Title 13, United States Code; and

(B) PRIORITY.—The Administrator shall give priority to the deployment of low-greenhouse gas and fuel-saving technologies that meet the SmartWay performance thresholds developed under paragraph (B).

(C) the Administrator shall implement, through the Vehicle Inventory and Use Survey as soon as practicable after the date of enactment of the OILSAVE Act, and at least every 5 years thereafter, as part of the Economic Census required under Title 13, United States Code; and

(D) DIRECTIVE.—The Administrator shall—

(1) establish a program to deploy low-greenhouse gas and fuel-saving technologies that provide superior environmental performance for each mode of passenger transportation and goods movement; and

(2) publish a list of low-greenhouse gas and fuel-saving technologies:

(1) identify the greenhouse gas and fuel efficiency performance of each technology; and

(2) identify those technologies that meet the SmartWay performance thresholds developed under subparagraph (B).

(B) Promote deployment of technologies.—The Administrator shall—

(1) implement partnership and recognition programs to promote best practices and drive demand for low-greenhouse gas transportation performance.

(2) promote the availability of and encourage the adoption of technologies that meet the SmartWay performance thresholds developed under paragraph (B).

(3) publicize the availability of financial incentives (such as Federal tax incentives, grants, and, low-cost loans) for the deployment of low-greenhouse gas and fuel-saving technologies; and

(4) deploy low-greenhouse gas and fuel-saving technologies through grant and loan programs.

(3) STAKEHOLDER CONSULTATION.—

(A) IN GENERAL.—The Administrator shall solicit the cooperation of interested parties prior to establishing a new or revising an existing SmartWay technology category, measurement protocol, or performance threshold.

(B) NOTICES.—On adoption of a new or revised technology category, measurement protocol, or performance threshold, the Administrator shall publish a notice and explanation of any changes and, if appropriate, responses to comments submitted by interested parties.

(4) FREIGHT PARTNERSHIP.—

(A) IN GENERAL.—The Administrator shall implement, through the SmartWay Transport Partnership, a program with shippers and carriers of goods to promote fuel-efficient, low-greenhouse gas transportation.

(B) ADMINISTRATION.—The Administrator shall—

(i) verify the greenhouse gas performance and fuel efficiency performance of freight companies, shippers, and carriers involved in rail, trucking, marine, and other goods movement operations;

(ii) publish a comprehensive greenhouse gas and fuel efficiency performance index of freight modes (including rail, trucking, marine, and other modes of transporting goods); and

(iii) develop tools for shippers and carriers to calculate and improve the greenhouse gas performance of the carriers; and

(iv) publish the data described in subparagraph (B) on a periodic basis.

(5) AUTHORIZATION OF APPROPRIATIONS.—

There is authorized to be appropriated to the Administrator to carry out this subsection $19,500,000,000 for each of fiscal years 2010 through 2020.

(6) REPORT.—Not later than 18 months after the date on which funds are initially awarded under this section and on a biennial basis thereafter, the Administrator shall submit to Congress a report containing a description of—

(a) actions taken to implement the low-greenhouse gas and fuel-saving technology deployment program established under subsection (b), including—

(i) the measurement protocols; and

(ii) the SmartWay performance thresholds; and

(b) a list of low-greenhouse gas and fuel-saving technologies; and

(c) estimated greenhouse gas emissions and fuel savings from the program.

SEC. 2. CREDIT FOR PRODUCTION OF RENEWABLE ENERGY.

(a) IN GENERAL.—Section 45 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

SEC. 45A. CREDIT FOR PRODUCTION OF NON-ELECTRIC ENERGY.

There is hereby authorized to be appropriated for each of fiscal years beginning on the date such facility was placed in service, or on the date such facility was placed in service for the producing of non-electric energy, defined in subsection (d), an amount equal to the product of—

(A) the dollar amount determined under paragraph (2), and

(B) each million British thermal units of energy qualified for credit in a year.

(2) WHICH EXPERIMENTAL CREDITS.—The credits allowed under this section shall be in addition to any other credits, or credits similar to the credits allowed under this section, which are allowed for the production of—

(a) the credit allowed under subsection (a) shall be increased by an amount equal to the product of—

(i) the dollar amount determined under paragraph (2), and

(ii) each million British thermal units of energy qualified for credit in a year.

(B) EACH QUALIFIED UNIT.—The dollar amount determined under subsection (a) shall be—

(A) the dollar amount determined under paragraph (2), and

(B) each million British thermal units of energy qualified for credit in a year.

(3) A list of credits awarded under this section shall be included in the report required by subsection (d).

(4) DEFINITION AND SPECIAL RULES.—For purposes of this section—

(A) QUALIFIED FUEL.—The term qualified fuel means any energy qualified for credit under this section which is produced, extracted, converted, or synthesized from a qualified energy resource through a
controlled process, including pyrolysis, electrolysis, and anaerobic digestion, which results in a product consisting of methane, synthesis gas, hydrogen, steam, manufactured fuels, or any other form of energy provided under regulations by the Secretary and which is used solely as a source of energy.

"(B) LOCATION OF CREDIT TO PATRONS OF AGRICULTURAL COOPERATIVES.—Rules similar to the rules of subsection (e)(1) shall apply for purposes of paragraph (1).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 45 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 4. NON-RENEWABLE NON-ELECTRIC ENERGY PRODUCTION FACILITIES ELIGIBLE FOR NEW CLEAN RENEWABLE ENERGY BONDS

(a) In General.—Paragraph (1) of section 54(c)(1) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) QUALIFIED RENEWABLE ENERGY FACILITY.—The term 'qualified renewable energy facility' means a facility which is—

(A)(i) a qualified facility (as determined under section 45(c)(4) without regard to paragraph (3) and (4) thereof and to any placed in service date), or

(ii) a facility which produces qualified fuel (as defined in section 45(f)(4)(A)) which is derived from qualified energy resources (within the meaning of section 45(f)(4)(B)) and not used for the production of electricity, and

(B) owned by a public power provider, a governmental body, or a cooperative electric company.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 5. ENERGY CREDIT FOR ONSITE RENEWABLE NON-ELECTRIC ENERGY PRODUCTION FACILITIES

(a) CREDIT ALLOWED.—Clause (i) of section 48(a)(5)(A) of the Internal Revenue Code of 1986 is amended—

(1) by striking "and" at the end of subclause (III), and

(2) by adding at the end the following new subclause:

"(V) qualified onsite renewable non-electric energy production property.

(b) QUALIFIED RENEWABLE NON-ELECTRIC ENERGY PRODUCTION PROPERTY.—Subsection (c) of section 48 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(5) QUALIFIED ONSITE RENEWABLE NON-ELECTRIC ENERGY PRODUCTION PROPERTY.—

"(A) IN GENERAL.—The term 'qualified onsite renewable non-electric energy production property' means property which produces qualified fuel—

(i) for use as energy resources,

(ii) not used for the production of electricity, and

(iii) used primarily on the same site where the production is located to replace an equivalent amount of non-renewable fuel (determined based on the number of British thermal units of non-renewable fuel consumed in the prior calendar year) or to provide energy primarily on such site for a use that did not exist prior to the later of the date of the enactment of this paragraph or the date such property was placed in service.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(1) QUALIFIED FUEL.—The term 'qualified fuel' means an energy product which is produced, extracted, converted, or synthesized from a qualified energy resource through a controlled process, including pyrolysis, electroylysis, and anaerobic digestion, which results in a product consisting of methane, synthesis gas, hydrogen, steam, manufactured fuel cellulosic fuels, or any other form of energy provided under regulations by the Secretary and which is used solely as a source of energy.

"(2) QUALIFIED ENERGY RESOURCES.—The term 'qualified energy resources' has the meaning given such term by paragraph (1) of section 45(c).

"(3) DETERMINATION.—The term 'qualified onsite renewable non-electric energy production property' shall not include any property for any period after the date which is 10 years after the date of the enactment of the Renewable Energy Alternative Production Act.

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 45 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).
buildings and other areas regularly occupied by people, or of public infrastructure, at risk from wildfire.

(vii) Algae.

(viii) Municipal solid waste, including separated yard waste or food waste, including recycled cooking and trap grease.

(E) RENEWABLE FUEL.—The term ‘‘renewable fuel’’ means that—

(1) produced from renewable biomass; and

(ii) used to replace or reduce the quantity of fossil fuel present in a transportation fuel.

(F) TRANSPORTATION FUEL.—The term ‘‘transportation fuel’’ means fuel for use in motor vehicles, motor vehicle engines, or nonroad vehicles (except for ocean-going vessels).

(2) PROGRAM.—

(A) REGULATIONS.—

(i) IN GENERAL.—Not later than January 31, 2015, the Administrator shall promulgate regulations to ensure that the applicable percentage determined under subparagraph (B) of the transportation fuel sold or introduced into commerce in the United States, on an annual average basis, is low-carbon fuel.

(ii) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under clause (i)—

(I) shall contain compliance provisions applicable to producers, refiners, blenders, distributors, and importers, as appropriate, to ensure that the requirements of this paragraph are met; but

(ii) shall not—

(a) restrict geographic areas in which low-carbon fuel may be used; or

(b) impose any per-gallon obligation for the use of low-carbon fuel.

(3) APPLICABLE CATEGORIES.—

(1) CALENDAR YEARS 2015 THROUGH 2030.—For the purposes of subparagraph (A), the applicable percentage of the transportation fuel sold or introduced into commerce in the United States, on an annual average basis, that is low-carbon fuel for each of calendar years 2015 through 2030 shall be determined by the Administrator, in consultation with the Secretary of Energy, in accordance with the following table:

*Calendar year:*  
Applicable percentage of transportation fuel sold that is low-carbon fuel:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>10.0</td>
</tr>
<tr>
<td>2016</td>
<td>11.5</td>
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<tr>
<td>2017</td>
<td>13.0</td>
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<td>2018</td>
<td>14.5</td>
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<td>31.0</td>
</tr>
<tr>
<td>2030</td>
<td>32.5</td>
</tr>
</tbody>
</table>

(ii) REQUIRED ELEMENTS.—The low-carbon fuel obligation determined for a calendar year under clause (i) shall—

(I) be applicable to refiners, blenders, and importers;

(II) be expressed in terms of a volume percentage of transportation fuel sold or introduced into commerce in the United States; and

(iii) subject to subparagraph (C), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

(C) DURATION OF CREDITS.—A credit generated under paragraph (2)(A) shall be valid until the low-carbon fuel obligation that ensures that the requirements of paragraph (2) are met.

(D) SUBSEQUENT ADJUSTMENTS.—

(i) IN GENERAL.—An adjustment in the applicable percentage for a calendar year under this clause shall—

(I) be determined by the Administrator, in consultation with the Secretary of Energy, based on a review of the implementation of the program during calendar years 2021 through 2029 and the Secretary’s analysis of the sufficiency of infrastructure to deliver and use low-carbon fuel;

(ii) be the impact of the use of low-carbon fuel on the cost to consumers of transportation fuel and on the cost to transport goods; and

(iii) be the impact of the use of low-carbon fuel on other factors, including job creation, the price and supply of agricultural commodities, rural economic development, and food prices.

(ii) DEADLINE.—The Administrator shall promulgate rules establishing the applicable volumes under this clause not later than 14 months before for which the applicable percentage will apply.

(2) APPLICABLE CATEGORIES.—

(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2005 through 2021, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate, with respect to the following calendar year, of the volumes of transportation fuel projected to be sold or introduced into commerce in the United States.

(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

(i) IN GENERAL.—Not later than November 30 of each of calendar years 2005 through 2029, based on the estimate provided under subparagraph (A), the Administrator of the Environmental Protection Agency shall determine and publish in the Federal Register, with respect to the following calendar year, the low-carbon fuel obligation that ensures that the requirements of paragraph (2) are met.

(ii) IN GENERAL.—In the regulations promulgated under paragraph (2)(A) shall in its determination of the applicable percentage that applied in years prior to 2005.

(iii) DURATION OF CREDITS.—A credit generated under paragraph (2)(A) shall be valid for 5 years thereafter, the Administrator shall review and revise (based on the same criteria and standards as required for the initial adjustment) the level as adjusted by that regulation.

(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

(C) DURATION OF CREDITS.—A credit generated under this paragraph shall be valid to demonstrate compliance for the 12-month period beginning on the date of generation.

(D) INABILITY TO GENERATE OR PURCHASE SUBSTANTIVE CREDITS.—The Administrator may promulgate under paragraph (2)(A) shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements of paragraph (2) to carry forward a low-carbon fuel credit deficit on condition that the person, in the calendar year following the year in which the low-carbon fuel credit deficit was generated,

(i) achieves compliance with the low-carbon fuel credit requirement under paragraph (2); and

(ii) generates or purchases additional low-carbon fuel credits to offset the low-carbon fuel credit deficit of the previous year.

(E) CREDITS FOR ADDITIONAL LOW-CARBON FUEL.—The Administrator may promulgate regulations providing—

(i) for the generation of an appropriate quantity of credits by any person that refines, blends, imports, or distributes transportation fuel that contains a quantity of low-carbon fuel specified by the Administrator; and

(ii) for the use of the credits by the generator, or the transfer of all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

(F) WAIVERS.—

(i) IN GENERAL.—An adjustment in the applicable percentage in greenhouse gas levels shall be the minimum practicable adjustment in greenhouse gas levels.

(ii) MAXIMUM ACHIEVABLE LEVEL.—The adjusted greenhouse gas reduction shall be established at the maximum achievable level, taking cost in consideration, allowing for the use of a variety of feedstocks, technologies, and processes.

(D) SUBSEQUENT ADJUSTMENTS.—

(i) IN GENERAL.—After the Administrator has promulgated a regulation under paragraph (2)(A)(i) with respect to the method of determining lifecycle greenhouse gas emissions, the Administrator may not adjust the that is greater than the reduction levels unless the Administrator determines that there has been a significant change in the analytical basis used for determining the lifecycle greenhouse gas emissions.

(ii) CRITERIA AND STANDARDS.—If the Administrator makes the determination that an adjustment is required, the Administrator shall promulgate a new regulation that meets the percent reduction levels through rulemaking using the criteria and standards established under this section.

(iii) 5-YEAR REVIEW.—If the Administrator makes any adjustment under this paragraph, the Administrator shall review and revise (based on the same criteria and standards as required for the initial adjustment) the level as adjusted by that regulation.

(G) CREDIT PROGRAM.—

(A) IN GENERAL.—The regulations promulgated under paragraph (2)(A) shall provide for the generation and sale of credits to any person that refines, blends, imports, or distributes transportation fuel that contains a quantity of low-carbon fuel that meets the requirements of paragraph (2).

(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

(C) DURATION OF CREDITS.—A credit generated under this paragraph shall be valid for the 12-month period beginning on the date of generation.

(D) INABILITY TO GENERATE OR PURCHASE SUBSTANTIVE CREDITS.—The Administrator may promulgate under paragraph (2)(A) shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements of paragraph (2) to carry forward a low-carbon fuel credit deficit on condition that the person, in the calendar year following the year in which the low-carbon fuel credit deficit was generated,

(i) achieves compliance with the low-carbon fuel credit requirement under paragraph (2); and

(ii) generates or purchases additional low-carbon fuel credits to offset the low-carbon fuel credit deficit of the previous year.

(E) CREDITS FOR ADDITIONAL LOW-CARBON FUEL.—The Administrator may promulgate regulations providing—

(i) for the generation of an appropriate quantity of credits by any person that refines, blends, imports, or distributes additional low-carbon fuel specified by the Administrator; and

(ii) for the use of the credits by the generator, or the transfer of all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

(F) WAIVERS.—
(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of this subsection in whole or in part upon petition by any person subject to the requirements of this subsection, or by the Administrator on the Administrator's own motion, by regulations promulgated under paragraph (2) if either of the following:

(i) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inequitable or inefficient supply of low-carbon fuel; and

(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inequitable or inefficient supply of low-carbon fuel.

(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a petition for a waiver of the requirements of paragraph (2) not later than 90 days after the date on which the petition is received by the Administrator.

(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate at the end of the calendar year in which such waiver is granted or, in the case of a waiver granted under paragraph (2)(B), nothing in this subsection, or regulations promulgated under this subsection, affects the regulatory status of carbon dioxide or any other greenhouse gas, for purposes of other provisions (including section 16(b) of this Act).

