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

S. 908

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

At the request of Mr. BAYH, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 908, supra.

S. 947

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

S. 962

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

S. 987

At the request of Mr. DURBIN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 987, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 1023

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

S. 1026

At the request of Mr. CORNYN, the names of the Senator from Florida (Mr. MARTINEZ), the Senator from Montana (Mr. TESTER) and the Senator from Tennessee (Mr. CORKER) were added as cosponsors of S. 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.

S. 1050

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

S. 1067

At the request of Mr. FEINGOLD, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1099

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

S. 1156

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

S. 1157

At the request of Mr. CONRAD, the names of the Senator from Utah (Mr. HATCH) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1157, a bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S. 1158

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

S. 1160

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

S. 1171

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

S.J. RES. 14

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

S. CON. RES. 14

At the request of Mrs. LINCOLN, the name of the Senator from Nebraska (Mr. JOHANNS) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution supporting the Local Radio Freedom Act.

S. RES. 167

At the request of Mr. INHOFE, the names of the Senator from Kansas (Mr. BROWNBACK), the Senator from Florida (Mr. MARTINEZ), the Senator from Kentucky (Mr. BUNNING) and the Senator from Colorado (Mr. UDALL) were added as cosponsors of S. Res. 167, a bill commending the people who have sacrificed their personal freedoms to bring about democratic change in the People's Republic of China and expressing sympathy for the families of the people who were killed, wounded, or imprisoned, on the occasion of the 20th anniversary of the Tiananmen Square Massacre in Beijing, China from June 3 through 4, 1989.

AMENDMENT NO. 1242

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

AMENDMENT NO. 1245

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

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA:

S. 1180. A bill to provide for greater diversity within, and to improve policy direction and oversight of, the Senior Executive Service; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, I rise today to join my colleague in the House of Representatives, Congressman DANNY K. DAVIS, to reintroduce the Senior Executive Service Diversity Assurance Act of 2009. This legislation promotes greater diversity among the Federal Government's elite corps of senior executives and establishes a central office of management for these top-level Federal executives. Last year, we introduced this bill. Unfortunately, the Senate was not able to pass the bill before the adjournment of the 110th Congress.

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

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

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

The bill encourages agencies, to the extent practicable, to include minorities, women, and individuals with disabilities on their Executive Resource Boards as well as other qualification review boards that evaluate SES candidates.

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

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

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

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

S. 1180

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 ''Senior Executive Service Diversity Assurance Act of 2009''.

SEC. 2. FINDINGS.

Congress finds that—

(1) according to the most recent findings from the Government Accountability Office—

(A) minorities made up 22.5 percent of the individuals serving at the GS–15 and GS–14 levels and 15.8 percent of the Senior Executive Service in 2007;

(B) women made up 34.3 percent of the individuals serving at the GS–15 and GS–14 levels and 29.1 percent of the Senior Executive Service in 2007; and

(C) although the number of career Senior Executive Service members increased from 6,110 in 2,000 to 6,555 in 2007, the representation of African American men in the career Senior Executive Service declined during that same period from 5.5 percent to 5.0 percent; and

(2) according to the Office of Personnel Management—

(A) black employees represented 6.1 percent of employees at the Senior Pay levels and 17.9 percent of the permanent Federal workforce compared to 10 percent in the civilian labor force in 2008;

(B) Hispanic employees represented 4.0 percent of employees at the Senior Pay levels and 7.9 percent of the permanent Federal workforce compared to 13.2 percent of the civilian labor force in 2008; and

(C) women represented 29.1 percent of employees at the Senior Pay levels and 44.2 percent of the permanent Federal workforce compared to 45.6 percent of the civilian labor force in 2008.

SEC. 3. DEFINITIONS.

In this Act—

(1) the term ''Director'' means the Director of the Office of Personnel Management;

(2) the term ''Senior Executive Service'' has the meaning given under section 2101a of title 5, United States Code;

(3) the terms ''agency'', ''career appointee'', and ''career reserved position'' have the meanings given under section 3132 of title 5, United States Code; and

(4) the term ''SES Resource Office'' means the Senior Executive Service Resource Office established under section 4.

SEC. 4. SENIOR EXECUTIVE SERVICE RESOURCE OFFICE.

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

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

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

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

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

(c) FUNCTIONS.—

(1) IN GENERAL.—The functions of the SES Resource Office are to—

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

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

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

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

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

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

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

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

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

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

(E) provide oversight of, and guidance to, agency executive resources boards;

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

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

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

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

(iii) of the positions under clause (ii), the number for which candidates are being sought;

(iv) the amount of time a career reserved position is vacant;

(v) the amount of time it takes to hire a candidate into a career reserved position;

(vi) the number of individuals who have been certified in accordance with section 3393(c) of title 5, United States Code, and the composition of that group of individuals with regard to race, ethnicity, sex, age, and individuals with disabilities;

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

(viii) the composition of executive resources boards with regard to race, ethnicity, sex, and individuals with disabilities; and

(ix) the composition of qualifications review boards with regard to race, ethnicity, sex, and individuals with disabilities;

(H) make available to the public through the official public internet site of the Office of Personnel Management, the data collected under subparagraph (G);

(I) establish and promote mentoring programs for potential candidates for the Senior Executive Service, including candidates who have been certified as having the executive qualifications necessary for initial appointment as a career appointee under a program established under to section 3396(a) of title 5, United States Code;

(J) conduct a continuing program for the recruitment of women, members of racial and ethnic minority groups, and individuals with disabilities for Senior Executive Service positions, with special efforts directed at recruiting from educational institutions, professional associations, and other sources;

(K) advise agencies on the best practices for an agency in utilizing or consulting with an agency's equal employment or diversity office or official (if the agency has such an office or official) with regard to the agency's Senior Executive Service appointments process; and

(L) evaluate and implement strategies to ensure that agencies conduct appropriate outreach to other agencies to identify candidates for Senior Executive Service positions.

(d) PROTECTION OF INDIVIDUALLY IDENTIFIABLE INFORMATION.—For purposes of subsection (c)(2)(H), the SES Resource Office shall combine data for any agency that is not named in section 901(b) of chapter 31, United States Code, to protect individually identifiable information.

(e) COOPERATION OF AGENCIES.—The head of each agency shall provide the Office of Personnel Management with such information as the SES Resource Office may require in order to carry out subsection (c)(2)(G).