(B) ADMINISTRATION.—Subparagraph (A) shall not affect implementation and enforcement of this subsection:

(I) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inequitable or inefficient supply of low-carbon fuel.

(II) during a period of national emergency declared by the President.

(III) during a period of war declared by Congress.

(IV) during a period of declared national contingency.

(V) during a period of national emergency declared by the President.

(VI) based on a determination by the Administrator, in consultation with the Secretary of Energy, and the Secretary of Agriculture, that the waiver of the requirements for a single year, the Administrator shall promulgate regulations (not later than 90 days after the date on which the petition is received by the Administrator) to implement the requirement that would severely harm the economy or environment of a State, a region, or the United States; or

(VII) based on a determination by the Administrator, in consultation with the Secretary of Energy, and the Secretary of Agriculture, that conditions relating to the waiver could not be met.

(C) DIRECTOR.—The Secretary shall appoint a Director to carry out the program established under this section.

(D) USE OF FUNDS.—The Secretary shall use amounts made available under this subsection to award grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (a)(3) to conduct research, extension, and education programs relating to the energy needs of the regions.

(E) PLAN.—The Secretary shall submit to the Congress a plan describing those needs.

(F) USE OF FUNDS.—The Secretary shall use amounts made available under this subsection to award grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (a)(3) to conduct research, extension, and education programs relating to the energy needs of the regions.

(G) IMPLEMENTATION.—The Secretary shall establish and carry out a program to award grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (a)(3) to conduct research, extension, and education programs relating to the energy needs of the regions.

(H) USE OF FUNDS.—The Secretary shall use amounts made available under this subsection to award grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (a)(3) to conduct research, extension, and education programs relating to the energy needs of the regions.

(I) DIRECTOR.—The Secretary shall appoint a Director to carry out the program established under this section.

(J) USE OF FUNDS.—The Secretary shall use amounts made available under this subsection to award grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (a)(3) to conduct research, extension, and education programs relating to the energy needs of the regions.

(K) IMPLEMENTATION.—The Secretary shall establish and carry out a program to award grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (a)(3) to conduct research, extension, and education programs relating to the energy needs of the regions.

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(O) IMPLEMENTATION.—The Secretary shall establish and carry out a program to award grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (a)(3) to conduct research, extension, and education programs relating to the energy needs of the regions.

(P) USE OF FUNDS.—The Secretary shall use amounts made available under this subsection to award grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (a)(3) to conduct research, extension, and education programs relating to the energy needs of the regions.

(Q) IMPLEMENTATION.—The Secretary shall establish and carry out a program to award grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (a)(3) to conduct research, extension, and education programs relating to the energy needs of the regions.

(R) USE OF FUNDS.—The Secretary shall use amounts made available under this subsection to award grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (a)(3) to conduct research, extension, and education programs relating to the energy needs of the regions.

(S) IMPLEMENTATION.—The Secretary shall establish and carry out a program to award grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (a)(3) to conduct research, extension, and education programs relating to the energy needs of the regions.

(T) USE OF FUNDS.—The Secretary shall use amounts made available under this subsection to award grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (a)(3) to conduct research, extension, and education programs relating to the energy needs of the regions.

(U) IMPLEMENTATION.—The Secretary shall establish and carry out a program to award grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (a)(3) to conduct research, extension, and education programs relating to the energy needs of the regions.

(V) USE OF FUNDS.—The Secretary shall use amounts made available under this subsection to award grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (a)(3) to conduct research, extension, and education programs relating to the energy needs of the regions.

(W) IMPLEMENTATION.—The Secretary shall establish and carry out a program to award grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (a)(3) to conduct research, extension, and education programs relating to the energy needs of the regions.

(X) USE OF FUNDS.—The Secretary shall use amounts made available under this subsection to award grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (a)(3) to conduct research, extension, and education programs relating to the energy needs of the regions.

(Y) IMPLEMENTATION.—The Secretary shall establish and carry out a program to award grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (a)(3) to conduct research, extension, and education programs relating to the energy needs of the regions.

(Z) USE OF FUNDS.—The Secretary shall use amounts made available under this subsection to award grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (a)(3) to conduct research, extension, and education programs relating to the energy needs of the regions.
(iv) the accelerated deployment of efficient-energy technologies in new and existing buildings and in manufacturing facilities.

(3) ADMINISTRATION.—

(i) IN GENERAL.—Subject to clauses (ii) through (vi), the Secretary shall make grants under this paragraph in accordance with the Energy Policy Act of 2005 (42 U.S.C. 16353).

(ii) PRIORITY.—A consortium of institutions of higher education in a region shall give a higher priority to programs that are consistent with the plan approved by the Secretary for the region under subsection (d)(3).

(iii) THRM.—A grant awarded to a consortium of institutions of higher education under this section shall have a term that does not exceed 5 years.

(iv) COST-SHARING REQUIREMENT.—As a condition of receiving a grant under this paragraph, the Secretary shall require the recipient of the grant to share costs relating to the program that is the subject of the grant in accordance with section 908 of the Energy Policy Act of 2005 (42 U.S.C. 16352).

(v) BUILDINGS AND FACILITIES.—Funds made available under subsection (d) shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).

(vi) LIMITATION ON INDIRECT COSTS.—A consortium of institutions of higher education may not recover the indirect costs of using grants under subparagraph (A) in excess of the limits established under paragraph (2).

(C) FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS—

(i) IN GENERAL.—A federally funded research and development center may be a member of a consortium of institutions of higher education that receives a grant under this section.

(ii) SCOPE.—The Secretary shall ensure that the scope of work performed by a single federally funded research and development center in the consortium is not more significant than the scope of work performed by any of the other academic institutions of higher education in the consortium.

(2) ADMINISTRATIVE EXPENSES.—A consortium of institutions of higher education may use up to 20 percent of funds made available under subsection (d) to pay administrative and indirect expenses incurred in carrying out paragraph (1), unless otherwise approved by the Secretary.

(D) GRANT INFORMATION ANALYSIS CENTER—

(A) IN GENERAL.—A consortium of institutions of higher education in a region shall maintain an Energy Analysis Center at 1 or more of the institutions of higher education to provide the institutions of higher education in the region with analysis and data management support.

(g) ANNUAL REPORTS.—Not later than 90 days after the end of each fiscal year, the Secretary shall submit to the Congress a report that describes the policies, priorities, and operations of the program carried out by the consortium of institutions of higher education under this section during the fiscal year.

(h) ADMINISTRATION.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish such criteria and procedures as are necessary to carry out this section.

(i) COORDINATION.—The Secretary shall coordinate with the Secretary of Agriculture and the Secretary of Commerce each activity carried out under the program under this section—

(1) to avoid duplication of efforts; and

(2) to ensure that the program supplements and does not supplant—

(A) the Sun Grant program established under section 7526 of the Food, Conservation, and Energy Act of 2008 (42 U.S.C. 8114); and

(B) the national Sea Grant college program carried out by the Administrator of the National Oceanic and Atmospheric Administration.

(j) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated to carry out—

(1) this section $300,000,000 for each of fiscal years 2010 through 2014; and

(2) the activities of the Department of Energy (including expenses and bioenergy feedstock assessment research) under the Sun Grant program established under section 7526 of the Food, Conservation, and Energy Act of 2008 (42 U.S.C. 8114) $15,000,000 for each of fiscal years 2010 through 2014.

S. 1097

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 College Energy Training Act of 2009”.

SEC. 2. SUSTAINABLE ENERGY TRAINING PROGRAM FOR COMMUNITY COLLEGES.

(a) DEFINITION OF COMMUNITY COLLEGE.—In this Act, the term “community college” means an institution of higher education that receives a grant under this Act.

(b) WORKFORCE TRAINING AND EDUCATION IN SUSTAINABLE ENERGY.—(1) In general.—A community college may receive a grant under this Act to carry out a workforce training and education program in sustainable energy that includes instruction that is designed to provide individuals with the knowledge and skills needed to pursue employment opportunities in sustainable energy industries.

(2) In making grants under this subsection, the Secretary shall—

(A) give priority to grants that—

(i) provide workforce training and education in industries in which EnergySmart transport corridors are to be located, and in consultation with the appropriate advisory committees established under paragraph (3), shall designate EnergySmart transport corridors in accordance with the requirements described in subsection (c);

(B) shall include representatives of interests affected by EnergySmart transport corridors, including—

(i) freight and trucking companies;

(ii) independent owners and operators;

(iii) freight forwarders;

(iv) truck manufacturers and retailers;

(v) local transportation, planning, and energy agencies;

(C) require the grantee to—

(i) provide, at no charge, training to individuals who are unemployed or underemployed;

(ii) establish procedures to ensure that individuals receive training that meets the skills and requirements of the industries that EnergySmart transport corridors are to be located in; and

(iii) use funds made available under this Act to provide training and institutional support to employees of employers in industries that EnergySmart transport corridors are to be located in;

(D) require the grantee to—

(i) ensure that each grantee—

(I) is a member of a consortium of institutions of higher education in a region, and

(II) are in consultation with the Governors of the States in which EnergySmart transport corridors are to be located, in consultation with the appropriate advisory committees established under paragraph (3), shall designate EnergySmart transport corridors in accordance with the requirements described in subsection (c);

(ii) coordinate with the appropriate advisory committees established under paragraph (3) and other interested parties, including—

(I) manufacturers and retailers;

(II) truck manufacturers and retailers; and

(III) independent owners and operators;

(iii) ensure that each grantee—

(A) coordinate with the appropriate advisory committees established under paragraph (3) and other interested parties, including—

(I) manufacturers and retailers;

(II) truck manufacturers and retailers; and

(III) independent owners and operators;

(iv) conventional and alternative fuel providers; and

(v) local transportation, planning, and energy agencies.

SEC. 3. ENERGYSMART TRANSPORT CORRIDORS PROGRAM.

(a) DEFINITIONS.—In this section—

(1) the term “EnergySmart transport corridor” means the Administrator of the Environmental Protection Agency.

(b) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary, in consultation with the Administrators of the Environmental Protection Agency and the National Oceanic and Atmospheric Administration, shall establish an EnergySmart Transport Corridor program in accordance with this section.

(c) REQUIREMENTS.—In carrying out the Program, the Secretary shall coordinate the planning and deployment of measures that will increase the energy efficiency of the Interstate System and reduce the emission of greenhouse gases and other environmental pollutants, including—

(1) increasing the availability and standardization of alternative-fueling equipment;

(2) increasing the availability of alternative, low-carbon transportation fuels;

(3) coordinating and adjusting vehicle weight limits for both existing and future highways on the Interstate System;

(4) coordinating and expanding intermodal shipment capabilities;

(5) coordinating and adjusting time of service restrictions; and

(6) planning and identifying future construction within the Interstate System.

(d) DESIGNATION OF CORRIDORS.—

(i) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the National Oceanic and Atmospheric Administration, shall designate EnergySmart transport corridors in accordance with the requirements described in subsection (c).

(ii) REQUIREMENTS.—In designating EnergySmart transport corridors, the Secretary may include—

(A) intermodal passenger and freight transfer facilities, particularly those that use measures to significantly increase the energy efficiency of the Interstate System and reduce greenhouse gas emissions and other environmental pollutants; and

(B) other surface transportation modes.

(iii) ADVISORY COMMITTEES.—(A) IN GENERAL.—In consultation with the Governors of the States in which EnergySmart transport corridors are to be located, may establish advisory committees to assist in the designation of individual EnergySmart transport corridors.

(B) MEMBERSHIP.—The advisory committees established under this paragraph shall include representatives of interests affected by the designation of EnergySmart transport corridors, including—

(i) freight and trucking companies;

(ii) independent owners and operators;

(iii) vehicle and vehicle equipment manufacturers and retailers; and

(v) local transportation, planning, and energy agencies.

(2) PROJECTS AND PROGRAMS.—In allocating funds for Federal highway programs, the Secretary shall give special consideration and priority to projects and programs that enable deployment and operation of EnergySmart transport corridors.

(f) GRANTS.—In carrying out the Program, the Secretary may provide grants to States to support the development, operation, and maintenance of EnergySmart transport corridors.
(g) ANNUAL REPORT.—Each fiscal year, the Secretary shall submit to the appropriate committees of Congress a report describing activities carried out under the Program during the preceding fiscal year.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $25,000,000 for each of fiscal years 2010 through 2015.

SEC. 3. REDUCTION OF ENGINE IDLING.

Section 756(b)(4)(B) of the Energy Policy Act of 2005 (42 U.S.C. 16104(b)(4)(B)) is amended by striking “for fiscal year 2008” each place it appears in clauses (i) and (ii) and inserting “for each of fiscal years 2008 through 2015”.

By Mr. COBURN (for himself, Mr. BURR, Mr. BUNNING, Mr. CHAMBLISS, Mr. ALEXANDER, and Mr. INHOFE):

S. 1099. A bill to provide comprehensive solutions for the health care system of the United States, and for other purposes; to the Committee on Finance.

Mr. BURR. Mr. President, I rise today to speak on the pressing issue of health care in America. Millions of Americans go without health insurance each year. Especially during these tough economic times, many families are looking to Washington to fix the health care crisis in this country. This year, Congress is poised to make significant changes to our health care system. Ultimately, the American people want solutions that work. In that vein I am pleased to join today with my colleague, Senator COBURN, to introduce S. 1099, the Patients’ Choice Act. It will start to build a health care system that is responsive to patients’ needs and conscious of their budgets.

As we developed the framework of the Patients’ Choice Act, we had to think about what would truly transform the failing health care system in America right now. Typically, the problems with our health care system relate to cost, quality, and our inability to make important lifestyle interventions before devastating symptoms become chronic conditions. With that thought in mind, Senator COBURN and I set out to reform our health care system so it met the following requirements. We believe that any truly transformational health care plan must guarantee that every American can get affordable coverage.

It must demand more value for our health care dollar instead of imposing a new tax or passing on a new obligation to future generations.

It must transform the health care system so that we focus on keeping people healthy and well instead of only treating them when they are sick.

It must make health coverage affordable for those with pre-existing conditions.

It must end the current discrimination in the tax code that benefits the wealthy and corporations but fails the poor and those who can’t get coverage through their employer.

It must ensure that health care is accessible when people want it, where people want it.

It must be sustainable so that it will be there for future generations.

We believe the Patient’s Choice Act will meet all of these requirements. The bill focuses on 6 key areas: preventing disease and promoting health; creating affordable and accessible health insurance options; equalizing the tax treatment of health care; establishing transparency in health care price and quality; and ensuring compensation for injured patients.

S. 1099 transforms health care in America by strengthening the relationship between the patient and the doctor and relying on choice and competition rather than rationing and restrictions. In doing so, we can ensure universal, affordable health care for all Americans.

By Mr. LIEBERMAN (for himself and Ms. COLLINS):

S. 1102. A bill to provide benefits to domestic partners of Federal employees; to the Committee on Homeland Security and Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I rise today to speak in favour of the Domestic Partner Benefits and Obligations Act, which I am introducing with my colleague and friend on the Homeland Security and Governmental Affairs Committee, Senator SUSAN COLINS.

Last year, the Homeland Security and Governmental Affairs Committee held a hearing on this legislation, but because I was unable to move the measure to the Senate floor, I also want to thank my former cosponsor, Senator Gordon Smith of Oregon, with whom I and more than 20 other Senators introduced identical legislation in the 110th Congress. We expect about 20 cosponsors again this year, and I want to express my appreciation to them for helping us get an early enough start in the 111th Congress so that we can pass the bill, hopefully, this year.

This legislation makes eminent sense for two reasons: It will help the Federal Government attract the best and the brightest and it is the fair and right thing to do from a human rights perspective.

Let me explain. The Domestic Partners Benefits and Obligations Act would provide the same employee benefit programs to same-sex domestic partners of Federal employees that are now provided to the opposite-sex spouses of Federal employees. In other words, same-sex domestic partners—living in a committed relationship and unrelated by blood—would be eligible to participate in health benefits, long-term care, Family and Medical Leave, federal retirement benefits, and all other benefits for which married employees and their spouses are eligible. Federal employees and their domestic partners would also be subject to the same discrimination protection as their married employees and their spouses, such as anti-nepotism rules and financial disclosure requirements.