(f) STAFFING.—The Director of the Office of Personnel Management shall make such appointments as necessary to staff the SES Resource Office.

SEC. 5. CAREER APPOINTMENTS.

(a) PROMOTING DIVERSITY IN THE CAREER APPOINTMENTS PROCESS.—Section 3393(b) of title 5, United States Code, is amended by inserting after the first sentence the following: ''In establishing an executive resources board, the head of the agency shall, to the extent practicable, ensure diversity of the board and of any subgroup thereof or other evaluation panel related to the merit staffing process for career appointees, by including members of racial and ethnic minority groups, women, and individuals with disabilities.''.

(b) REGULATIONS.—Not later than 1 year after the date of the enactment of this Act, the Director shall promulgate regulations to implement subsection (a).

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Director shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report evaluating agency efforts to improve diversity in executive resources boards based on the information collected by the SES Resource Office under section 4(c)(2)(G) (viii) and (ix).

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

(a) SENIOR EXECUTIVE SERVICE DIVERSITY PLANS.—

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

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

(A) conducting outreach to minorities, women, and individuals within the agency and outside the agency;

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

(C) identifying career enhancing opportunities for agency employees;

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

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

(3) UPDATE OF AGENCY PLANS.—Agency plans shall be updated at least every 2 years during the 10 years following enactment of this Act. An agency plan shall be reviewed by the Office of Personnel Management and, if determined to provide sufficient assurances, procedures, and commitments to provide adequate opportunities for the advancement and appointment of minorities, women, and individuals with disabilities to the Senior Executive Service, shall be approved by such Office. An agency may, in updating its plan, submit to the Office of Personnel Management an assessment of the impacts of the plan.

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

(c) COORDINATION.—The Office of Personnel Management shall, in carrying out subsection (a), evaluate existing requirements under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) and section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and determine how agency reporting can be performed so as to be consistent with, but not duplicative of, such sections and any other similar requirements.

By Mr. WYDEN:

S. 1181. A bill to provide for a demonstration project to examine whether community-level public health interventions can result in lower rates of chronic disease for individuals entering the Medicare program; to the Committee on Finance.

Mr. WYDEN. Mr. President, today I am introducing the Healthy Living, Healthy Aging Demonstration Project Act of 2009. This act will provide for a demonstration project to examine whether community-level public health interventions can result in lower rates of chronic disease for individuals who are about to enter the Medicare program. Prevention is a key to health at any age, but especially later in life. I am proud to be introducing a cornerstone of health care reform today.

American people and the U.S. Government need this prevention act for two main reasons. Health care costs continue to rise exponentially and chronic diseases are the number one cause of death and disability in the U.S. One hundred thirty-three million Americans, representing 45 percent of the total population, have at least one chronic disease. Chronic diseases kill more than 1.7 million Americans each year, and are responsible for 7 out of every 10 deaths in the U.S. Furthermore, the vast majority of cases of chronic disease could be better prevented or managed.

The World Health Organization has estimated that if the major risk factors for chronic disease were eliminated, at least 80 percent of all heart disease, stroke, and type 2 diabetes would be prevented, and that more than 40 percent of cancer cases would be prevented. In addition, depressive disorders are common, chronic, and costly. The World Health Organization identified major depression as the fourth leading cause of worldwide disease in 1990, causing more disability than even certain types of heart disease. Research shows that mental health screenings after disease diagnosis for diabetic patients can be cost effective and improve health.

The Healthy Living, Healthy Aging Demonstration Project Act of 2009 will address these costly and chronic health problems before people enter the Medicare program. It calls for the Secretary of Health and Human Services to provide 5-year grants to community partnerships that include the state or local public health department and other community stakeholders such as health centers, providers, small businesses, and rural health clinics to fund evidence-based community-level prevention and wellness strategies. The types of community-based prevention strategies we are looking at in this program include walking programs, group exercise classes, anti-smoking programs, programs to highlight healthy dining options at restaurants, and expanding access to farmer's markets, nutritious foods, and other programs and services recommended by the Task Force on Community Preventive Services.

The Secretary, acting through the Administrator of the Centers for Medicare and Medicaid Services, CMS and in partnership with the Director of the Centers for Disease Control and Prevention, CDC would implement the demonstration program to test whether these public health interventions targeting 55–64 year olds result in lower rates of chronic disease and reduce costs for the Medicare program. One assessment level of the act will measure the effects of adopting healthy lifestyle strategies on specific individuals who enroll in prevention programs in their communities.

More specifically, program requirements in this act include an individual

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

This program will not only conduct community-based prevention strategies, screenings and health assessments, but also help support follow-up care for uninsured individuals identified with chronic diseases, including determining eligibility for public programs.

I would like to thank Dr. Mary Polce-Lynch from Randolph-Macon College, who has been working in my office through the American Psychological Association and the American Association for the Advancement of Science, and Daniella Gratale from Trust for America's Health, for their work on this important prevention bill.

I urge all of my colleagues to support this important legislation to help Americans adopt the healthiest lifestyles possible and to prevent chronic diseases in later life.

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

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

S. 1181

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 ''Healthy Living and Health Aging Demonstration Project Act of 2009''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Chronic diseases are the leading cause of death and disability in the United States. 7 in every 10 deaths are attributable to chronic disease, with more than 1,700,000 Americans dying each year. Approximately 133,000,000 Americans, representing 45 percent of the Nation's population, have at least 1 chronic disease.

(2) In 2007, the United States spent over $2,200,000,000,000 on health care, with 75 cents out of every dollar spent going towards treatment of individuals with 1 or more chronic disease. In public programs, treatment for chronic diseases constitutes an even higher percentage of total spending, with 83 cents of every dollar spent by Medicaid programs and more than 95 cents of every dollar spent by the Medicare program going towards costs related to chronic disease.

(3) Since 1987, the rate of obesity in the United States has doubled, accounting for a 20 to 30 percent increase in health care spending. Additionally, the percentage of young Americans who are overweight has tripled since 1980. If the prevalence of obesity was at the same level as it was in 1987, health care spending would be nearly 10 percent lower per person, for a total savings of nearly $200,000,000,000.