When the domestic partners of Federal employees are granted the same benefits and obligations as the spouses of federal employees, the Federal Government will be able to attract from a larger pool of applicants the best possible employees to carry out the Government’s mission in the service of all American people. In the coming years, as a large percentage of federal employees become eligible for retirement, a new generation of employees will be hired, and the Federal Government will be competing with the private sector for the most qualified among them. This legislation will help put the Federal Government on equal footing to compete for those new recruits and then retain them.

From a human rights perspective, this legislation is one more step on the long road to bring the gay and lesbian community equality under the law.

We are not talking about an insignificant number of people. According to UCLA’s Williams Institute, over 30,000 federal workers live in committed relationships with same-sex partners who are not Federal employees.

We often hear—and I have often said—that Government should be run more like a business. While the purpose of Government and business are different, I believe Government has a lot to learn from private sector business models including in the matter before us today. The fact is that a majority of U.S. corporations—including more than half of all Fortune 500 companies—already offer benefits to domestic partners.

General Electric, IBM, Eastman Kodak, Dow Chemical, the Chubb Corporation, Lockheed Martin, and Duke Energy are among the major employers that have recognized the economic reward of providing benefits to domestic partners. Overall, almost 19,000 private-sector companies of all sizes provide benefits to domestic partners. The governments of 13 States, including my home State of Connecticut, about 145 local jurisdictions across our country, and some 300 colleges and universities also provide these benefits.

Surveys show that many private sector employers offer these benefits because it is the right thing to do. You can bet each one knows that the policy makes good business sense; it is good management policy, it is good employee policy, and it is good recruitment and retention policy.

In fact, employers have told analysts that they extend benefits to domestic partners to boost recruitment and retain quality employees—as well as to be fair. If we want the Government to be able to compete for the most qualified employees, we are going to have to provide the same benefits that job seekers can find elsewhere.

The experts tell us that 19 percent of an applicant’s compensation comes in the form of benefits, including benefits for family members. Employees who do not get benefits for their families are,
therefore, not being paid equally. Of course, the supporters of this legislation understand that covering domestic partners will add some increment to the total cost of providing federal employee benefits. And we understand that to have to be particularly careful about spending the right money and perform rigorous cost benefit analyses of all, not just new, federal expenditures.

Based on the experience of private companies and state and local governments, the Congressional Budget Office has estimated that benefits to same sex domestic partners of federal employees would increase the cost of those programs by less than one-half of one percent. The Office of Personnel Management says the cost of health benefits for domestic partners over 10 years would be $670 million. In the name of fairness and raising the appeal of federal employment, this is affordable legislation.

Among the many stories I have heard about the impact of this inequality on real people, I particularly remember the words of Michael Guest, who was ambassador to Romania in the Bush Administration and Dean of the Foreign Service Institute before he left public service. In his resignation letter, Mr. Guest made a moving and eloquent case for extending benefits to same sex partners. I believe Ambassador Guest was the first publicly gay man to be confirmed for an U.S. ambassadorship from the U.S. When he resigned the Foreign Service in 2007, he said, and I quote here from his farewell address to his colleagues, ‘‘I have felt competent to consent to continue the arrangement;’’ (1) are each other’s sole domestic partner and intend to remain so indefinitely; (2) have a common residence, and intend to continue the arrangement; (3) are at least 18 years of age and mentally competent to consent; (4) share responsibility for a significant measure of each other’s common welfare and financial obligations; (5) are not married to or domestic partners with anyone else; (6) are same sex domestic partners, and not related in a way that, if the 2 were of opposite sex, would prohibit legal marriage in the State in which they reside; and (7) understand that willful falsification of information within the affidavit may lead to disciplinary action under the law. The cost of benefits received related to such falsification and may constitute a criminal violation.

There are convincing words from a talented and loyal former public servant—who once described the Foreign Service as the career he was ‘‘born for . . . what I was always meant to do.’’ It is a great loss to the nation that he felt compelled to leave the Foreign Service—particularly at a time when our nation so desperately needs talented diplomats to help meet the challenges we face abroad. He may have left public service for many reasons—but one of them must have been that his federal employee benefits did not allow him to care for the needs of his family in an adequate manner.

The Domestic Partners Benefits and Obligations Act makes good economic sense. It is sound policy. And it is the right thing to do. I urge my colleagues to support this bill.

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

There being no objection, the material was ordered to be printed in the Record, as follows:

8.1102

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 ‘‘Domestic Partnership Benefits and Obligations Act of 2009’’.

SEC. 2. BENEFITS TO DOMESTIC PARTNERS OF FEDERAL EMPLOYEES.

(a) IN GENERAL.—An employee who has a domestic partner and the employee’s domestic partner shall be entitled to benefits available to, and subject to obligations imposed upon, a married employee and the spouse of the employee.

(b) CERTIFICATION OF ELIGIBILITY.—In order to obtain benefits or impose obligations under this Act, an employee shall file an affidavit of eligibility for benefits and obligations with the Office of Personnel Management identifying the domestic partner of the employee and certifying that the employee and the domestic partner of the employee—

(1) are each other’s sole domestic partner and intend to remain so indefinitely; (2) have a common residence, and intend to continue the arrangement; (3) are at least 18 years of age and mentally competent to consent; (4) share responsibility for a significant measure of each other’s common welfare and financial obligations; (5) are not married to or domestic partners with anyone else; (6) are same sex domestic partners, and not related in a way that, if the 2 were of opposite sex, would prohibit legal marriage in the State in which they reside; and (7) understand that willful falsification of information within the affidavit may lead to disciplinary action under the law.

(c) DISSOLUTION OF PARTNERSHIP.—

(1) IN GENERAL.—An employee or domestic partner of an employee who obtains benefits under this Act shall file a statement of dissolution of the domestic partnership with the Office of Personnel Management not later than 30 days after the death of the employee or the domestic partner or the date of dissolution of the domestic partnership.

(2) DEATH OF EMPLOYEE.—In a case in which an employee dies, the domestic partner of the employee, at any time after the death shall receive under this Act such benefits as would be received by the widow or widower of an employee.

(d) OTHER DISSOLUTION OF PARTNERSHIP.—

(1) IN GENERAL.—In a case in which a domestic partnership dissolves by a method other than death of the employee or domestic partner of the employee, any benefits received by the domestic partner as a result of this Act shall terminate.

(2) EXCEPTION.—In a case in which a domestic partnership dissolves by a method other than death of the employee or domestic partner of the employee, the former domestic partner of the employee shall be entitled to be reimbursed and shall be subject to obligations imposed upon, a former spouse.

(e) STRIPCHILDREN.—For purposes of afford-

(1) O FICE OF PERSONNEL MANAGEMENT.—Not later than 6 months after the date of enactment of this Act, the Office of Personnel Management shall promulgate regulations to implement section 2 (f) and (c).

(2) OTHER EXECUTIVE BRANCH REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the President or designee of the President shall promulgate regulations to implement this Act with respect to benefits and obligations administered by agencies or other entities of the executive branch.

(3) OTHER REGULATIONS AND ORDERS.—Not later than 6 months after the date of enactment of this Act, each agency or other entity or official not within the executive branch that administers a program providing benefits or imposing obligations shall promulgate regulations or orders to implement this Act with respect to the program.

(4) PROCEDURE.—Regulations and orders required under this subsection shall be promulgated at least 30 days after a notice and opportunity for public comment.

(5) DEFINITIONS.—In this Act:

(1) BENEFITS.—The term ‘‘benefits’’ means—

(A) health insurance and enhanced dental and vision benefits, as provided under chapter 89 of title 5, United States Code;

(B) retirement and disability benefits and plans, as provided under—

(i) chapters 83 and 84 of title 5, United States Code;

(ii) chapter 8 of the Foreign Service Act of 1980 (22 U.S.C. 4041 et seq.); and

(iii) the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. chapter 38);

(C) family, medical, and emergency leave, as provided under—

(i) subchapters III, IV, and V of chapter 3 of title 5, United States Code;

(ii) chapter 87 of title 5, United States Code;

(iii) the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), insofar as that Act applies to the Government Accountability Office and the Library of Congress;

(iv) section 202 of the Congressional Accountability Act of 1993 (2 U.S.C. 1312); and

(v) section 412 of title 3, United States Code;

(vi) chapter 83 of title 5, United States Code;

(D) Federal group life insurance, as provided under chapter 89 of title 5, United States Code;

(E) long-term care insurance, as provided under chapter 90 of title 5, United States Code;

(F) compensation for work injuries, as provided under chapter 81 of title 5, United States Code;

(G) benefits for disability, death, or captivity, as provided under—

(i) sections 5509 and 5510 of title 5, United States Code;

(ii) section 415 of the Foreign Service Act of 1980 (22 U.S.C. 3973); and

(iii) part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (22 U.S.C. 3796 et seq.), insofar as that part applies to any employee;

(H) travel, transportation, and related payments and benefits, as provided under—

(i) chapter 57 of title 5, United States Code;

(ii) chapter 87 of title 5, United States Code; and

(iii) section 1950b of title 10, United States Code;

(I) any other benefit similar to a benefit described under subparagraphs (A) through (H) provided by or on behalf of the United States to any employee.

(2) DOMESTIC PARTNER.—The term ‘‘domestic partner’’ means an unmarried adult, of the same sex domestic partner of an unmarried person of the same sex in a committed, intimate relationship.
EMPLOYER.—The term “employee”—
(A) means an officer or employee of the United States or of any department, agency, or other entity of the United States, including the United States, the Vice President of the United States, a Member of Congress, or a Federal judge; and
(B) shall not include a member of the uniformed services.

OBLIGATIONS.—The term “obligations” means any duties or responsibilities with respect to Federal employment that would be incurred by a married employee or by the spouse of an employee.

UNIFORMED SERVICES.—The term “uniformed services” has the meaning given under section 2013(3) of title 5, United States Code.

EFFECTIVE DATE.
This Act shall—
(1) with respect to the provision of benefits and obligations, take effect 6 months after the date of enactment of this Act; and
(2) apply to any individual who is employed as an employee on or after the date of enactment of this Act.

DOMESTIC PARTNERSHIP BENEFITS AND OBLIGATIONS ACT OF 2009

SUMMARY
Under the Domestic Partnership Benefits and Obligations Act of 2009, federal employees who have same-sex domestic partners will be treated the same as married employees and their spouses. Federal employees and their domestic partners will also be subject to the same employment-related obligations that are imposed on married employees and their spouses.

In order to obtain benefits and assume obligations, employees must file an affidavit of eligibility with the Office of Personnel Management (OPM). The employee must certify that the employee and the employee’s same-sex domestic partner have a common residence, share responsibility for each other’s welfare and financial responsibilities, are not related by blood, and are living together in a committed intimate relationship. They must also certify that, as each other’s sole domestic partner, they intend to remain so indefinitely. If a domestic partnership dissolves, whether by death of the domestic partner or otherwise, the employee must file a statement of dissolution with OPM within 30 days.

Employees and their domestic partners will have the same benefits as married employees and their spouses under—
Employee health benefits.
Retirement and disability plans.
Family, medical, and emergency leave.
Group life insurance.
Long-term care insurance.
Compensation for work injuries.
Death, disability, and similar benefits.
Relocation, travel, and related expenses.

For purposes of these benefits, any natural or adopted child of the domestic partner will be treated as a stepchild of the employee.

The employee’s domestic partner will also become subject to the same duties and responsibilities with respect to federal employment that apply to a married employee and the employee’s spouse. These will include, for example, anti-nepotism rules and financial disclosure requirements.

The Act will apply with respect to those federal employees who are employed on the date of enactment or who become employed on or after that date.

By Mr. BINGAMAN (for himself and Mr. UDALL, of New Mexico):
S. 1105. A bill to authorize the Secretary of the Interior, acting through the Commissioner of Reclamation, to develop water infrastructure in the Rio Grande basin, and to approve the settlement of the water rights claims of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque; to the Committee on Indian Affairs.

Mr. BINGAMAN. Mr. President, today Senator UDALL and I are introducing a bill that will help end a contentious dispute over water rights claims in the Rio Pojoaque general stream adjudication in New Mexico.

This is accomplished by authorizing an Indian water rights settlement of the claims being pursued by the Nambe, Pojoaque, San Ildefonso, and Tesuque Pueblos in the Rio Pojoaque basin north of Santa Fe.

This general stream adjudication is known as the Aamodt case, and I believe it is the longest active case in the Federal court system nationwide. The case began in 1966, and since that time has been appealed before the New Mexico District Court and the Tenth Circuit Court of Appeals. Forty years of litigation has resolved very little in the basin. Fortunately, the parties to the case took matters into their own hands. By engaging directly with each other, they have resolved their differences, something the litigation could not accomplish. The Aamodt Litigation Settlement Act represents an agreement by the parties that will secure water to meet the present and future needs of their Pueblos involved in the litigation; protect the interests and rights of longstanding water users, including century-old irrigation practices; and ensure that water is available for municipal and domestic needs for all residents in the Rio Pojoaque basin.

Negotiation of this agreement was a lengthy process. In the end, however, the parties’ commitment to solving water supply issues in the basin prevailed.

Legislation to implement this settlement was introduced in the 110th Congress. Hearings were held in both the House and Senate and based on the submitted testimony a number of changes were made to address concerns with the legislation. These changes help standardize the Pueblos’ waivers of claims as part of the settlement; limit the settlement’s impact on the Federal budget; and allows for flexibility in developing the size and scope of the regional water system in response to local concerns.

This settlement is widely supported in the region and it is time to move swiftly to enact this legislation. The State of New Mexico deserves recognition for actively pursuing a settlement of this matter and committing significant resources so that the Federal government does not bear the entire cost of the settlement. The bill is critical to New Mexico’s future since it provides certainty in allocating water in a perennially water-short area of the state.

It also helps address a long-neglected responsibility of the Federal Government to protect the rights and interests of these Pueblos. I look forward to working with my colleagues in the Senate as well as the House of Representatives to enact this legislation as soon as possible.

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. 1105

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 "Aamodt Litigation Settlement Act".
(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:
Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—POJOAQUE BASIN REGIONAL WATER SYSTEM

Sec. 102. Operating Agreement.
Sec. 103. Acquisition of Pueblo water supply for the Regional Water System.
Sec. 104. Delivery and allocation of Regional Water System capacity and water.
Sec. 105. Aamodt Settlement Pueblos’ Fund.
Sec. 106. Environmental compliance.
Sec. 107. Authorization of appropriations.

TITLE II—POJOAQUE BASIN INDIAN WATER RIGHTS SETTLEMENT

Sec. 201. Settlement Agreement and contract approval.
Sec. 203. Conditions precedent and enforcement.
Sec. 204. Waivers and releases.
Sec. 205. Effect.

SEC. 2. DEFINITIONS.
In this Act:
(1) AAMODT CASE.—The term "Aamodt Case" means the civil action entitled State of New Mexico, ex rel. State Engineer and United States of America, Pueblo de Nambe, Pueblo de Pojoaque, Pueblo de San Ildefonso, and Pueblo de Tesuque v. R. Lee Aamodt, et al., No. 66 CV 6639 MV/LCS (D.N.M.).

ACRE-FEET.—The term "acre-feet" means acre-feet of water per year.

(3) AUTHORITY.—The term "Authority" means the Pojoaque Basin Regional Water Authority described in section 95.5 of the Settlement Agreement or an alternate entity acceptable to the Pueblos and the County to operate and maintain the diversion and treatment facilities, certain transmission pipelines, and other facilities of the Regional Water System.

(4) CITY.—The term "City" means the city of Santa Fe, New Mexico.

(5) COST-SHARING AND SYSTEM INTRODUCTION AGREEMENT.—The term "Cost-Sharing and System Integration Agreement" means the agreement to be executed by the United States, the State, the Pueblos, the County, and the City that—
(A) describes the location, capacity, and management (including the distribution of water to customers) of the Regional Water System; and
(B) allocates the costs of the Regional Water System with respect to—
(i) the construction, operation, maintenance, and repair of the Regional Water System;
(ii) rights-of-way for the Regional Water System; and
(iii) the acquisition of water rights.
(6) COUNTY.—The term “County” means Santa Fe County, New Mexico.

(7) COUNTY DISTRIBUTION SYSTEM.—The term “County Distribution System” means the portion of the Regional Water System that serves water customers on non-Pueblo land in the Pojoaque Basin.

(8) COUNTY WATER UTILITY.—The term “County Water Utility” means the water utility organized by the County to—
(A) receive water distributed by the Authority; and
(B) provide the water received under subsection (A) to customers on non-Pueblo land in the Pojoaque Basin.