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

(5) Depressive disorders are also becoming increasingly common, chronic, and costly. In 1990, the World Health Organization identified major depression as the fourth leading cause of disease worldwide, leading to more cases of disability than ischemic heart disease or cerebrovascular disease. Research has shown that mental health screenings following disease diagnosis for diabetic patients can improve health while remaining cost-effective.

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

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

(a) DEFINITIONS.—In this Act:

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

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

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

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

(5) MEDICARE.—The term ''Medicare'' means the program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(6) PRE-MEDICARE ELIGIBLE INDIVIDUAL.—The term ''pre-Medicare eligible individual'' means an individual who has attained age 55, but not age 65.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(8) STATE.—The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

(b) ESTABLISHMENT.—

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

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

(B) lower costs under Medicare.

(2) FEDERAL AGENCY RESPONSIBILITIES.—

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

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

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

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

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

(c) DURATION AND SELECTION OF PARTNERSHIPS.—

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

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

(3) SELECTION OF PARTNERSHIPS.—Eligible partnerships shall be selected by the Administrator in a manner that—

(A) ensures such partnerships represent racially, ethnically, economically, and geographically diverse populations, including urban, rural, and underserved areas; and

(B) gives priority to such partnerships that include employers (as described in subsection (d)(1)(C)).

(d) ELIGIBLE PARTNERSHIPS.—

(1) DESCRIPTION.—

(A) IN GENERAL.—Subject to subparagraph (C), for purposes of this section, an eligible partnership is a partnership that submits an approved application to participate in the demonstration project under this section and includes both of the entities described in subparagraph (B).

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

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

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

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

(III) administer certified community-based prevention and intervention strategies and conduct such strategies in association with local community organizations.

(ii) A medical facility as deemed appropriate by the Administrator, including health centers (as described under section 330 of the Public Health Service Act (42 U.S.C. 254b)) and rural health clinics (as described in section 1861(aa)(2) of the Social Security Act (42 U.S.C. 1395x(aa)(2))), that shall—

(I) serve as the designated clinical referral site for medical services, as described in subsection (e)(4)(B)(i);

(II) provide assistance to the designated public health department with organization and administration of individual health screenings and risk assessments, as described in subsection (e)(3);

(III) collect payment for medical treatment and services that have been provided to individuals under the demonstration project in a manner that is consistent with State law and applicable clinic policy; and

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

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

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

(e) USE OF FUNDS.—

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

(2) COMMUNITY-BASED PREVENTION AND INTERVENTION STRATEGY.—An eligible partnership, acting through the State or local health department, shall promote healthy lifestyle choices among pre-Medicare eligible individuals by implementing and conducting a certified community-based prevention and intervention strategy that shall be made available to all such individuals.

(3) INDIVIDUAL HEALTH SCREENINGS AND RISK ASSESSMENTS.—An eligible partnership, acting through the State or local public health department (or an appropriately designated facility), shall agree to provide the following:

(A) SCREENINGS FOR CHRONIC DISEASES AND CONDITIONS.—Individual health screenings for chronic diseases or conditions, which shall include appropriate tests for—

(i) diabetes;

(ii) high blood pressure;

(iii) high cholesterol;

(iv) body mass index;

(v) physical inactivity;

(vi) poor nutrition;

(vii) tobacco use; and

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

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

(4) CLINICAL TREATMENT FOR CHRONIC DISEASES.—The eligible partnership shall agree to provide the following:

(A) TREATMENT AND PREVENTION REFERRALS FOR INSURED INDIVIDUALS.—To refer an individual determined to be covered under a health insurance program who has been screened and diagnosed with a chronic disease or chronic disease risk factors (including high blood pressure, high cholesterol, obesity, or tobacco use)—

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

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

(B) TREATMENT AND PREVENTION REFERRALS FOR UNINSURED INDIVIDUALS.—To refer an individual determined to be without coverage under a health insurance program who has been screened and diagnosed with a chronic disease or chronic disease risk factors (including high blood pressure, high cholesterol, obesity, or tobacco use) to the designated clinical referral site—

(i) for determination of eligibility for public health programs, or appropriate treatment (including mental health services) pursuant to the facility's existing authority and funding and in accordance with applicable fees and payment collection as described in subsection (d)(1)(B)(ii)(III); and

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

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

(5) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as entitling an individual who participates in the demonstration project to benefits under Medicare.

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

(1) HEALTH RISK ASSESSMENT RESULTS.—Each eligible partnership shall maintain records of medical information and results obtained during each individual's health screening and risk assessment to establish baseline data for continued monitoring and assessment of such individuals.

(2) MEDICARE EXAMINATION RESULTS.—The Secretary shall collect medical information obtained during the initial preventive physical examination under Medicare (as defined in section 1861(ww) of the Social Security Act (42 U.S.C. 1395x(ww))) for those individuals who received health screenings and risk assessments through the demonstration project.

(g) EVALUATION.—

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

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

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

(2) EVALUATION DESIGNS.—The entity or organization selected by the Secretary under paragraph (1) shall, using the information and data collected pursuant to subsection (f), conduct an assessment of the demonstration project through—

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

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

(h) REPORTING.—

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

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

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

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

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

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

(C) calculation of potential savings under Medicare based upon a comparison of chronic disease rates between the populations targeted under the demonstration project and the matched control group; and

(D) recommendations for such legislation and administrative action as the Secretary determines appropriate.

(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the demonstration project established under this section, there is authorized to be appropriated $200,000,000 for the period of fiscal years 2010 through 2016.

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

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

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

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

S. 1183

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 ''Haiti Reforestation Act of 2009''.

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

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

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

(A) harboring a major portion of the biological and terrestrial resources of Earth and providing habitats for an estimated 10,000,000 to 30,000,000 plant and animal species, including species essential to medical research and agricultural productivity;

(B) playing a critical role as carbon sinks that reduce greenhouse gases in the atmosphere, as 1 hectare of tropical forest can absorb up to approximately 3 tons of carbon dioxide per year, thus moderating potential global climate change; and

(C) regulating hydrological cycles upon which agricultural and coastal resources depend;

(3) tropical forests are also a key factor in reducing rates of soil loss, particularly on hilly terrain;

(4) while international efforts to stem the tide of tropical deforestation have accelerated during the past 2 decades, the rapid rate of tropical deforestation continues unabated;

(5) in 1923, over 60 percent of the land of Haiti was forested but, by 2006, that percentage had decreased to less than 2 percent;

(6) during the period beginning in 2000 and ending in 2005, the deforestation rate in Haiti accelerated by more than 20 percent over the deforestation rate in Haiti during the period beginning in 1990 and ending in 1999;

(7) as a result, during the period described in paragraph (6), Haiti lost—

(A) nearly 10 percent (approximately 11,000 hectares) of the forest cover of Haiti; and

(B) approximately 22 percent of the total forest and woodland habitat of Haiti;

(8) poverty and economic pressures are—

(A) two factors that underlie the tropical deforestation of Haiti; and

(B) manifested particularly through the clearing of vast areas of forest for conversion to agricultural uses;

(9) the unemployment rate of Haiti is approximately 80 percent;

(10) the per capita income of Haiti is $450 per year, which is barely one-tenth of the per capita income of Latin America and the Caribbean;

(11) two-thirds of the population of Haiti depend on the agricultural sector, which consists mainly of small-scale subsistence farming;

(12) 60 percent of the population of Haiti relies on charcoal produced from cutting down trees for cooking fuel;

(13) soil erosion represents the most direct effect of the deforestation of Haiti, as the erosion has—

(A) lowered the productivity of the land due to the poor soils underlying the tropical forests;

(B) worsened the severity of droughts;

(C) led to further deforestation;

(D) significantly decreased the quality and, as a result, quantity of freshwater and clean drinking water available to the population of Haiti; and

(E) increased the pressure on the remaining land and trees in Haiti;

(14) tropical forests provide forest cover to soften the effect of heavy rains and reduce erosion by anchoring the soil with their roots;

(15) when trees are cleared, rainfall runs off the soil more quickly and contributes to floods and further erosion;

(16) in 2004, Hurricane Jeanne struck Haiti, killing approximately 3,000, and affecting over 200,000, people, partly because deforestation had resulted in the clearing of large hillsides, which enabled rainwater to run off directly to settlements located at the bottom of the slopes;

(17) research conducted by the United Nations Environmental Programme has revealed a direct (89 percent) correlation between the extent of the deforestation of a country and the incidence of victims per weather event in the country;

(18) finding economic benefits for local communities from sustainable uses of tropical forests is critical for the long-term protection of the tropical forests in Haiti; and

(19) tropical reforestation efforts would provide new sources of jobs, income, and investments in Haiti by—

(A) providing employment opportunities in tree seedling programs, contract tree planting and management, sustainable agricultural initiatives, sustainable and managed timber harvesting, and wood products milling and finishing services; and

(B) enhancing community enterprises that generate income through the trading of sustainable forest resources, many of which exist on small scales in Haiti and in the rest of the region.

(b) PURPOSE.—The purpose of this Act is to provide assistance to the Government of Haiti to develop and implement, or improve, nationally appropriate policies and actions—

(1) to reduce deforestation and forest degradation in Haiti; and

(2) to increase annual rates of afforestation and reforestation in a measurable, reportable, and verifiable manner—

(A) to eliminate within 5 years after the date of enactment of this Act any further net deforestation of Haiti; and

(B) to restore within 30 years after the date of enactment of this Act the forest cover of Haiti to the surface area that the forest cover had occupied in 1990.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the United States Agency for International Development.

(2) AFFORESTATION.—

(A) IN GENERAL.—The term ''afforestation'' means the establishment of a new forest through the seeding of, or planting of tress on, a parcel of nonforested land.

(B) INCLUSION.—The term ''afforestation'' includes the introduction of a tree species to a parcel of nonforested land of which the species is not a native species.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

TITLE I—FORESTATION ASSISTANCE TO GOVERNMENT OF HAITI

SEC. 101. FORESTATION ASSISTANCE.

(a) AUTHORITY OF SECRETARY.—

(1) IN GENERAL.—In accordance with paragraph (2), the Secretary, in consultation with the Administrator, may offer to enter into agreements with the Government of Haiti to provide financial assistance, technology transfers, or capacity building assistance for the conduct of activities to develop and implement 1 or more forestation proposals under paragraph (2)—

(A) to reduce the deforestation of Haiti; and

(B) to increase the rates of afforestation and reforestation in Haiti.

(2) PROPOSALS.—

(A) IN GENERAL.—To be eligible for assistance under paragraph (1), the Government of Haiti shall submit to the Secretary 1 or more proposals that contain—

(i) a description of each policy and initiative to be carried out using the assistance; and

(ii) adequate documentation to ensure, as determined by the Secretary, that—

(I) each policy and initiative will be—

(aa) carried out and managed in accordance with widely-accepted environmentally sustainable forestry and agricultural practices; and

(bb) designed and implemented in a manner by which to improve the governance of forests by building governmental capacity to be more transparent, inclusive, accountable, and coordinated in decisionmaking processes and the implementation of the policy or initiative; and

(II) the Government of Haiti will establish and enforce legal regimes, standards, and safeguards—

(aa) to prevent violations of human rights and the rights of local communities and indigenous people;

(bb) to prevent harm to vulnerable social groups; and

(cc) to ensure that members of local communities and indigenous people in affected areas, as partners and primary stakeholders, will be engaged in the design, planning, implementation, monitoring, and evaluation of the policies and initiatives.

(B) DETERMINATION OF COMPATIBILITY WITH CERTAIN PROGRAMS.—In evaluating each proposal under subparagraph (A), the Secretary shall ensure that each policy and initiative described in the proposal submitted by the Government of Haiti under that subparagraph is compatible with—

(i) broader development, poverty alleviation, and natural resource conservation objectives and initiatives in Haiti; and

(ii) the development, poverty alleviation, disaster risk management, and climate resilience programs of the Department of Agriculture.