(9) CONTRACT.—The term “Engineering Report” means the report entitled “Pojoaque Regional Water System Engineering Report” dated September 2008 and any amendment thereto, including any modifications which may be required by section 101(d)(2).

(10) FUND.—The term “Fund” means the Aamodt Settlement Pueblos’ Fund established by section 105(a).

(11) OPERATING AGREEMENT.—The term “Operating Agreement” means the agreement between the Pueblos and the County executed under section 102(a).

(12) OPERATIONS, MAINTENANCE, AND REPLACEMENT COSTS.—
(A) IN GENERAL.—The term “operations, maintenance, and replacement costs” means all costs for the operation of the Regional Water System that are necessary for the safe, efficient, and continued functioning of the Regional Water System to produce the benefits described in the Settlement Agreement.
(B) EXCLUSION.—The term “operations, maintenance, and replacement costs” does not include construction costs or costs related to construction-design and planning.

(13) POJOAQUE BASIN.—
(A) IN GENERAL.—The term “Pojoaque Basin” means the geographic area limited by a surface water divide (which can be drawn on a topographic map), within which area rainfall and runoff flow into arroyos, drainages, and named tributaries that eventually drain to—
(i) the Rio Pojoaque; or
(ii) the 2 unnamed arroyos immediately south; and
(iii) the 2 arroyos (including the Arroyo Alamo) that are north of the confluence of the Rio Pojoaque and the Rio Grande.
(B) INCLUSIVE.—The term “Pojoaque Basin” includes the San Ildefonso Eastern Reservation recognized by section 8 of Public Law 87–231 (75 Stat. 585).
(C) FOR COOPERATION.—The term “Pueblo” means each of the pueblos of Nambe, Pojoaque, San Ildefonso, or Tesuque.

(14) PUEBLO.—
A. The term “Pueblos” means collectively the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque.

(15) PUEBLO LAND.—The term “Pueblo land” means any real property that is—
(A) held in trust by the United States for a Pueblo within the Pojoaque Basin; or
(B) owned by a Pueblo within the Pojoaque Basin before the date on which a court approves the Settlement Agreement; or
(ii) acquired by a Pueblo on or after the date on which a court approves the Settlement Agreement, if the real property is located—
(I) within the exterior boundaries of the Pueblo, as recognized and confirmed by a patent issued under the Act of December 22, 1858 (11 Stat. 374, chapter V); or
(II) within the exterior boundaries of any territory set aside for the Pueblo by law, executive order, or court decree; or
(C) owned by a Pueblo or held by the United States in trust for the benefit of a Pueblo outside the Pojoaque Basin that is located within the exterior boundaries of the Pueblo as recognized and confirmed by a patent issued under the Act of December 22, 1858 (11 Stat. 374, chapter V); or
(D) within the exterior boundaries of any real property located outside the Pojoaque Basin set aside for a Pueblo by law, executive order, or court decree; or
(E) within or contiguous to land held by the United States in trust for the Pueblo as of January 1, 2006.

(17) PUEBLO WATER FACILITY.—
(A) IN GENERAL.—The term “Pueblo Water Facility” means—
(i) a portion of the Regional Water System that serves only water customers on Pueblo land; and
(ii) portions of a Pueblo water system in existence on the date of enactment of this Act that serve water customers on non-Pueblo land, also in existence on the date of enactment of this Act, or their successors, that are—
(I) depicted in the final project design, as modified by the drawings reflecting the completed Regional Water System; and
(II) described in the Operating Agreement.
(B) INCLUSIONS.—The term “Pueblo Water Facility” includes—
(i) the barrier dam and infiltration project on the Rio Pojoaque described in the Engineering Report; and
(ii) the Tesuque Pueblo infiltration pond described in the Engineering Report.
(18) REGIONAL WATER SYSTEM.—
(A) IN GENERAL.—The term “Regional Water System” means the Regional Water System described in section 101(a).
(B) EXCLUSIONS.—The term “Regional Water System” does not include the County or Pueblo water supply delivered through the Regional Water System.

(19) SAN JUAN–CHAMA PROJECT.—The term “San Juan–Chama Project” means the Project authorized by section 8 of the Act of June 13, 1962 (76 Stat. 96, 97), and the Act of April 11, 1956 (70 Stat. 165).

(20) SAN JUAN–CHAMA PROJECT ACT.—The term “San Juan–Chama Project Act” means sections 8 through 18 of the Act of June 13, 1962 (76 Stat. 96, 97).

(21) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(22) SETTLEMENT AGREEMENT.—The term “Settlement Agreement” means the stipulated and binding agreement among the Pueblos and to the County, and the City, dated January 19, 2006, and signed by all of the government parties to the Settlement Agreement (other than the United States), on May 3, 2006, and as amended in conformity with this Act.

(23) STATE.—The term “State” means the State of New Mexico.

TITLE I—POJOAQUE BASIN REGIONAL WATER SYSTEM

SEC. 101. AUTHORIZATION OF REGIONAL WATER SYSTEM.

(a) IN GENERAL.—The Secretary, acting through the Commissioner of Reclamation, shall plan, design, and construct a regional water system in accordance with the Settlement Agreement so long as the provisions described in section 106 for the Regional Water System—
(1) is consistent with the Engineering Report; and
(2) includes a description of any Pueblo Water Facilities.

(b) ACQUISITION OF LAND; WATER RIGHTS.—
(1) ACQUISITION OF LAND.—Upon request, and in exchange for the funding which shall be provided in section 107(c), the Pueblos shall consent to the grant of any easements and rights-of-way as may be necessary for the construction of the Regional Water System at no cost to the Secretary. To the extent that the State or County shall provide that land or interest in land as necessary for construction at no cost to the Secretary, the Secretary shall acquire any other land or interest in land that is necessary for the construction of the Regional Water System.

(2) WATER RIGHTS.—The Secretary shall not condemn water rights for purposes of the Regional Water System.

(c) CONDITIONS FOR CONSTRUCTION.—
(1) IN GENERAL.—The Secretary shall not begin construction of the Regional Water System facilities until the date on which—
(A) the Secretary executes—
(i) the Settlement Agreement; and
(ii) the Cost-Sharing and System Integration Agreement; and
(B) the State and the County have entered into an agreement with the Secretary to contribute the non-Federal share of the costs of the construction in accordance with the Cost-Sharing and System Integration Agreement.

(2) MODIFICATIONS TO REGIONAL WATER SYSTEM.—
(A) IN GENERAL.—The State and the County, in agreement with the Pueblos, the City, and other signatories to the Cost-Sharing and System Integration Agreement, may modify the extent, size, and capacity of any portion of the County Distribution System as set forth in the Cost-Sharing and System Integration Agreement.

(d) APPROPRIATIONS.—A modification under subparagraph (A)—
(1) shall not affect implementation of the Settlement Agreement so long as the provisions described in section 301 are met; and
(2) may result in an adjustment of the State and County cost-share allocation as set forth in the Cost-Sharing and System Integration Agreement.

(e) APPLICABLE LAW.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall not apply to the design and construction of the Regional Water System.

(f) CONSTRUCTION COSTS.—
(1) PUEBLO WATER FACILITIES.—The costs of constructing the Pueblo Water Facilities, as determined by the final project design and the Engineering Report—
(A) shall be at full Federal expense subject to the amount authorized in section 107(a); and
(B) shall be nonreimbursable to the United States.

(2) COUNTY DISTRIBUTION SYSTEM.—The costs of constructing the County Distribution System shall be at full State and local expense.

(g) STATE AND LOCAL CAPITAL OBLIGATIONS.—The State and local capital obligations described in the Settlement Agreement are subject to the Cost-Sharing and System Integration Agreement shall be satisfied on the
payment of the State and local capital obligations described in the Cost-Sharing and System Integration Agreement.

(b) **Conveyance of Regional Water System Facilities.**—

(1) Subject to paragraph (2), on completion of the construction of the Regional Water System, the Secretary, in accordance with the Operating Agreement, shall:

(A) each Pueblo the portion of any Pueblo Water Facility that is located within the boundaries of the Pueblo, including any land or interest in land acquired by the United States for the construction of the Regional Water System;

(B) the County the County Distribution System, including any land or interest in land acquired by the United States for the construction of the County Distribution System; and

(C) the Authority any portions of the Regional Water System that remain after making the conveyances under subparagraphs (A) and (B), including any land or interest in land acquired by the United States for the construction of the Regional Water System.

(2) **Conveyance of Water.**—The Secretary shall convey to the Pueblo Water Facilities, the County Water Utility; and the Regional Water System facilities under paragraph (1), the Pueblo, the County, and the Authority, as applicable, may, at their option, and in accordance with section 102, purchase or acquire water delivered by the Regional Water System.

(3) **Subsequent Conveyance.**—On conveyance of any portion of the Regional Water System facilities under paragraph (1), the Secretary, in accordance with the Operating Agreement, shall:

(A) convey to the Pueblo the portion of any Pueblo Water Facility that is located within the boundaries of the Pueblo, including any land or interest in land acquired by the United States for the construction of the Regional Water System;

(B) convey to the County the County Water Utility; and

(C) convey to the Authority any portions of the Regional Water System that remain after making the conveyances under subparagraphs (A) and (B), including any land or interest in land acquired by the United States for the construction of the Regional Water System.

(4) **Interest of the United States.**—On conveyance of a portion of the Regional Water System under paragraph (1), the United States shall have no further right, title, or interest in and to the portion of the Regional Water System conveyed.

(5) **Construction.**—On conveyance of a portion of the Regional Water System under paragraph (1), the Secretary, or the Authority, as applicable, may, at the request of the Pueblo, the County, or the Authority, construct any additional infrastructure that is necessary to fully use the water delivered by the Regional Water System.

(6) **Liability.**—

(A) In General.—Effective on the date of conveyance of any land or facility under this section, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the land and facilities conveyed or any project or project component, including any damages caused by acts of negligence by the United States, or by employees or agents of the United States, prior to the date of conveyance.

(B) Defenses and Claims.—Nothing in this section increases the liability of the United States beyond the liability provided in chapter 171 of title 28, United States Code (commonly known as the Aamodt Case).

(7) **Effect.**—Nothing in any transfer of ownership provided or any conveyance thereof as provided in this section shall extinguish any liability of the United States, or the Regional Water Authority to the continuous use and benefit of each easement or right of way for the use, operation, maintenance, and replacement, of Pueblo Water Facilities, the County Distribution System or the Regional Water System or for wastewater purposes as provided in the Cost-Sharing and System Integration Agreement.

**SEC. 102. OPERATING AGREEMENT.**

(a) **In General.**—The Pueblos and the County shall submit to the Secretary an executed Operating Agreement for the Regional Water System that is consistent with this Act, the Settlement Agreement, and the Cost-Sharing and System Integration Agreement not later than 180 days after the later of—

(1) the date of completion of environmental compliance and permitting; or

(2) the date of receipt by the Secretary of the project design for the Regional Water System under section 101(b).

(b) **Approval.**—Not later than 180 days after receipt of the operating agreement described in subsection (a), the Secretary shall approve the Operating Agreement upon determination that the Operating Agreement is consistent with this Act, the Settlement Agreement, and the Cost-Sharing and System Integration Agreement.

(c) **Contents.**—The Operating Agreement shall include—

(1) provisions consistent with the Settlement Agreement and the Cost-Sharing and System Integration Agreement and necessary to implement the intended benefits of the Regional Water System described in those documents;

(2) provisions to—

(A) the distribution of water conveyed through the Regional Water System, including a delineation of—

(i) distribution lines for the County Distribution System;

(ii) distribution lines for the Pueblo Water Facilities; and

(iii) distribution lines that serve both—

(I) the County Distribution System; and

(II) the Pueblo Water Facilities;

(B) the allocation of the Regional Water System capacity;

(C) the terms of use of unused water capacity in the Regional Water System;

(D) the construction of additional infrastructure and the acquisition of associated rights-of-way or easements necessary to enable any of the Pueblos or the County to fully use water allocated to the Pueblos or the County by the Secretary; and

(E) the terms of provision of annual operation, maintenance, and replacement costs for the Regional Water System, including the portions of the Regional Water System that are used to treat, transmit, and distribute water to both the Pueblo Water Facilities and the County Water Utility;

(F) the operation of wellfields located on Pueblo land;

(G) the transfer of any water rights necessary to provide the Pueblo water supply described in section 108(a); and

(H) the Regional Water System with respect to the water supply, including the allocation of the water supply in accordance with section 5.1.8.4.2 of the Settlement Agreement, in the event of a shortage of supply to the Regional Water System, the supply to each of the Pueblos' and to the County's distribution system shall be reduced on a prorata basis, in proportion to each distribution system's most current annual use; and

(i) dispute resolution; and

(j) the operation of, and diversion and maintenance of, the Regional Water System facilities before and after conveyance under section 101(h), including provisions to—

(A) ensure, in perpetuity, the execution of the contract required by subsection (a)(2), shall be nonreimbursable;
(b) The Secretary's waiver of each Pueblo's share of the construction costs for the San Juan-Chama Project will not result in an increase in the pro rata shares of other San Juan-Chama Project water contractors; but such costs shall be absorbed by the United States Treasury or otherwise appropriated to the Department of the Interior; and

(C) Such intergovernmental agreements are consistent with the operating agreement, the settlement agreement, and this Act.

SEC. 104. DELIVERY AND ALLOCATION OF REGIONAL WATER SYSTEM CAPACITY TO WATER.

(a) ALLOCATION OF REGIONAL WATER SYSTEM CAPACITY.—

(1) in general.—The Regional Water System shall have the capacity to divert from the Rio Grande a quantity of water sufficient to provide—

(A) up to 4,000 acre-feet of consumptive use of water each year;

(B) the requisite peaking capacity described in—

(i) the Engineering Report; and

(ii) the final project design;

(2) ALLOCATION TO THE PUEBLOS AND COUNTY WATER UTILITY.—Of the capacity described in paragraph (1)—

(A) there shall be allocated to the Pueblos—

(i) sufficient capacity for the conveyance of 2,500 acre-feet consumptive use; and

(ii) the requisite peaking capacity for the quantity of water described in clause (i);

(B) there shall be allocated to the County Water Utility—

(i) sufficient capacity for the conveyance of up to 1,500 acre-feet consumptive use; and

(ii) the requisite peaking capacity for the quantity of water described in clause (i).

(b) DELIVERY OF REGIONAL WATER SYSTEM WATER.—The Authority shall deliver water from the Regional Water System—

(1) to the Pueblos in a quantity sufficient to allow for the use of up to 2,500 acre-feet per year of water rights by the Pueblos in accordance with—

(A) the settlement agreement;

(B) the operating agreement; and

(C) this title; and

(2) to the County water in a quantity sufficient to allow for the use of up to 1,500 acre-feet per year of water rights by the County Water Utility in accordance with—

(A) the settlement agreement;

(B) the operating agreement; and

(C) this title.

(c) ADDITIONAL USE OF ALLOCATION QUANTITY AND UNDEDICATED CAPACITY.—The Regional Water System may be used to—

(1) provide for use of return flow credits to allow for full consumptive use of the water allocated in the settlement agreement to each of the Pueblos and to the County; and

(2) convey water allocated to one of the Pueblos or the County Water Utility for the benefit of another Pueblo or the County Water Utility or allow use of unused capacity or water provides for payment of the expenses associated with the use of such capacity, water or water rights.

(d) MANAGEMENT OF THE FUND.—The Secretary shall manage the Fund, invest such amounts as are made available to the Fund under section 107(c) or from other authorized sources; and

(1) any interest earned from investment of amounts in the Fund under subsection (b); and

(2) the amounts withdrawn.

(e) ABSENCE OF FUND.—In the event the Fund has no balance, the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act, the settlement agreement, and the Cost-Sharing and System Integration Agreement.

(f) ANNUAL REPORT.—The Pueblos shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(g) ENVIRONMENTAL COMPLIANCE.—In general.—In carrying out this title, the Secretary shall ensure the protection of the environment, including—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(2) the Federal Government relating to the protection of the environment, including—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(2) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).
Agreement.

SEC. 201. SETTLEMENT AGREEMENT AND CON-TRACT APPROVAL.

(a) APPROVAL.—To the extent the Settlement Agreement and the Cost-Sharing and System Integration Agreement do not conflict with this Act, the Settlement Agreement and the Cost-Sharing and System Integration Agreement (including any amendments to the Settlement Agreement and the Cost-Sharing and System Integration Agreement that are necessary to make the Settlement Agreement or the Cost-Sharing and System Integration Agreement consistent with this Act) are authorized, ratified, and confirmed.

(b) EXECUTION.—To the extent the Settlement Agreement and the Cost-Sharing and System Integration Agreement do not conflict with this Act, the Secretary shall execute the Settlement Agreement and the Cost-Sharing and System Integration Agreement (including any amendments to the Settlement Agreement and the Cost-Sharing and System Integration Agreement that are necessary to make the Settlement Agreement or the Cost-Sharing and System Integration Agreement consistent with this Act), after publication in the Federal Register of a notice of the proposal to execute such agreement.

(c) AUTHORIZATION.—

(1) In general.—Each of the Pueblos may enter into contracts to lease or exchange water rights or to make agreements described in section 104(c)(2).

(2) Revisions.—The conditions precedent described in paragraph (1) are the conditions that—

(A) to the extent that the Settlement Agreement conflicts with this title, the Settlement Agreement has been revised to conform with this title;

(B) the Settlement Agreement, so revised, including waivers and releases pursuant to section 204, has been executed by the appropriate parties and the Secretary;

(C) Congress has fully appropriated, or the Secretary has provided for such other authorized sources, all funds authorized by section 107, with the exception of subsection (a)(1) of the section, by December 31, 2016.

(D) The State has enacted any necessary legislation and provided any funding that may be required under the Settlement Agreement.

(E) a partial final decree that sets forth the water rights and other rights to water to which the Pueblos are entitled under the Settlement Agreement and that substantially conforms to the Settlement Agreement has been approved by the United States District Court for the District of New Mexico; and

(F) a final decree that sets forth the water rights for all parties to the Aamodt Case and that substantially conforms to the Settlement Agreement has been approved by the United States District Court for the District of New Mexico.

2(b) any funds that have been appropriated under this Act but not expended shall immediately revert to the general fund of the United States Treasury.

(c) Enforcement Date.—The Settlement Agreement shall become enforceable as of the date that the United States District Court for the District of New Mexico enters a partial final decree pursuant to subsection (a)(2)(E) and an Interim Administrative

Title II—Pojoaque Basin Indian Water Rights Settlement

(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(2) National Environmental Policy Act.—Nothing in this Act affects the outcome of any procedures conducted by the Environmental Protection Agency or any other Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) Regional Water System.—

(1) In general.—Subject to paragraph (4), there shall be appropriated to the Secretary for the planning, design, and construction of the Regional Water System and the conduct of environmental compliance activities—

(A) $106,400,000,000,000,000, which shall be allocated to the Pueblo of Sante Fe for the acquisition of the Pueblo reserved water rights in accordance with section 108(a)(1)(A).

(B) $5,000,000,000,000,000,000, which shall be allocated to the Pueblo of Sante Fe for the acquisition of the Pueblo reserved water rights in accordance with section 108(a)(1)(A).

(2) Priority of funding.—Of the amounts authorized under paragraph (1), the Secretary shall give priority to funding—

(A) the construction of the San Ildefonso portion of the Regional Water System, consisting of—

(i) the surface water diversion, treatment, and transmission facilities at San Ildefonso Pueblo; and

(ii) the San Ildefonso Pueblo portion of the Pueblo Water Facilities; and

(B) that part of the Regional Water System providing 475 acre-feet to Pojoaque Pueblo pursuant to section 2.2 of the Settlement Agreement.

(3) Adjustment.—The amount authorized under paragraph (1) shall be adjusted annually to account for increases in construction costs since October 1, 2006, as determined using applicable engineering cost indices.

(4) Limitations.

(A) In general.—No amounts shall be made available under paragraph (1) for the construction of the Regional Water System until the date on which the United States District Court for the District of New Mexico issues an order approving the Settlement Agreement.

(B) Record of decision.—No amounts made available under paragraph (1) shall be expended unless the record of decision issued by the Secretary after completion of an environmental impact statement provides for a preferred alternative that is in substantial compliance with the proposed Regional water system, as defined in the Engineering Report.

(c) Acquisition of Water Rights.—There is authorized to be appropriated to the Secretary for the funds for the acquisition of the water rights recognized in section 2.1, $1,325,000,000.

(1) In the amount of $5,400,000,000 if such acquisition is completed by December 31, 2010; and

(2) the amount authorized under paragraph (b)(1) shall be adjusted according to the CPI Urban Index commencing January 1, 2011.

(c) Aamodt Settlement Pueblos' Fund.—

(1) In general.—There is authorized to be appropriated to the Fund the following amounts for the period of fiscal years 2010 through 2022:

(A) $37,500,000, which shall be allocated to the Pueblos, in accordance with section 2.7.1 of the Settlement Agreement, for the rehabilitation, improvement, operation, maintenance, and replacement of the agricultural delivery facilities, waste water systems, and other water-related infrastructure of the applicable Pueblo. The amount authorized herein shall be adjusted according to the CPI Urban Index commencing October 1, 2006.

(B) $1,750,000,000, which shall be allocated to an account, to be established not later than January 1, 2011, to fund the Pueblos' share of the cost of operating, maintaining, and replacing the Pueblo Water Facilities and the Regional Water System.

(C) $5,000,000 and any interest thereon, which shall be allocated to the Pueblo of Nambe' for the acquisition of the Nambe' reserved water rights in accordance with section 108(a)(1)(A).

(3) Adjustment.—The amount authorized herein shall be adjusted according to the CPI Urban Index commencing January 1, 2011. The funds provided under this section may be used by the Pueblo of Nambe only for the acquisition of land, other real property interests, or water supply facilities.

(4) Operation, Maintenance, and Replacement Costs.—

(A) In general.—Prior to conveyance of the Regional Water System pursuant to section 101, the Secretary shall pay any operation, maintenance or replacement costs associated with the Pueblo Water Facilities or the Regional Water System to an amount that does not exceed $5,000,000, which is authorized to be appropriated to the Secretary.

(B) Obligation of the Federal Government after completion.—Except as provided in section 106(b)(1), after construction of the Regional Water System is completed and the amounts required to be deposited in the account have been deposited under this section the Federal Government shall have no obligation to pay for the operation, maintenance, and replacement costs of the Regional Water System.

TITLE II—POJOAQUE BASIN INDIAN WATER RIGHTS SETTLEMENT

Purpose of Act.—Nothing in this Act affects the out-of-stream water rights made available under this Act.

(5) Applicable Law.—Section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any lease or contract entered into under paragraph (1).

(6) Leasing or Marketing of Water Supply.—The water supply provided on behalf of the Pueblos pursuant to section 108(a)(1) may only be leased or marketed by any of the Pueblos, in accordance with any intergovernmental agreements described in section 104(c)(2).

(d) Amendments to Contracts.—The Secretary shall amend the contracts relating to the Nambe Falls Dam project that are necessary to use water supplied from the Nambe Falls Dam and Reservoir in accordance with the Settlement Agreement.

SEC. 202. CONDITIONS PRECEDENT AND ENFORCEMENT DATE.

(a) Conditions Precedent.—

(1) In general.—Upon the fulfillment of the conditions precedent described in paragraph (c) of the Secretary in the Federal Register by September 15, 2017 a statement of finding that the conditions have been fulfilled.

(2) Requirements.—The conditions precedent referred to in paragraph (1) are the conditions that—

(A) to the extent that the Settlement Agreement conflicts with this title, the Settlement Agreement has been revised to conform with this title;

(B) the Settlement Agreement, so revised, including waivers and releases pursuant to section 204, has been executed by the appropriate parties and the Secretary;

(C) Congress has fully appropriated, or the Secretary has provided for such other authorized sources, all funds authorized by section 107, with the exception of subsection (a)(1) of this section, by December 31, 2016;

(D) The State has enacted any necessary legislative provisions and provided any funding that may be required under the Settlement Agreement;

(E) a partial final decree that sets forth the water rights and other rights to water to which the Pueblos are entitled under the Settlement Agreement and that substantially conforms to the Settlement Agreement has been approved by the United States District Court for the District of New Mexico; and

(F) a final decree that sets forth the water rights for all parties to the Aamodt Case and that substantially conforms to the Settlement Agreement has been approved by the United States District Court for the District of New Mexico.

(b) Expiration Date.—If all the conditions precedent described in subsection (a)(2) have not been fulfilled by September 15, 2017—

(1) the Settlement Agreement and this Act including waivers described in those documents shall no longer be effective; and

(2) any funds that have been appropriated under this Act but not expended shall immediately revert to the general fund of the United States Treasury.

(c) Enforcement Date.—The Settlement Agreement shall become enforceable as of the date that the United States District Court for the District of New Mexico enters a partial final decree pursuant to subsection (a)(2)(E) and an Interim Administrative
Order consistent with the Settlement Agreement.

(d) Effectiveness of Waivers.—The waivers and releases executed pursuant to section 204 shall be effective, the waivers and releases authorized in this Act, the Pueblos on behalf of themselves and their members and the United States acting in its capacity as trustee for the Pueblos, and title to any property acquired or constructed with expended Federal funds, shall be returned to the Federal Government unless otherwise agreed to by the Pueblos and the United States in writing and approved by Congress.

SEC. 204. WAIVERS AND RELEASES.

(a) Claims by the Pueblos and the United States.—In return for recognition of the Pueblos’ water rights and other benefits, including releases by non-Pueblo parties, as set forth in the Settlement Agreement and this Act, the Pueblos, on behalf of themselves and their members, and the United States acting in its capacity as trustee for the Pueblos are authorized to execute a waiver and release of—

(1) all claims for water rights in the Pojoaque Basin that the Pueblos, or the United States acting in its capacity as trustee for the Pueblos, asserted in any proceeding, including the Aamodt Case, up to and including the waiver effectiveness date identified in section 203(d), except to the extent that such rights are recognized in the Settlement Agreement or this Act;

(2) all claims for water rights for lands in the Pojoaque Basin and for rights to use water in the Pojoaque Basin that the Pueblos, or the United States acting in its capacity as trustee for the Pueblos, might be able to otherwise assert in any proceeding not initiated on or before the date of enactment of this Act; and

(3) all claims for damages, losses, or injuries to water rights or claims of interference with, diversion or taking of water (including claims for injury to land resulting from such losses, injuries, interference with, diversion, or taking of water) attributable to the Pueblo of Tesuque unless there is a water resources agreement executed between the Pueblo of Tesuque and the City of Santa Fe;

(b) Claims by the Pueblos Against the United States.—The Pueblos, on behalf of themselves and their members, are authorized to execute a waiver and release of—

(1) all claims against the United States, its agencies, or employees relating to damages, losses, or injuries to land resulting from such damages, losses, injuries, interference with, diversion, or taking of water; and

(2) all claims for enforcement of the Settlement Agreement, the Final Decree, or the Partial Final Decree, the Final Decree, the San Juan-Chama Project contract between the Pueblos and the United States or this Act;

(c) Requirements for Determination of Substantial Completion of the Regional Water System.—(1) The Secretary of the Interior shall be determined to be substantially complete if the infrastructure has been constructed capable of—

(A) diverting, treating, transmitting, and distributing a supply of 2,500 acre-feet of water to the Pueblos; and

(B) diverting, treating, and transmitting the quantity of water specified in the Engineering Report to the County Distribution System.

(2) Consultation.—On or after June 30, 2021, at the request of 1 or more of the Pueblos, the Secretary shall consult with the Pueblos and the County on whether the criteria in paragraph (1) for substantial completion of the Regional Water System have been met or will be met by July 30, 2021.

(3) Right to Void Final Decree.—If the substantial completion criteria have not been met by June 15, 2021, after the consultation required by paragraph (2), the Pueblos or the United States as trustee for the Pueblos have until midnight June 30, 2024 to ask the Decree Court to void the Final Decree pursuant to section 19.3 of the Settlement Agreement.

(f) Voiding of Waivers.—If the Court determines the Final Decree is voided pursuant to Section 19.3 of the Settlement Agreement, the Settlement Agreement shall no longer be effective, the waivers and releases executed pursuant to section 204 shall no longer be effective, and any unexpended Federal funds, together with any income earned thereon, and title to any property acquired or constructed with expended Federal funds, shall be returned to the Federal Government unless otherwise agreed to by the Pueblos and the United States in writing and approved by Congress.

SEC. 205. ENFORCEMENT.

(a) Effect of Section.—Nothing in the Settlement Agreement or this Act—

(1) affects the ability of the United States acting in its sovereign capacity to take any actions authorized by law, including any laws relating to health, safety, or the environment, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and the regulations implementing those laws;

(2) affects the ability of the United States acting in its sovereign capacity to take any actions authorized by law, including any laws relating to health, safety, or the environment, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and the regulations implementing those laws;
Develops between communities and individuals, and in a State where the history is long and complex, disputes over water are uniquely complicated. But, ay, despite the potential for disagreement over water tenure, New Mexicans are united in a common respect for this precious, life-sustaining resource. Both tribes of New Mexico, to the historic acequias and growing communities, water is fundamental to both survival and cultural traditions, and is respected as such. The Aamodt settlement is an example of tribes coming together to foster compromise rather than conflict. The parties involved have worked tirelessly to ensure that everyone has access to this precious and respected resource.

It has been said that the wars of the future will be fought over access to water. In New Mexico, we are setting a different precedent—a precedent of respect and compromise, one that will help us move into the future with well- established partnerships and a commitment to conserve and manage this vital resource to the benefit of all. I am honored to join Senator Bingaman today in introducing this legislation that will bring the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque and the surrounding communities one step closer to establishing a secure water future.

By Mr. DURBIN (for himself, Mr. GRAHAM, and Mr. HATCH):
S. 1107. A bill to amend title 28, United States Code, to provide for a limited 6-month period for Federal judges to opt into the Judicial Survivor Annuities System and begin contributing toward an annuity for their spouse and dependent children upon their death, and for other purposes; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, today I am introducing a bill, together with my Republican colleague Senator ORRIN HATCH, that will help the financial security of Federal judges and their families. It will do so without costing the Federal Government a penny.

Our bill, the Judicial Survivors Protection Act of 2009, will create an open season for active and senior federal judges to enroll in the Judicial Survivors’ Annuities System, JSAS, if they are not currently enrolled. JSAS is a pension for spouses and dependent children of deceased federal judges. Depending on the judge’s length of service, the annuity for a surviving spouse can be as high as 50 percent of the judge’s average annual salary, and the annuity for surviving dependent children can be as high as 20 percent.

In addition, our bill would provide an important health insurance benefit for the surviving family members of deceased Federal judges. For a surviving spouse and dependent child to continue to receive health insurance coverage under the Federal Employees Health Benefits, FEHB, program after the judge’s death, the judge must have been enrolled in JSAS. Otherwise, they can no longer participate in FEHB.

Federal judges have only 6 months from the date of their appointment to sign up for JSAS and, for a variety of reasons, many do not do so. For example, they are faced with individual pay cuts when they leave a law firm to become a Federal judge, and they are unable to afford JSAS contributions, which amount to a 2.2 percent of a judge’s annual salary. Nearly 900 federal judges, representing about 40 percent of the federal judiciary, currently do not participate in JSAS. However, if given the opportunity, the Administrative Office of the U.S. Courts estimates between 200 and 300 judges would sign up.

Take, for example, the case of Judge Michael Mihm, who is a federal judge in the Central District of Illinois, my home State. Judge Mihm wrote a letter and said: ’In 1982, when I came on the bench, the survivor’s pension (JSAS) was so bad that al most no incoming judge signed up for it. Plus, the percentage of salary involved was very high. So I didn’t sign up for it then. In the early 90s I was a member of the Judicial Branch Committee where the Committee and the judiciary succeeded in getting a bill passed that improved the benefits (established a 25% floor) and the percentage of salary paid. There was an open season. That would have been the time to join. However, at that time I had four children attending private universities, and I simply couldn’t afford to bring home a smaller paycheck. I have for some time now been very interested in ‘buying in’ to the survivor’s pension, that is, pay in everything I would have paid in if I had joined during the open season, plus a penalty amount for waiting until now to join.

I also received a letter from U.S. District Court Judge Robert Gettleman in the Northern District of Illinois, who said that ’under the circumstances of our current economic crisis, providing for my family in the event of a death is of urgent importance to me. I think I speak for many of those in my circumstance that I am happy to make a one-time payment and contribute a greater share of my income to participate in this program.’