(b) ELIGIBLE ACTIVITIES.—Any assistance received by the Government of Haiti under subsection (a)(1) shall be used to implement a proposal developed under subsection (a)(2), which may include—

(1) the provision of technologies and associated support for activities to reduce deforestation or increase afforestation and reforestation rates, including—

(A) fire reduction initiatives;

(B) forest law enforcement initiatives;

(C) the development of timber tracking systems;

(D) the development of cooking fuel substitutes;

(E) initiatives to increase agricultural productivity;

(F) tree-planting initiatives; and

(G) programs that are designed to focus on market-based solutions, including programs that leverage the international carbon-offset market;

(2) the enhancement and expansion of governmental and nongovernmental institutional capacity to effectively design and implement a proposal developed under subsection (a)(2) through initiatives, including—

(A) the establishment of transparent, accountable, and inclusive decisionmaking processes relating to all stakeholders (including affected local communities);

(B) the promotion of enhanced coordination among ministries and agencies responsible for agroecological zoning, mapping, land planning and permitting, sustainable agriculture, forestry, and law enforcement; and

(C) the clarification of land tenure and resource rights of affected communities, including local communities and indigenous peoples; and

(3) the development and support of institutional capacity to measure, verify, and report the activities carried out by the Government of Haiti to reduce deforestation and increase afforestation and reforestation rates through the use of appropriate methods, including—

(A) the use of best practices and technologies to monitor any change in the forest cover of Haiti;

(B) the monitoring of the impacts of policies and initiatives on—

(i) affected communities;

(ii) the biodiversity of the environment of Haiti; and

(iii) the health of the tropical forests of Haiti; and

(C) independent and participatory forest monitoring.

(c) DEVELOPMENT OF PERFORMANCE METRICS.—

(1) IN GENERAL.—If the Secretary provides assistance under subsection (a)(1), in accordance with paragraph (2), the Secretary, in cooperation with the Government of Haiti and, if necessary, in consultation with the Administrator, shall develop appropriate performance metrics to measure, verify, and report—

(A) the conduct of each policy and initiative to be carried out by the Government of Haiti;

(B) the results of each policy and initiative with respect to the tropical forests of Haiti; and

(C) each impact of each policy and initiative on the local communities and indigenous people of Haiti.

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

(d) REPORTS.—

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

(A) to engage with the Government of Haiti, nongovernmental stakeholders, and public and private nonprofit organizations to implement this section; and

(B) to enter into agreements with the Government of Haiti under subsection (a)(1).

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

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

(1) the access by local communities and indigenous people to information relating to each policy and initiative to be carried out by the Government of Haiti through funds made available under subsection (a)(1); and

(2) that the groups described in paragraph (1) have an appropriate opportunity to participate effectively in the design, implementation, and independent monitoring of each policy and initiative.

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

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

TITLE II—GRANTS FOR REFORESTATION

SEC. 201. REFORESTATION GRANT PROGRAM.

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

(b) GRANTS AUTHORIZED.—

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

(2) MAXIMUM AMOUNT.—

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

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

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

(c) USE OF FUNDS.—

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

(A) providing a financial incentive to protect trees;

(B) providing hands-on management and oversight of replanting efforts;

(C) focusing on sustainable income-generating growth;

(D) providing seed money to start cooperative reforestation and afforestation efforts and providing subsequent conditional funding for such efforts contingent upon required tree care and maintenance activities;

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

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

(i) to protect tropical forests in existence as of the date of enactment of this Act; and

(ii) to carry out afforestation and reforestation activities.

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

(d) APPLICATION.—

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 202. FOREST PROTECTION GRANTS.

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

"SEC. 467. PILOT PROGRAM FOR HAITI.

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

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

''(c) GRANT PROGRAM.—

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

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

''(3) RETENTION OF PROCEEDS.—Notwithstanding any other provision of law, a grantee (or any subgrantee) of the grants referred to in section (a) may retain, without deposit in the Treasury of the United States and without further appropriation by Congress, interest earned on the proceeds of any resulting debt-for-nature exchange pending the disbursements of such proceeds and interest for approved program purposes, which may include the establishment of an endowment, the income of which is used for such purposes.

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

By Mr. BINGAMAN:

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

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

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

More than 13 million Medicare beneficiaries have incomes below 150 percent of the Federal Poverty Level,

FPL, and are eligible for assistance with their Medicare costs. Another 6 million have incomes under 200 percent FPL. These nearly 20 million beneficiaries are poorer than other Medicare beneficiaries. They also tend to be sicker, more isolated and have limited educations. These populations are more in need of medical and other health-related services, and they benefit in both access and health outcomes from financial assistance with their out-of-pocket costs.

Although seniors and younger people with disabilities would benefit tremendously from greater access to needed health care services and financial savings, the Congressional Budget Office has estimated that about 67 percent to 87 percent of individuals eligible for various MSP services do not receive benefits. Additionally, the Centers for Medicare & Medicaid Services state that more than 13 million individuals are eligible for Part D LIS but only about 9 million are enrolled. Most of those 9 million get the subsidy automatically without having to apply, due to their eligibility for other programs.

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

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

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

2. Increasing access to financial assistance for low-income beneficiaries. Research supports the conclusion that financial assistance results in greater access and better health outcomes for low-income beneficiaries. Currently full assistance is available only for those beneficiaries with incomes up to 135 percent of the Federal Poverty Level, 135 percent FPL is $1218/month for an individual, and very limited assets, about $8,000 for an individual); much more limited assistance is available for those with incomes up to 150 percent of FPL. People with low incomes but some savings may be disqualified altogether. Our bill increases income eligibility to 150 percent of FPL for full benefits and 200 percent FPL for partial benefits and uses a single asset standard for all programs of $27,500 for an individual. Increasing the asset test for both MSP and LIS and increasing income eligibility levels will improve health outcomes for millions more seniors and younger people with disabilities.

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

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

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

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

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

S. 1185

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

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

SEC. 2. ELIGIBILITY FOR OTHER PROGRAMS.

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

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

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

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

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

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

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

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

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

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

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

(1) in paragraph (1)(D), by adding at the end the following new clause:

''(iv) OVERALL LIMITATION ON COST-SHARING.—In the case of all such individuals, a limitation on aggregate cost-sharing under this part for a year not to exceed 2.5 percent of income.''; and

(2) in paragraph (2), by adding at the end the following new subparagraph:

''(F) OVERALL LIMITATION ON COST-SHARING.—A limitation on aggregate cost-sharing under this part for a year not to exceed 2.5 percent of income.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply as of January 1, 2010.

SEC. 4. MODIFICATION OF RESOURCE STANDARDS FOR DETERMINATION OF ELIGIBILITY FOR LIS; NO CONSIDERATION OF PENSION OR RETIREMENT PLAN IN DETERMINATION OF RESOURCES.