The bill that Senator HATCH and I are introducing would allow Judges Mihm, Judge Gettleman, and the hundreds of other nonparticipating federal judges around the country to pay a penalty and buy into the JSAS program. Such judges would be required to pay an enhanced contribution rate of 2.75 percent of their salary each year rather than the 2.2 percent rate they would pay if they had enrolled within 6 months of taking office.

As a result, the cost of our bill would be borne by these new enrollees and not by the Federal Government or by previously enrolled judges. The Congressional Budget Office has conducted an informal review of this bill and determined that the cost of this bill is insignificant. Therefore, the bill would require no Federal funds and have no
PAYGO implications. The higher ongoing contribution rates for new enrollees will offset the value of any potential future liabilities that would be incurred by the JSAS fund, which currently has assets of over $500 million.

One of the highest priorities of the federal judiciary in recent years has been the pursuit of a pay raise. Federal judges have not received a pay raise from Congress since 1991, other than occasional cost-of-living adjustments, and there is a concern that some of this nation’s best and brightest attorneys may never seek Federal judgeships because of the financial sacrifice they and their families would have to make. The bill that Senator HATCH and I are introducing today would not raise the judicial pay of our federal judges, but it would at least provide a modest benefit that might make judicial service more tenable and more attractive. I hope Congress will take up and pass the Judicial Survivors Protection Act of 2009.

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 “Judicial Survivors Protection Act of 2009”.

SEC. 2. DEFINITIONS.

In this Act:

(a) The term “judicial official” refers to incumbent officials defined under section 376(a) of title 28, United States Code.

(b) The term “Judicial Survivors’ Annuities Fund” means the fund established under section 3 of the Judicial Survivors’ Annuities Reform Act (28 U.S.C. 376 note; Public Law 94–554; 90 Stat. 2611).

(c) The term “Judicial Survivors’ Annuities System” means the program established under section 376 of title 28, United States Code.

SEC. 3. PERSONS NOT CURRENTLY PARTICIPATING IN THE JUDICIAL SURVIVORS’ ANNUITIES SYSTEM.

(a) Election of Judicial Survivors’ Annuities System Coverage.—An eligible judicial official may elect to participate in the Judicial Survivors’ Annuities System during the open enrollment period specified in subsection (d).

(b) Manner of Making Elections.—An election under this section shall be made in writing, signed by the person making the election, and received by the Director of the Administrative Office of the United States Courts before the end of the open enrollment period.

(c) Effective Date for Elections.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Director.

(d) Open Enrollment Period Defined.—The open enrollment period under this section is the 3-month period beginning 30 days after the date of enactment of this Act.

SEC. 4. JUDICIAL OFFICERS’ CONTRIBUTIONS FOR OPEN ENROLLMENT ELECTION.

(a) Contributions.—Every active judicial official who files a written notification of his or her intention to participate in the Judicial Survivors’ Annuities System during the open enrollment period shall be deemed thereby to consent and agree to have deducted from his or her salary a sum equal to 2.75 percent of salary or a sum equal to 3.5 percent of his or her retirement salary, except that the deduction from any retirement salary—

(1) of a judge or justice of the United States retired from regular active service under section 371(b) or 372(a) of title 28, United States Code;

(2) of a judicial official on recall under section 155(h), 375, or 636(h) of title 28, United States Code,

shall be an amount equal to 2.75 percent of retirement salary.

(b) Contributions To Be Credited to Judicial Survivors’ Annuities Fund.—Contributions made under subsection (a) shall be credited to the Judicial Survivors’ Annuities Fund.

SEC. 5. DEPOSIT FOR PRIOR CREDITABLE SERVICE.

(a) Lump Sum Deposit.—Any judicial official who has elected to participate in the Judicial Survivors’ Annuities System during the open enrollment period may make a deposit equaling 2.75 percent of salary, plus 3 percent of such deposit compounded annually for the last 18 months of prior service, to receive the credit for prior judicial service required for immediate coverage and protection of the official’s survivors. Any such deposit shall be made on or before the closure of the open enrollment period.

(b) Deposits To Be Credited to Judicial Survivors’ Annuities Fund.—Deposits made under subsection (a) shall be credited to the Judicial Survivors’ Annuities Fund.

SEC. 6. VOLUNTARY CONTRIBUTIONS TO ENLARGE SURVIVORS’ ANNUITY.

(a) Definitions.—In this section:

(1) “Prior Service” means the period of judicial service completed by the judicial official on recall under section 371(b), 372(a), 375, or 636(h) of title 28, United States Code.

(2) “Judicial Annuity” means the annuity established under section 376 of title 28, United States Code.

(3) “Judicial Survivors’ Annuities System” means the program established under section 376(a) of title 28, United States Code.

(b) Contributions.—The Judicial Survivors’ Annuity shall be an amount equal to 2.75 percent of salary, plus 3 percent of such deposit compounded annually for the last 18 months of prior service, to receive the credit for prior judicial service required for immediate coverage protection of the official’s survivors. Any such deposit shall be made on or before the closure of the open enrollment period.

(c) Effective Date.—This Act shall take effect on the date of enactment of this Act.

By Mr. REID (for Mr. ROCKEFELLER):

S. 1110. A bill to amend title XVIII of the Social Security Act to create a sensible, sustainable, and secure Medicare program by reforming the Medicare payment system to promote better health outcomes, increase the quality and accessibility of health care, and achieve an affordable and sustainable fiscal future.

SEC. 1. AMENDMENT TO PROVIDE HOSPITAL PAYMENTS TO COVER THE COSTS OF MEDICARE BENEFITS FOR ELDERLY INDIVIDUALS.

(a) Payment of Qualified Amounts.—The Secretary of Health and Human Services shall make payments, on behalf of the Medicare program, to the providers of medical care services to the extent necessary to cover the costs of Medicare benefits provided for elderly individuals.

(b) Effective Date.—This section shall take effect on the date of enactment of this Act.

By Mr. ROCKEFELLER:

Mr.President, I am pleased to join my colleagues from Illinois and fellow Judiciary Committee member, Senator DURBIN, in introducing the Judicial Survivors’ Protection Act of 2009. This legislation will provide more Federal judges with an opportunity financially to provide for their own families after their death. Under this legislation, the opportunity will be borne by the judges themselves, not by the taxpayers, and I hope all my colleagues will support it.
and its costs are unsustainable. Nonetheless, a modern health care delivery system is within our reach and something that we can start to achieve this year. Payment reforms, particularly in Medicare, are the cornerstone for driving cost containment and improving the efficiency of our health care system. However, Congress must adopt a mechanism to implement and maintain Medicare reimbursement policies that are based on the best evidence and driving cost containment incentives. This is simply not the case today.

Currently, Congress has the sole authority to change the cost curve for Medicare. Unfortunately, this process is riddled with political wrangling and is slowed by an inadequate structure to research, analyze, test, and implement successful delivery system reforms. Given the role of Medicare in determining market norms among all health care payers both public and private, the federal government has an opportunity to realign our nation’s health care system to drive quality improvement and greater efficiency.

The Senate already has a well-respected, independent entity—the Medicare Payment Advisory Commission, MedPAC—that currently advises Congress on Medicare payment policies. MedPAC, established by the Balanced Budget Act of 1997 (P.L. 105–33), employs a number of mechanisms to inform Congress on issues affecting the Medicare program. Specifically, MedPAC analyzes provider reimbursement, beneficiary access to care, and quality care; delivers testimony to Congress through regular reports and recommendations; engages in public meetings to discuss policy issues and formulate its recommendations to the Congress; and seeks input on Medicare issues from public and private sources through frequent meetings with a wide variety of parties.

Despite MedPAC’s reputation for providing thoughtful, evidence-based recommendations to improve Medicare’s payment policies, MedPAC has no power to implement its recommendations. That power rests solely with Congress. Unfortunately, Members of Congress face unyielding pressure from the health care industry to pick and choose which MedPAC recommendations they consider, despite the evidence. This routinely leads to the passage of laws that put the special interests of industry over the needs of patients.

MedPAC has proven, through its objectivity and its open and deliberative process, that they have the appropriate expertise to change the cost curve for Medicare and strengthen it for the future. Payment reforms to improve Medicare’s payment system, established by the Medicare Payment and Access Commission Reform Act of 2009 helps to achieve this goal. Specifically, this legislation would restructure MedPAC as an independent executive branch entity, like the Federal Reserve Board. This would provide MedPAC the appropriate authority to implement its recommendations for Medicare provider reimbursement policies.

In addition to extending the terms and requirements of the Commissioners to be full-time employees of the Commission, this legislation also establishes three new advisory councils to assist them in their decision-making: a Council of Health and Economic Advisors, a Medicare Advisory Council, and a Federal Health Advisory Council with representatives from the health care industry.

Lastly, MedPAC’s authority to analyze health services research is also enhanced in this legislation by providing them with additional resources and staff to bolster their current analytical role. Given the limitations of the current Medicare demonstration process, this legislation provides new authority and resources to MedPAC to design and evaluate new payment models through Medicare demonstrations.

I strongly feel that establishing MedPAC as an independent executive branch agency—which can only happen through an act of Congress—is the type of bold step forward that can truly transform our delivery system. Congress has proven itself to be inefficient and inconsistent in making decisions about provider reimbursement under Medicare. If we want serious improvements in our health care delivery system, then Congress should leave the reimbursement rules to the independent health care experts. I urge my colleagues to join me in support of a policy that truly improves Medicare today and in the years ahead.

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. 1190

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 Payment Advisory Commission (MedPAC) Reform Act of 2009”.

SEC. 2. RENAMING AND REFORMING THE MEDICARE PAYMENT ADVISORY COMMISSION.

(a) AMENDMENT TO TITLE.—

(1) IN GENERAL.—Section 1856 of the Social Security Act (42 U.S.C. 1395b–6) is amended—

(A) in the heading, by striking “medicare payment advisory commission” and inserting “medicare payment and access commission”;

and

(B) in subsection (a), by striking “Medicare Payment Advisory Commission” and inserting “Medicare Payment and Access Commission (or MedPAC)”.

(2) REFERENCES.—Any reference to the Medicare Payment Advisory Commission shall be deemed a reference to the Medicare Payment and Access Commission.

(b) ESTABLISHMENT AS EXECUTIVE AGENCY.—Section 1856 of the Social Security Act (42 U.S.C. 1395b–6) is amended—

(1) in the first sentence by striking “ADVISORY”; and

(2) in subsection (a)—

(A) by striking “Advisory”;

and

(B) by striking “agency of Congress” and inserting “independent entity (as defined in section 104 of title 5, United States Code)”;
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(including in the case of vacancy), a majority of the Commission may designate another member for the period of such absence.

(b) In subsection (d), in the matter preceding paragraph (1), by striking ‘‘Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission’’ and inserting ‘‘The Commission’’;

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

(1) IN GENERAL.—Section 1805(e) of the Social Security Act (42 U.S.C. 1395b(e)) is amended by adding at the end the following new paragraphs:

(2) TIMELINE FOR DETERMINATIONS WITH RESPECT TO PAYMENT POLICIES.—Not later than December 31 of each year (beginning with 2012), the Comptroller General shall submit to Congress a report containing information on any research conducted by the National Institutes of Health and the Agency for Healthcare Research and Quality, respectively, which has relevance for the determinations and recommendations being considered by the Commission. Such information shall be provided to the Commission in electronic form.

(3) AUTHORITY TO DETERMINE PAYMENT RATES.—The Secretary shall promulgate regulations to implement any payment rates determined by the Commission under subparagraph (A) to update payment rates under paragraph (9) to update payment rates under this title not less frequently than every 5 years in order to determine whether the rates are reasonable and, if not reasonable, to adjust the rates.

(4) AUTHORITY TO INFORM RESEARCH PRIORITIES FOR DATA COLLECTION.—The Commission may advise the Secretary through the Director of the Agency for Healthcare Research and Quality and the Director of the National Institutes of Health on priorities for health services research, particularly as such priorities pertain to necessary changes regarding payment reforms under this title.

(5) EXPANDED AUTHORITY TO ACCESS FEDERAL DATA AND REPORTS.—In addition to data additional under paragraph (3), the Commission shall have priority access to all raw data and research conducted or funded by the Federal government, including data and research produced by the Centers for Medicare and Medicaid Services, the National Institutes of Health, and the Agency for Healthcare Research and Quality.

(6) ELECTRONIC ACCESS.—The National Director for Health Information Technology, in coordination with the Secretary, the Administrator of the Centers for Medicare and Medicaid Services, and the Commission, shall establish a direct electronic link for raw data, including claims data under this title, to be accessed by the Commission for purposes of evaluating and determining recommendations under this title, in accordance with applicable privacy laws and data use agreements.

(7) ACCESS TO BIANNUAL REPORTS.—Not less frequently than on a biannual basis, the National Institutes of Health and the Agency for Healthcare Research and Quality shall submit to the Commission a report containing information on any research conducted by the National Institutes of Health and the Agency for Healthcare Research and Quality, respectively, and is deemed to be part of the national right of either House to change the other rule of that House.’’.

(8) ADDITIONAL RESOURCES TO CARRY OUT DUTIES.—Section 1805(d) of the Social Security Act (42 U.S.C. 1395b(d)) is amended—

(1) by redesignating subsections (e) and (f), respectively, as subsections (d) and (e), respectively, and inserting after subsection (e) the following new subsection:

(2) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives to consider any measure that would override a determination of the Commission with respect to payments for items and services furnished under this title if 2⁄3 of the Members of the Senate or the House of Representatives agree to such consideration.

(B) AS AN EXERCISE OF THE RULEMAKING POWER.—Notwithstanding any other provision of law, it shall be in order in the Senate or the House of Representatives to consider any measure that would override a determination of the Commission with respect to payments for items and services furnished under this title if 2⁄3 of the Members of the Senate or the House of Representatives agree to such consideration.

(3) EXTENSION OF CERTAIN PROVISIONS.—In implementing the foregoing provisions, the Commission has sole authority to design and evaluate demonstration projects under this title not relating to such payments.

(4) REDUCTION AND MODIFICATION.—In carrying out the foregoing provisions, the Commission shall have responsibility for demonstrating projects, including for implementing the process through which providers are reimbursed for items and services furnished under the demonstration projects. Nothing in this paragraph shall affect the authority of the Secretary with respect to demonstration projects under this title not relating to such payments.

(5) ADDITIONAL RESOURCES TO CARRY OUT DUTIES.—Section 1805(d) of the Social Security Act (42 U.S.C. 1395b(d)) is amended—

(1) by inserting (‘‘including the Secretary of the Senate and House of Representatives’’) after ‘‘such other personnel’’;

(2) by striking ‘‘and’’ at the end;

(3) by striking paragraph (5) and inserting the following new paragraph:

(4) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives to consider any measure that would override a determination of the Commission with respect to payments for items and services furnished under this title if 2⁄3 of the Members of the Senate or the House of Representatives agree to such consideration.

(B) AS AN EXERCISE OF THE RULEMAKING POWER.—Notwithstanding any other provision of law, it shall be in order in the Senate or the House of Representatives to consider any measure that would override a determination of the Commission with respect to payments for items and services furnished under this title if 2⁄3 of the Members of the Senate or the House of Representatives agree to such consideration.

(C) EXTENSION OF CERTAIN PROVISIONS.—In implementing the foregoing provisions, the Commission has sole authority to design and evaluate demonstration projects under this title not relating to such payments.

(D) ADDITIONAL RESOURCES TO CARRY OUT DUTIES.—In implementing the foregoing provisions, the Commission has sole authority to design and evaluate demonstration projects under this title not relating to such payments.

(2) REQUIREMENTS.—Section 1805(e) of the Social Security Act (42 U.S.C. 1395b(e)) is amended—

(1) by redesignating subsections (f) and (g), respectively, as subsections (e) and (f), respectively, and the same extent as in the case of any other rule of that House.’’.

(e) RESEARCH, INFORMATION ACCESS, AND DEMONSTRATION PROJECTS.—Section 1805(e) of the Social Security Act (42 U.S.C. 1395b(e)) is amended by adding at the end the following new paragraph:

(2) RESEARCH, INFORMATION ACCESS, AND DEMONSTRATION PROJECTS.—The Commission shall have authority to carry out research, information access, and demonstration projects under this title not relating to such payments in accordance with the provisions of sections 1801 and 1802.
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 “Special Disability Workload Liability Resolution Act of 2009”.