(a) ELIMINATING THE BIFURCATION OF RESOURCE STANDARDS.—

(1) IN GENERAL.—Section 1860D–14(a)(3)(A)(iii) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)(A)(iii)) is amended by striking ''meets the'' and all that follows through the period at the end and inserting ''meets—

''(I) in the case of determinations made before January 1, 2011, the resource requirement described in subparagraph (D) or (E); and

''(II) in the case of determinations made on or after January 1, 2011, the resource requirement described in subparagraph (E).''.

(2) CONFORMING AMENDMENT.—Section 1860D–14(a)(3)(D)(ii) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)(D)(ii)) is amended by inserting ''(before 2011)'' after ''a subsequent year''.

(b) INCREASING THE APPLICABLE RESOURCE STANDARD.—Section 1860D–14(a)(3)(E) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)(E)(i)) is amended—

(1) in the heading, by striking ''ALTERNATIVE'' and inserting ''APPLICABLE'';

(2) in clause (i)—

(A) in subclause (I), by striking ''and'' at the end;

(B) in subclause (II)—

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

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

(iii) by inserting before the flush sentence at the end the following new subclauses:

''(III) for 2011, $27,500 (or $55,000 in the case of the combined value of the individual's assets or resources and the assets or resources of the individual's spouse); and

''(IV) for a subsequent year the dollar amounts specified in this subclause (or subclause (III)) for the previous year increased by the annual percentage increase in the consumer price index (all items; U.S. city average) as of September of such previous year.''; and

(C) in the flush sentence at the end, by inserting ''or (IV)'' after ''subclause (II)''.

(c) EXCLUSION OF PENSION AND RETIREMENT BENEFITS FROM RESOURCES.—

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

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

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

''(I) PENSION AND RETIREMENT BENEFITS EXCLUSION.—In determining the resources of an individual (and the eligible spouse of the individual, if any) under section 1613 for purposes of subparagraph (E) no balance in, or benefits received under, an employee pension benefit plan (as defined in section 3 of the Employee Retirement Income Security Act of 1974) shall be taken into account.''.

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

(d) APPLICATION OF APPLICABLE RESOURCE STANDARD UNDER MEDICARE SAVINGS PROGRAM AND EXEMPTIONS FROM INCOME AND RESOURCES.—

(1) APPLICATION OF APPLICABLE RESOURCE STANDARD AND EXEMPTIONS FROM RESOURCES.—Section 1905(p)(1)(C) of the Social Security Act (42 U.S.C. 1396d(p)(1)(C)) is amended—

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

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

(2) EXEMPTION OF IN-KIND SUPPORT AND MAINTENANCE.—

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

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

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

(e) CLARIFICATION RELATING TO INCLUDING RETIREMENT BENEFITS AS INCOME.—Nothing in subparagraph (I) of section 1860D–14(a)(3) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)), as added by subsection (c)(1), or section 1905(p)(1)(C) of such Act (42 U.S.C. 1396d(p)(1)(C)), as amended by subsection (d)(1), shall be construed as affecting the inclusion of retirement benefits as income under section 1612(a)(2)(B) of such Act (42 U.S.C. 1382a(a)(2)(B)).

SEC. 5. INCREASE IN INCOME LEVELS FOR ELIGIBILITY.

(a) LIS.—

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

(A) in the subsection heading, by striking ''150'' and inserting ''200'';

(B) in paragraph (1)—

(i) in the heading, by striking ''135'' and inserting ''150''; and

(ii) in the matter preceding subparagraph (A), by striking ''135'' and inserting ''150'';

(C) in paragraph (2)—

(i) in the heading, by striking ''150'' and inserting ''200''; and

(ii) in subparagraph (A)—

(I) by striking ''135'' and inserting ''150''; and

(II) by striking ''150'' and inserting ''200''; and

(D) in paragraph (3)(A)(ii), by striking ''150'' and inserting ''200''.

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

(b) MSP.—

(1) INCREASE TO 150 PERCENT OF FPL FOR QUALIFIED MEDICARE BENEFICIARIES.—

(A) IN GENERAL.—Section 1905(p)(2) of the Social Security Act (42 U.S.C. 1396d(p)(2)) is amended—

(i) in subparagraph (A), by striking ''100 percent'' and inserting ''150 percent'';

(ii) in subparagraph (B)—

(I) by striking ''and'' at the end of clause (ii);

(II) by striking the period at the end of clause (iii) and inserting '', and''; and

(III) by adding at the end the following:

''(iv) January 1, 2011, is 150 percent.''; and

(iii) in subparagraph (C)—

(I) by striking ''and'' at the end of clause (iii);

(II) by striking the period at the end of clause (iv) and inserting '', and''; and

(III) by adding at the end the following:

''(v) January 1, 2011, is 150 percent.''.

(B) APPLICATION OF INCOME TEST BASED ON FAMILY SIZE.—Section 1905(p)(2)(A) of such Act (42 U.S.C. 1396d(p)(2)(A)) is amended by adding at the end the following: ''For purposes of this subparagraph, family size means the applicant, the spouse (if any) of the applicant if living in the same household as the applicant, and the number of individuals who are related to the applicant (or applicants), who are living in the same household as the applicant (or applicants), and who are dependent on the applicant (or the applicant's spouse) for at least one-half of their financial support.''.

(2) EXPANSION OF SPECIFIED LOW-INCOME MEDICARE BENEFICIARY (SLMB) PROGRAM.—

(A) ELIGIBILITY OF INDIVIDUALS WITH INCOMES BELOW 200 PERCENT OF FPL.—Section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396b(a)(10)(E)) is amended—

(i) by adding ''and'' at the end of clause (ii);

(ii) in clause (iii)—

(I) by striking ''and 120 percent in 1995 and years thereafter'' and inserting '', or 120 percent in 1995 and any succeeding year before 2011, or 200 percent beginning in 2011''; and

(II) by striking ''and'' at the end; and

(iii) by striking clause (iv).

(B) REVISION TO DESCRIPTION.—Section 1902(a)(10)(E)(iii) of the Social Security Act (42 U.S.C. 1396b(a)(10)(E)(iii)) is amended by striking ''who would be qualified medicare'' and all that follows through ''but is less than'' and inserting ''whose income (as determined in accordance with subparagraphs (B) and (C) of section 1905(p)(1)) is less than''.

(C) REFERENCES.—Section 1905(p)(1) of such Act (42 U.S.C. 1396d(p)(1)) is amended by adding at and below subparagraph (C) the following: ''The term 'specified low-income medicare beneficiary' means an individual described in section 1902(a)(10)(E)(iii).''.

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

(4) EFFECTIVE DATE.—

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

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subsection,

the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 6. EFFECTIVE DATE OF MSP BENEFITS.

(a) IN GENERAL.—

(1) EFFECTIVE DATE OF MSP BENEFITS.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended, in the matter preceding paragraph (1), by striking ''assistance or, in the case of medicare cost-sharing'' and all that follows through ''beneficiary)'' and inserting ''assistance)''.

(2) CONFORMING AMENDMENTS.—(A) Section 1902(e)(8) of the Social Security Act (42 U.S.C. 1396a(e)(8)) is amended by striking the first sentence.

(B) Section 1848(g)(3) of such Act (42 U.S.C. 1395w–4(g)(3)) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF RETROACTIVE ELIGIBILITY.—In the case of an individual who is determined to be eligible for medical assistance described in subparagraph (A) retroactively, the Secretary shall provide a process whereby claims which are submitted for services furnished during the period of retroactive eligibility and during a month in which the individual otherwise would have been eligible for such assistance and which were not submitted in accordance with such subparagraph are resubmitted and re-processed in accordance with such subparagraph.''.

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

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

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

(1) by striking ''a full-benefit dual eligible individual (as defined in section 1935(c)(6))'' and inserting ''a subsidy-eligible individual (as defined in section 1860D–14(a)(3))''; and

(2) by striking ''1860D–14(a)(1)(A)'' and inserting ''subsection (a)(1)(A) or (b)(1)(A) of section 1860D–14, as applicable''

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

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

(a) ELIMINATION OF PART D COST-SHARING FOR CERTAIN NON-INSTITUTIONALIZED FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.—Section 1860D–14(a)(1)(D)(i) of the Social Security Act (42 U.S.C. 1395w–114(a)(1)(D)(i)) is amended—

(1) in the heading, by striking ''INSTITUTIONALIZED INDIVIDUALS.—In'' and inserting ''ELIMINATION OF COST-SHARING FOR CERTAIN FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.—

''(I) INSTITUTIONALIZED INDIVIDUALS.—In''; and

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

''(II) CERTAIN OTHER INDIVIDUALS.—In the case of an individual who is a full-benefit dual eligible individual who is receiving home and community based care (whether under section 1915 or under a waiver under section 1115), the elimination of any beneficiary coinsurance described in section 1860D–2(b)(2) (for all amounts through the total amount of expenditures at which benefits are available under section 1860D–2(b)(4)).''.

(b) REPEAL OF AUTHORITY FOR STATES TO PAY MEDICARE COST-SHARING AT MEDICAID RATES AND PROVISION OF MEDICAL ASSISTANCE TO DUAL ELIGIBLES IN MA PLANS.—

(1) REPEAL OF AUTHORITY FOR STATES TO PAY MEDICARE COST-SHARING AT MEDICAID RATES.—Section 1902(n) of the Social Security Act (42 U.S.C. 1396a(n)) is amended—

(A) by striking paragraph (2);

(B) by redesignating paragraph (3) as paragraph (2);

(C) in paragraph (2), as redesignated by subparagraph (B)—

(i) in the matter preceding subparagraph (A)—

(I) by striking ''In the case in which a State's payment for'' and inserting ''With respect to''; and

(II) by striking ''with respect to an item or service is reduced or eliminated through the application of paragraph (2)'' and inserting ''for an item or service''; and

(ii) in subparagraph (A), by striking ''(if any)''; and

(D) by adding at the end the following new paragraph:

''(3) Each State shall establish procedures for receiving and processing claims for payment for medicare cost-sharing with respect to items or services furnished to qualified medicare beneficiaries by providers of services and suppliers under title XVIII who are not participating providers under the State plan.''.

(2) PROVISION OF MEDICAL ASSISTANCE TO DUAL ELIGIBLES IN MA PLANS.—Section 1902(n) of the Social Security Act (42 U.S.C. 1396a(n)), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

''(4)(A) Each State shall—

''(i) identify those individuals who are eligible for medical assistance for medicare cost-sharing and who are enrolled with a Medicare Advantage plan under part C of title XVIII; and

''(ii) for the individuals so identified, provide for payment of medical assistance for the medicare cost-sharing (including cost-sharing under a Medicare Advantage plan) to which they are entitled.

''(B)(i) The Inspector General of the Department of Health and Human Services shall examine, not later than one year after the date of the enactment of this paragraph and every 3 years thereafter, whether States are providing for medical assistance for medicare cost-sharing for individuals enrolled in Medicare Advantage plans in accordance with this title. The Inspector General shall submit to the Secretary a report on such examination and a finding as to whether States are failing to provide such medical assistance.

''(ii) If a report under clause (i) includes a finding that States are failing to provide such medical assistance, not later than 60 days after the date of receiving such report the Secretary shall submit to Congress a report that includes a plan of action on how to enforce such requirement.''.

(3) CONFORMING AMENDMENTS.—

(A) PROVIDER AGREEMENTS.—Section 1866(a)(1)(A)(ii) of the Social Security Act (42 U.S.C. 1395cc(a)(1)(A)(ii)) is amended by striking ''1902(n)(3)'' and inserting ''1902(n)(2)''.

(B) NONPARTICIPATING PROVIDERS.—Section 1848(g)(3)(A) of the Social Security Act (42 U.S.C. 1395w–4(g)(3)(A)) is amended by striking ''1902(n)(3)(A)'' and inserting ''1902(n)(2)(A)''.

(4) EFFECTIVE DATE.—

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

(B) EXCEPTION.—The amendment made by paragraph (2) shall be effective and apply as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173).

SEC. 9. TWO-WAY DEEMING BETWEEN MEDICARE SAVINGS PROGRAM AND LOW-INCOME SUBSIDY PROGRAM.