S. 1111

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Special Disability Workload Liability Resolution Act, legislation that will resolve Medicare's outstanding liability to state Medicaid programs for individuals who were covered by Medicaid when they should have been covered by Medicare.

For the past several decades, hundreds of thousands of disabled people have had their health care paid for by Medicaid: however, their health care was actually the responsibility of Medicare. Therefore, states have been left financially responsible for individuals whose care should have been paid for entirely by the Federal Government. Both the Centers for Medicare and Medicaid Services, CMS, and the Social Security Administration, SSA, acknowledge Medicare’s responsibility for these beneficiaries. The Social Security Administration is in the process of correcting the cash insurance payments that were due to disabled individuals. However, CMS has not acted to establish a means of satisfying Medicare liability.

This is unacceptable. Nearly every state is struggling to balance its budget in the midst of this terrible economic crisis, and it is estimated that the Medicare program owes the states and estimated $4 billion. This figure continues to grow as the SSA corrects additional cases. When it is determined that a state owes the Federal Government money for Medicaid expenses, states have only 60 days to pay this debt. Yet, now that the situation is reversed, the Federal Government has not yet established a timeline with which to pay its debt to the States.

The legislation I am introducing today, the Special Disability Workload Liability Resolution Act, would provide $300 million in additional funding to settle this debt to the States. It requires the Social Security Administration and CMS to develop an accurate payment methodology to reimburse states within 6 months of the bill’s enactment. Requiring this Federal debt would inject critical funds into State and local economies and help maintain state jobs.

This bill is based on language successfully included in the Senate-passed American Recovery and Reinvestment Act, but it was dropped in conference. It is my hope that my colleagues will once again support this important legislation.

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. 1111

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 “Special Disability Workload Liability Resolution Act of 2009”.

May 20, 2009

S. 1111

A bill to require the Secretary of Health and Human Services to enter into agreements with States to resolve outstanding claims for reimbursement under the Medicare program relating to the Special Disability Workload project; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Special Disability Workload Liability Resolution Act, legislation that will resolve Medicare’s outstanding liability to state Medicaid programs for individuals who were covered by Medicaid when they should have been covered by Medicare.

For the past several decades, hundreds of thousands of disabled people have had their health care paid for by Medicaid: however, their health care was actually the responsibility of Medicare. Therefore, states have been left financially responsible for individuals whose care should have been paid for entirely by the Federal Government. Both the Centers for Medicare and Medicaid Services, CMS, and the Social Security Administration, SSA, acknowledge Medicare’s responsibility for these beneficiaries. The Social Security Administration is in the process of correcting the cash insurance payments that were due to disabled individuals. However, CMS has not acted to establish a means of satisfying Medicare liability.

This is unacceptable. Nearly every state is struggling to balance its budget in the midst of this terrible economic crisis, and it is estimated that the Medicare program owes the states and estimated $4 billion. This figure continues to grow as the SSA corrects additional cases. When it is determined that a state owes the Federal Government money for Medicaid expenses, states have only 60 days to pay this debt. Yet, now that the situation is reversed, the Federal Government has not yet established a timeline with which to pay its debt to the States.

The legislation I am introducing today, the Special Disability Workload Liability Resolution Act, would provide $300 million in additional funding to settle this debt to the States. It requires the Social Security Administration and CMS to develop an accurate payment methodology to reimburse states within 6 months of the bill’s enactment. Requiring this Federal debt would inject critical funds into State and local economies and help maintain state jobs.

This bill is based on language successfully included in the Senate-passed American Recovery and Reinvestment Act, but it was dropped in conference. It is my hope that my colleagues will once again support this important legislation.

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. 1111

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

SECTION 1. SHORT TITLE.
SEC. 2. PAYMENT OF MEDICARE LIABILITY TO STATES AS A RESULT OF THE SPECIAL DISABILITY WORKLOAD PROJECT.

(a) IN GENERAL.—The Secretary, in consultation with the Commissioner, shall work with each State in an agreement for not later than 6 months after the date of enactment of this Act, on the amount of a payment for the State related to the Medicare program as a result of the Special Disability Workload project, subject to the requirements of subsection (c).

(b) PAYMENTS.—(1) ELIGIBILITY FOR MAKING PAYMENTS.—Not later than 30 days after reaching an agreement with a State under subsection (a), the Secretary shall pay the State, from the amounts appropriated under paragraph (2), the payment agreed to for the State.

(2) APPROPRIATION.—Out of any money in the Treasury not otherwise appropriated, there is appropriated $4,000,000,000 for fiscal year 2010 for making payments to States under paragraph (1).

(c) REQUIREMENTS.—The requirements of this subsection are the following:

(1) FEDERAL DATA USED TO DETERMINE AMOUNT OF PAYMENTS.—The amount of the payment under subsection (a) for each State, is determined on the basis of the most recent Federal data available, including the use of proxies and reasonable estimates as necessary, for determining expeditiously the amount of the payment that shall be made to each State that enters into an agreement under this section. The payment methodology shall consider the following factors:

(A) The number of SDW cases found to have been eligible for benefits under the Medicaid program and the month of the initial Medicare program eligibility for such cases.

(B) The applicable non-Federal share of expenditures made by a State under the Medicaid program during the time period for SDW cases.

(C) Such other factors as the Secretary and the Commissioner, in consultation with the States, determine appropriate.

(2) CONDITIONS FOR PAYMENTS.—A State shall not receive a payment under this section unless the State—

(A) Elects to have a civil action (or to be a party to any action) in any Federal or State court in which the relief sought includes a payment from the United States to the State under the Medicare liability under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as a result of the Special Disability Workload project; and

(B) Releases the United States from any liability as a result of the Special Disability Workload project.

(3) NO INDIVIDUAL STATE CLAIMS DATA REQUIRED.—No State shall be required to submit data evidencing its claim for reimbursement under the Medicaid program as a condition for receiving a payment under this section.

(4) INELIGIBLE STATES.—No State that is a party to an action in any Federal or State court in which the relief sought includes a payment from the United States to the State related to the Medicare liability under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as a result of the Special Disability Workload project shall be eligible to receive a payment under this section unless such an action is pending or if such an action is resolved in favor of the State.

(d) DEFINITIONS.—In this section:

(1) COMMISSIONER.—The term "Commissioner" means the Commissioner of Social Security.

(2) MEDICAID PROGRAM.—The term "Medicaid program" means the program of medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396a et seq.) and includes medical assistance provided under any waiver of that program approved under section 1115 or 1915 of such Act (42 U.S.C. 1315, 1316a) or otherwise.

(3) MEDICARE PROGRAM.—The term "Medicare program" means the program of medical assistance established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(5) SDW CASE.—The term "SDW case" means a case under the Special Disability Workload project involving an individual determined by the Commissioner to have been eligible for benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) for a period during which we were not provided to the individual and who was, during all or part of such period, enrolled in a State Medicare program.

(6) SPECIAL DISABILITY WORKLOAD PROJECT.—The term "Special Disability Workload project" means the project described in section 1115 or 1915 of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, H.R. Doc. No. 110-114, 110th Cong. (2008).

(7) STATE.—The term "State" means each of the 50 States and the District of Columbia.

By Mr. PYOR (for himself, Ms. SNOWE, Mr. NELSON, of Nebraska, and Mr. WICKER):

S. 1113. A bill to amend title 49, United States Code, to direct the Secretary of Transportation to establish and maintain a national clearinghouse for records related to alcohol and controlled substances testing of commercial motor vehicle operators, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. PYOR.—Mr. President, I rise today to introduce legislation with Senators SNOWE, NELSON of Nebraska, and WICKER. The legislation that we are introducing today is aptly named The Safe Roads Act of 2009, as it will go a long way toward improving the safety of our Nation’s roads by closing loopholes that have allowed commercial truck and bus drivers to use and abuse drugs and continue to drive without receiving required treatment necessary to return to duty. The bill is designed to save lives by preventing unnecessary deaths on our Nation’s roads.

Nearly every day Americans can open their newspapers to learn about a death caused by drivers under the influence of drugs and alcohol. Sometimes, these drivers are behind the wheel of an 18-wheeler or a commercial bus, which due to their size and weight bring a destructive force on any road. In May 2008, a truck driver killed a family of five in a head-on collision near Forrest City, AR, in 2007 that resulted in four fatalities. The driver was reportedly under the influence of amphetamines, one of the substances tested for under Federal Motor Carrier Safety Administration, FMCSA, testing regulations. The driver of this commercial vehicle had been apprehended for reckless homicide but was later released for reckless homicide and driving under the influence of narcotics.

Some other similar accidents involving truck drivers that have occurred in recent years include: in October 2008, Kane County, IL, a truck driver rear-ended a building, killing a woman. The truck driver was indicted for reckless homicide and driving under the influence of narcotics.

In January 2008, in Franklin County, AL, a truck driver was arrested for being under the influence of drugs or alcohol after crossing the center line and killing a woman in a head-on accident.

In July 2007, in Little Rock, AR, a truck driver killed a family of five in a crash. The driver admitted smoking crack cocaine a few hours before the crash.

In May 2007, Centre County, PA, a truck driver ran over a car killing a woman. The driver faces charges including homicide by vehicle while driving under the influence of suspected methamphetamines.

While drug abuse among the at least 3.4 million truck drivers in the industry is estimated by FMCSA to only represent 2 to 5 percent of the entire truck driving workforce, that still represents roughly 68,000 truck drivers that have a drug or alcohol abuse problem. That is a high and unacceptable risk that needs to be addressed in a serious fashion. Our goal is to prevent accidents of this nature, and I would like to briefly explain how we intend to do so.

Our bill will establish within the FMCSA a national drug and alcohol database and clearinghouse listing positive alcohol and drug test results or test refusals by commercial truck and bus drivers. The bill will expand current drug and alcohol testing regulations to require Medical Review Officers, MROs, and other FMCSA-approved agents conducting already-required testing to report positive test results and test refusals to the FMCSA national clearinghouse. Employers seeking new employees would then be required to not only follow the laws already in place for testing prospective employees, but they would also be required to examine the prospective employee’s record in the FMCSA clearinghouse to determine if the prospective employee has previously failed or refused to take a drug and alcohol test. If the prospective employee has a positive test result or test refusal in their record, any potential employer would not be allowed to hire the prospective employee unless it can be proven that he or she has not violated
the requirements of the testing program, or that he or she has fully completed a return-to-duty program as required by the testing program.

There are major loopholes that exist today in the current drug and alcohol testing programs. These loopholes give drivers the opportunity to ″job-hop″ after failing drug and alcohol tests, moving from one company to another without reporting past drug and alcohol test failures. Some States have since closed these loopholes by establishing clearinghouses similar to our proposal, but not all States have these laws, and they do not do anything to prevent drivers with past drug and alcohol test failures from moving State-to-State to seek and gain employment. Our legislation would go to considerable lengths in closing both of these well-known and well-reported loopholes. Our bill would also provide extensive privacy protection for individuals whose data is collected in the clearinghouse or accessed from the clearinghouse. The bill would provide individuals with the means to challenge records in the clearinghouse and rights of actions against those who misuse information contained in the clearinghouse or accessed from the clearinghouse.

The Government Accountability Office, GAO, and the FMCSA have acknowledged these loopholes. Both have published reports describing a national clearinghouse as a feasible, cost-effective way to address this problem and improve highway safety. In addition, a clearinghouse is something that Congress has examined since implementing drug and alcohol testing requirements in 1995. In 1999, Congress required the FMCSA to evaluate the viability of a national clearinghouse database for positive test results and test referrals, and in 2004 the results of their study supported a need for such a system and revealed the safety benefits that can come from it. As recently as last year, the GAO released a report to Congress titled ″Motor Carrier Safety: Improvements to Drug Testing Programs Could Better Identify Illegal Drug Users and Keep Them off the Road″ that recommended the establishment of a national database and clearinghouse of drivers who have tested positive or refused to test. There is a need to close these well-known loopholes, and I believe our bill goes a long way in that direction.

If this Congress will support this legislation and move forward quickly to enact this legislation, I believe it is an imperative step to enhance drug and alcohol testing requirements and improve pre-employment background reviews to reduce the number of accidents and needless deaths resulting from drivers that are under the influence of these types of substances. I want to thank Senators SNOWE, NELSON of Nebraska, and WICKER for their hard work, leadership, and support on this very important safety issue, and I urge the rest of my colleagues to support its swift passage.

By Mr. DURBIN (for himself and Mr. BURR):

S. 1114. A bill to establish a demonstration project to provide for patient-centered medical homes to improve the effectiveness and efficiency in providing care under the Medicaid program and child health assistance under the State Children's Health Insurance Program; to the Committee on Finance.

Mr. DURBIN. Mr. President, I rise to introduce today Senator BURR to help States improve quality and reduce the costs of health care for Medicaid and CHIP enrollees. The Medical Homes Act would create a pilot project in Medicaid and the State Children’s Health Insurance Program to encourage hospitals and health clinics to create a medical home for the low-income people they serve.

Those of us who have a medical home take it for granted. We see the same doctor, in the same setting, for extended periods of time. Our medical history is in one place, and even if we are seeing specialists or different doctors in the same practice, there is continuity in decisions about our health care.

But many people do not have this luxury. Think about people who move from place to place whose home lives are less than stable, who do not have health insurance, whose medical care is sporadic. For these members of our community, each visit to a clinic or an emergency room means starting over again.

Everyone should have access to a medical home, but it requires some changes in behavior and expectations and, perhaps most importantly, it requires a commitment by local providers to work together. The medical home model makes sense for improving health care for everyone. And it is a model of care that makes sense for stretching our limited Federal health care dollars.

States like Illinois and North Carolina are already seeing progress with implementing the medical home model. Illinois Health Connect is a new program at the Illinois Department of Healthcare and Family Services that uses the medical home model to deliver primary and preventive care for children and adults covered through the All Kids program. This emphasis on coordinated and ongoing care is leading to better health outcomes, and it is saving money.

Community Care of North Carolina launched a medical home model in 1998, through nine physician-led networks. North Carolina started by creating medical homes for 250,000 Medicaid enrollees. Today, it is a state-wide program that has saved the State at least $60 million in Medicaid costs in 2003 and $120 million in 2004.

Cost savings is not the only benefit. Several studies show that the medical home approach improves quality of care. Early analyses are finding that having regular access to a particular physician through the medical home is associated with earlier and more accurate diagnoses, fewer emergency room visits, fewer hospitalizations, lower costs, better care, and increased patient satisfaction. Many studies conclude that having both health insurance and a medical home means improved overall health for the entire population, which brings down the cost of care and reduces health care disparities.

The bill that Senator BURR and I introduce today would make it easier for other States to implement a medical home model, much like Illinois and North Carolina have. Congress passed a medical home demonstration project for Medicare last year. The Medical Homes Act of 2009 would do this for Medicaid and SCHIP beneficiaries by making Federal funding available for a demonstration project in 8 States to provide care through patient-centered medical homes.

The approach we propose requires a per-member, per-month care management fee to help pay for participating doctors and provides initial start-up funding for participating states. The start-up funds are used for the purchase of health information technology, primary care case managers, and other uses appropriate for the delivery of patient-centered care.

This is a critical time in our country where we have a President who wants health care reform. We have a Congress ready to act. We have an historic level of cooperation among stakeholders. Unlike the last time, there is substantial agreement this time among insurers, employers, consumers and lawmakers on the need for change and the broad outlines of reform. Change will only happen if everyone—doctors, patients, insurance companies, everyone—work with each other, not against each other. The specifics of the reform package still have to be worked out—and there will be difficult decisions. But there is broad agreement that we must do a better job of delivering health care, not just treatment for illness.

If patients, provider, payers, and the government continue to work together to create a system that values the patient more than payments and the health outcome of the patient more than the number of patients seen, we can really change the way primary care is provided. I urge my colleagues to support the Medical Homes Act of 2009 and help stabilize health care delivery for low-income Americans.

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. 1114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Medical Homes Act of 2009."
SEC. 2. FINDINGS.
Congress finds the following:

(1) Medical homes provide patient-centered care, leading to better health outcomes and greater patient satisfaction. A growing body of research supports the need to involve patients and their families in their own health care decisions, to better inform them of their treatment options, and to improve their access to information.

(2) Medical homes help patients better manage chronic conditions and maintain basic preventive care, resulting in better health outcomes than those who lack medical homes. An investigation of the Chronic Care Model found that the medical home reduced the risk of cardiovascular disease in diabetes patients, helped congestive heart failure patients become more knowledgeable and self-directed therapy, decreased the likelihood that asthma and diabetes patients would receive appropriate therapy.

(3) Medical homes also reduce disparities in access to care. A survey conducted by the Commonwealth Fund found that 74 percent of adults with a medical home have reliable access to care. In those who need care, compared with only 52 percent of adults with a regular provider that is not a medical home and 38 percent of adults without any regular source of care or provider.

(4) Medical homes reduce racial and ethnic differences in access to medical care. Three-fourths of African Americans, and Hispanics with medical homes report getting care when they need it.

(5) Medical homes reduce duplicative health services and inappropriate emergency room use. In 1998, North Carolina launched the Community Care of North Carolina (CCNC) program, which employs the medical home model. Currently, CCNC has developed 14 regional networks that include all of the Federally qualified health centers in the State and cover 749,000 recipients. An analysis conducted by Mercer Human Resources Consulting Group found that CCNC resulted in $241,000,000 in savings to the Medicaid program in 2004, with similar results in 2005 and 2006.

(6) Health information technology is a crucial foundation for medical homes. While many doctors' offices use electronic health records and other administrative functions, few practices utilize health information technology systematically to measure and improve the quality of care they provide. Medical home leaders believe that electronic health records can generate reports to ensure that all patients with chronic conditions receive recommended tests and are on target to meet their treatment goals. Computerized ordering systems, particularly with decision-support tools, can prevent medical and medication errors, while e-mail and interactive Internet websites can facilitate communication between patients and providers and improve patient education.

SEC. 3. MEDICAID AND CHIP DEMONSTRATION PROJECT TO SUPPORT PATIENT-CENTERED PRIMARY CARE.

(a) DEFINITIONS.—In this section:

(1) CARE MANAGEMENT MODEL.—The term ‘‘care management model’’ means a model that—

(A) uses health information technology and other innovations such as team based care model, to improve the management and coordination of care provided to patients;

(B) is centered on the relationship between the patient and their personal primary care provider;

(C) seeks guidance from—

(i) a steering committee; and

(ii) a management committee; and

(D) has established, where practicable, effective referral relationships between the primary care provider and the major medical specialties and ancillary services in the region.

(2) HEALTH CENTER.—The term ‘‘health center’’ means a health center as defined in section 330(a) of the Public Health Service Act (42 U.S.C. 254b(a)).

(3) MEDICAID.—The term ‘‘Medicaid’’ means the program for medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(4) MEDICAL MANAGEMENT COMMITTEE.—The term ‘‘medical management committee’’ means a group of practitioners that—

(A) provides services in the community in which the practice or health center is located;

(B) reviews evidence-based practice guidelines;

(C) selects targeted disease and care processes that address health conditions in the community (as identified in the National or State health assessment or as outlined in ‘‘Healthy People 2010’’, or any subsequent similar report (as determined by the Secretary));

(D) defines programs to target disease and care processes given that target;

(E) establishes standards and measures for patient-centered medical homes, taking into account nationally-developed standards and measures; and

(F) makes the determination described in subparagraph (A)(iii) of paragraph (5), taking into account considerations under subparagraph (B) of such paragraph.

(5) PATIENT-CENTERED MEDICAL HOME.—

(A) IN GENERAL.—The term ‘‘patient-centered medical home’’ means—

(i) a physician-directed practice or a health center that—

(1) voluntarily participates in an independent evaluation process whereby primary care providers submit information to the medical management committee of the relevant network;

(2) the medical management committee determines has the capability to achieve improvements in the management and coordination of care for targeted beneficiaries (as defined by statewide quality improvement standards and outcomes); and

(3) the practice or health center—

(I) establishes, where practicable, a ‘‘healthy medical home’’ means a physician-directed practice or a health center that—

(i) incorporates the attributes of the care management model described in paragraph (1); and

(ii) voluntarily participates in an independent evaluation process whereby primary care providers submit information to the medical management committee of the relevant network;

(III) provides ongoing primary care;

(II) assesses patient-specific barriers; and

(iii) meets the requirements imposed on a covered entity for purposes of applying part II of title X, subtitle D, of the Public Health Service Act (42 U.S.C. 291 et seq.); and

(iv) PROVIDING ONGOING ASSISTANCE AND ENCOURAGEMENT IN PATIENT SELF-MANAGEMENT.—Whether the practice or health center—

(I) collaborates with targeted beneficiaries to pursue their goals for optimal achievable health;

(ii) seeks guidance from—

(A) a patient-centered medical home; and

(III) makes the determination described in subparagraph (A)(iii) of paragraph (5), taking into account considerations under subparagraph (B) of such paragraph.

(B) establishes standards and measures for patient-centered medical homes, taking into account nationally-developed standards and measures; and

(C) makes the determination described in subparagraph (A)(iii) of paragraph (5), taking into account considerations under subparagraph (B) of such paragraph.

(D) establishes, where practicable, a ‘‘healthy medical home’’ means a physician-directed practice or a health center that—

(i) provides services in the community in which the practice or health center is located;

(ii) voluntarily participates in an independent evaluation process whereby primary care providers submit information to the medical management committee of the relevant network;

(iii) the medical management committee determines has the capability to achieve improvements in the management and coordination of care for targeted beneficiaries (as defined by statewide quality improvement standards and outcomes); and

(iv) meets the requirements imposed on a covered entity for purposes of applying part C of title XI of the Social Security Act (42 U.S.C. 1395ddd) that are consistent with health center provisions promulgated thereunder, including regulations (relating to privacy) adopted pursuant to the authority of the Secretary under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note).

(B) CONSIDERATIONS.—In making the determination described in paragraph (1), the medical management committee shall consider the following:

(1) ACCESS AND COMMUNICATION WITH PATIENTS.—Whether the practice or health center applies both standards for access to care for, and standards for communication with, targeted beneficiaries who receive care through the practice or health center.

(2) MANAGING PATIENT INFORMATION AND USING INFORMATION MANAGEMENT TO SUPPORT PATIENT CARE.—Whether the practice or health center has readily accessible, clinically useful information on such beneficiaries that enables the practice or health center to provide comprehensive and systematic treatment.

(3) MANAGING AND COORDINATING CARE ACCORDING TO INDIVIDUAL NEEDS.—Whether the practice or health center—

(I) maintains relationships with such beneficiaries by implementing evidence-based guidelines and applying such guidelines to the identified needs of individual beneficiaries over time and with the intensity needed by such beneficiaries;

(ii) assists in the early identification of health needs;

(iii) provides ongoing primary care;

(iv) coordinates with a broad range of other specialty, ancillary, and related services; and

(v) provides health care services and consultations in a culturally and linguistically appropriate manner, as well as at a time and location that is convenient to the patient.

(C) SUPPORTS PATIENT-SPECIFIC CARE WITHOUT INCREASING THE BURDEN ON PRIMARY CARE PROVIDERS.—Whether the practice or health center—

(i) provides services within the community in which the practice or health center is located;

(ii) seeks guidance from—

(A) a patient-centered medical home; and

(III) makes the determination described in subparagraph (A)(iii) of paragraph (5), taking into account considerations under subparagraph (B) of such paragraph.

(B) establishes standards and measures for patient-centered medical homes, taking into account nationally-developed standards and measures; and

(C) makes the determination described in subparagraph (A)(iii) of paragraph (5), taking into account considerations under subparagraph (B) of such paragraph.

(D) has established, where practicable, a ‘‘healthy medical home’’ means a physician-directed practice or a health center that—

(i) provides services in the community in which the practice or health center is located;

(ii) voluntarily participates in an independent evaluation process whereby primary care providers submit information to the medical management committee of the relevant network;

(iii) the medical management committee determines has the capability to achieve improvements in the management and coordination of care for targeted beneficiaries (as defined by statewide quality improvement standards and outcomes); and

(iv) meets the requirements imposed on a covered entity for purposes of applying part C of title XI of the Social Security Act (42 U.S.C. 1395ddd) that are consistent with health center provisions promulgated thereunder, including regulations (relating to privacy) adopted pursuant to the authority of the Secretary under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note).

(2) PROJECT.—The term ‘‘project’’ means the demonstration project established under this section.

(3) CHIP.—The term ‘‘CHIP’’ means the Children’s Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1396a et seq.).

(4) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of Health and Human Services.

(5) STEERING COMMITTEE.—The term ‘‘steering committee’’ means a local management group comprised of collaborating health care providers or a local nonprofit network of health care practitioners.

(A) that implements State-level initiatives;

(B) that develops local improvement initiatives;
(C) whose mission is—

(i) investigate questions related to community-based practice; and

(ii) improve the quality of primary care; and

(D) whose membership—

(i) represents the health care delivery system of the community it serves; and

(ii) includes physicians (with an emphasis on primary care physicians) and at least 1 representative from each of the part of the collaborative or network (such as a representative from (i) a representative from the health department, a representative from social services, and a representative from a hospital and private hospital in the collaborative or the network).

(12) TARGETED BENEFICIARY.—

(A) IN GENERAL.—The term ‘‘targeted beneficiary’’ means an individual who is eligible for benefits under a State plan under Medicaid or a State child health plan under CHIP.

(B) PARTICIPATION IN PATIENT-CENTERED MEDICAL HOME.—Individuals who are eligible for benefits under Medicaid or CHIP in a State that has selected to participate in the project shall receive care through a patient-centered medical home when available.

(C) ENSURING CHOICE.—In the case of such an individual who receives care through a medical home, the individual shall receive guidance from their personal primary care provider on appropriate referrals to other health care professionals in the broader decision-making.

(b) ESTABLISHMENT.—The Secretary shall establish a demonstration project under Medicaid and CHIP for the implementation of a patient-centered medical home program that meets the requirements of subsection (d) to improve the effectiveness and efficiency of medical assistance under Medicaid and CHIP to an estimated 500,000 to 1,000,000 targeted beneficiaries.

(c) Duration.—

(1) DURATION.—The project shall be conducted for a 3-year period, beginning not later than [October 1, 2011].

(2) SITES.—

(A) IN GENERAL.—The project shall be conducted in 8 States—

(i) four of which already provide medical assistance for primary care management services as of the date of enactment of this Act; and

(ii) four of which do not provide such medical assistance.

(B) APPLICATION.—A State seeking to participate in the project shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(C) SELECTION.—In selecting States to participate in the project, the Secretary shall ensure that urban, rural, and underserved areas are served by the project.

(3) GRANTS AND PAYMENTS.—

(A) DEVELOPMENT GRANTS.—The Secretary shall award development grants to States participating in the project during the first year of the project is conducted. Grants awarded under this clause shall be used by a participating State to—

(i) assist with the development of steering committees, medical management committees, and local networks of health care providers; and

(ii) facilitate coordination with local communities to be better prepared and positioned to meet the needs of the communities served by patient-centered medical homes.

(B) SECOND YEAR FUNDING.—The Secretary shall award additional grant funds to States that received a development grant under clause (i) during the second year the project is conducted if the Secretary determines such funds are necessary to ensure continued participation in the project by the State. Grant funds awarded under this clause shall be used to assist a participating State in making the payments described in paragraph (B).

To the extent a State uses such grant funds for such purpose, no matching payments made with such funds under section 1903(a) or 2105(a) of the Social Security Act (42 U.S.C. 1396a(a); 1397e(a)).

(4) TECHNICAL ASSISTANCE.—The Secretary shall make available technical assistance to States, physician practices, and health centers participating in the project during the duration of the project.

(5) BEST PRACTICES INFORMATION.—The Secretary shall collect and make available to States participating in the project information on best practices for patient-centered medical homes.

(d) PATIENT-CENTERED MEDICAL HOME PROGRAM.—

(1) IN GENERAL.—For purposes of this section, a patient-centered medical home program meets the requirements of this subsection if, under such program, targeted beneficiaries will participate in the care of a personal primary care provider in a patient-centered medical home as their source of first contact, comprehensive, and coordinated care for the whole person.

(2) ELEMENTS.—

(A) MANDATORY ELEMENTS.—

(i) IN GENERAL.—Such program shall include the following elements:

(I) A steering committee.

(II) A medical management committee.

(III) A network of physician practices and health centers that have volunteered to participate as patient-centered medical homes to provide high-quality care, focusing on preventive care, at the appropriate time and place and in a cost-effective manner.

(IV) Hospitals and local public health departments that will work in cooperation with the network of patient-centered medical homes to coordinate and provide health care.

(V) Primary care case managers to assist with care coordination.

(VI) Health information technology to facilitate the provision and coordination of health care by network participants.

(ii) MULTIPLE LOCATIONS IN THE STATE.—In the case where a State operates patient-centered medical home programs in 2 or more areas in the State, the program in each of those areas shall include the elements described in clause (i).

(B) OPTIONAL ELEMENTS.—Such program may include a non-profit organization that—

(i) includes a steering committee and a medical management committee; and

(ii) manages the payments to steering committees described in subsection (c)(3)(B)(i).

(C) GOALS.—Such program shall be designed—

(A) to increase—

(i) cost efficiencies of health care delivery; and

(ii) access to appropriate health care services, especially wellness and prevention care, at times convenient for patients;

(iii) patient satisfaction;

(iv) communication among primary care providers, hospitals, and other health care providers; and

(v) school attendance; and

(D) whose membership—

(i) includes a steering committee and a medical management committee, such as expanded hours of care throughout the program network; and

(ii) includes a medical management committee, taking into account nationally developed standards and measures; and

(B) ADJUSTMENT OF PAYMENT AMOUNTS.—The State may adjust the amount of payments made under paragraph (A) and the cost effectiveness provided under subparagraph (A)(ii) taking into consideration the management role carried out by the private entity described in subparagraph (A) and the cost effectiveness provided by such entity in certain areas, such as health information technology.

(e) EVALUATION AND PROJECT REPORT.—

(1) IN GENERAL.—
SA 1145. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1146. Mr. KYL, of Alaska (for himself, Mr. VITTER, and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1147. Mr. KYL, of Alaska (for himself, Mr. VITTER, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1148. Mr. GRAHAM (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1150. Mr. REID (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1151. Mr. REID (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1155. Mr. NELSON, of Florida (for himself and Mr. BUTLER) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1156. Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BROWN, Mr. CASEY, and Mr. CONYNS) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1157. Mr. LIEBERMAN (for himself and Mr. GRAM) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1158. Mrs. HUTCHISON (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1159. Mr. MCCAIN (for himself, Mr. LUGAR, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1160. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1161. Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1162. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1163. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1164. Mr. ISAOKSON (for himself, Mr. SMITH, Mr. DODD, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1165. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1166. Mr. LAUTENBERG (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1167. Mr. BENNET (for himself, Mr. CASEY, and Mr. JOHANNIS) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1168. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1169. Mr. LEAHY (for himself, Mr. BROWN, and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1170. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1171. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1172. Mr. VITTER (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1173. Mr. CORKER (for himself, Mr. GREGG, Mr. LIEBERMAN, Mr. ISAOKSON, Ms. COLLINS, and Mr. BENTNETT) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1174. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1175. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1176. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1177. Ms. LANDRIEU (for herself and Mr. HARKIN) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1178. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1179. Mr. KAUFMAN (for himself, Mr. LEVIN, and Mr. BROWN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1180. Mr. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1181. Mr. LINSKEY (for herself and Mr. PRYOR) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1182. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1183. Mr. MERKLEY (for himself and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1184. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1185. Mr. MURPHY (for himself, Ms. KLOBUCHAR, Mr. GRASSLEY, Mr. ROBERTS, and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1186. Mr. BURR submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1187. Mr. WYDEN (for himself, Ms. KLOBUCHAR, Mr. GRASSLEY, Mr. ROBERTS, and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1188. Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. LUGAR, and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1189. Mrs. HUTCHISON (for herself, Mr. BROWN, Mrs. MCCASKILL, Mrs. MENENDEZ, Ms. MIKULSKI, Mr. COCHENUR, Mr. BOND, and Mr. LANDRIEU) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra.

SA 1190. Mr. REID (for Mr. KENNEDY (for himself and Mr. CARDIN)) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1191. Mr. LEAHY (for himself and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1192. Mr. COBHURN (for himself and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1193. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1194. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1195. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1196. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1197. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1198. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1199. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1200. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.