(a) LOW-INCOME SUBSIDY PROGRAM.—Section 1860D–14(a)(3) of the Social Security Act (42 U.S.C. 1395w–104(a)(3)), as amended by section 4, is amended by adding at the end the following new subparagraph:

''(J) DEEMED TREATMENT FOR QUALIFIED MEDICARE BENEFICIARIES AND SPECIFIED LOW-INCOME MEDICARE BENEFICIARIES.—

''(i) QMBS ELIGIBLE FOR FULL SUBSIDY.—A part D eligible individual who has been determined for purposes of title XIX to be a qualified medicare beneficiary is deemed, for purposes of this part and without the need to file any additional application, to be a subsidy eligible individual described in paragraph (1).

''(ii) SLMBS ELIGIBLE FOR PARTIAL SUBSIDY.—A part D eligible individual who has been determined to be a specified low-income medicare beneficiary (as defined in section 1905(p)(1)) and who is not described in paragraph (1) is deemed, for purposes of this part and without the need to file any additional application, to be a subsidy eligible individual who is not described in paragraph (1).''.

(b) MEDICARE SAVINGS PROGRAM.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)), as amended by section 4, is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

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

''(8) An individual who has been determined eligible for premium and cost-sharing subsidies under—

''(A) section 1860D–14(a)(1) is deemed, for purposes of this title and without the need to file any additional application, to be a qualified medicare beneficiary for purposes of this title; or

''(B) section 1860D–14(a)(2) is deemed, for purposes of this title and without the need to file any additional application, to qualify for medical assistance as a specified low-income medicare beneficiary (described in section 1902(a)(10)(E)(iii)).''.

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

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

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

(1) in paragraph (1)(C) by striking ''an application for benefits under the Medicare Savings Program.'' and inserting ''applications for benefits under the Medicare Savings Program and the supplemental nutrition assistance program.'';

(2) by striking paragraph (3) and inserting the following:

''(3) TRANSMITTAL OF DATA TO STATES.—

''(A) IN GENERAL.—Beginning on January 1, 2010, with the consent of an individual completing an application for benefits described in paragraph (1)(B), the Commissioner shall electronically transmit data from such application—

''(i) to the appropriate State Medicaid agency, as determined by the Commissioner, which transmittal shall initiate an application of the individual for benefits under the

Medicare Savings Program with the State Medicaid agency; and

''(ii) to the appropriate State agency which administers benefits under the supplemental nutrition assistance program, as determined by the Commissioner, which transmittal shall initiate an application of the individual for benefits under the supplemental nutrition assistance program with the State agency that administers that program.

''(B) CONSULTATION REGARDING CONTENT, TIME, FORM, FREQUENCY AND MANNER OF TRANSMISSION.—In order to ensure that such data transmittal provides effective assistance for purposes of State adjudication of applications for benefits under the Medicare Savings Program and the supplemental nutrition assistance program, the Commissioner shall consult with the Secretary after the Secretary has consulted with the States, regarding the content, form, frequency, and manner in which data (on a uniform basis for all States) shall be transmitted under this paragraph.'';

(3) in paragraph (5), by adding at the end the following new subparagraph:

''(D) SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM ADMINISTRATIVE COSTS.—The costs of the Social Security Administration's work related to the supplemental nutrition assistance program under this subsection shall be eligible for reimbursement under section 11(j)(2)(C) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(j)(2)(C)). To the extent necessary the Commissioner and the Secretary of Agriculture shall revise any memoranda of understanding in effect under such section.''; and

(4) by adding at the end the following new paragraph:

''(8) SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM DEFINED.—For purposes of this subsection, the term 'supplemental nutrition assistance program' means the program of temporary benefits authorized under section 11(v) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(v)).''.

(b) TEMPORARY SUPPLEMENTAL NUTRITION ASSISTANCE BENEFITS.—Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended by adding at the end the following:

''(v) TEMPORARY BENEFITS FOR MEDICARE PART D LOW INCOME SUBSIDY APPLICANTS.—

''(1) DEFINITION OF MEDICARE PART D LOW INCOME SUBSIDY APPLICANT.—In this subsection, the term 'Medicare part D low income subsidy applicant' means an individual, along with any other family members, whose low income subsidy application information has been electronically transmitted to the State agency under section 1144(c)(3) of the Social Security Act (42 U.S.C. 1320b–14(c)(3)).

''(2) PROVISION OF TEMPORARY BENEFITS.—A State agency shall provide temporary supplemental nutrition assistance program benefits to a Medicare part D low income subsidy applicant whose—

''(A) income does not exceed 150 percent of the poverty line (as determined in accordance with section 5(c)(1)); and

''(B) financial resources do not exceed the limit in effect in the State for such households under section 5.

''(3) DETERMINATION BASED ON MEDICARE INFORMATION.—For purposes of determining eligibility under paragraph (2) and the amount of temporary benefits under paragraph (5), information on household members, household income, and household resources from the Medicare part D low income subsidy application as transmitted to the State agency under section 1144(c)(3) of the Social Security Act (42 U.S.C. 1320b–14(c)(3)) shall satisfy the requirements of this Act with regard to—

''(A) the members of the household under section 3(n); and

''(B) the gross income and financial resources of the household under section 5.

''(4) TEMPORARY BENEFIT PERIOD.—A household shall receive temporary supplemental nutrition assistance benefits under this subsection for a period of not more than 2 months.

''(5) TEMPORARY BENEFIT AMOUNT.—

''(A) IN GENERAL.—During the temporary benefit period under paragraph (4), except as provided in subparagraph (B), a household shall receive a monthly amount of supplemental nutrition assistance program benefits calculated under section 8(a).

''(B) CALCULATION.—In calculating benefits under subparagraph (A)—

''(i) the benefits shall be determined based on the gross income of the household rather than net income; and

''(ii) the minimum allotment described in the proviso in section 8(a) shall be equal to 40 percent of the cost of the thrifty food plan for a household containing 1 member, as determined by the Secretary under section 3, rounded to the nearest whole dollar increment.

''(6) DETERMINATION OF FUTURE ELIGIBILITY.—During the temporary benefit period under paragraph (4), the State agency shall provide to the household—

''(A) an application to apply for benefits under the other provisions of this Act; and

''(B) an opportunity to complete the application process by the month immediately following the temporary benefit period, without a delay or suspension in the benefits of the household.

''(7) LIMITATION.—This subsection shall not apply to individuals who—

''(A) are members of households that currently receive benefits under this Act; or

''(B) have received benefits under this subsection in the preceding 12-month period.''.

(c) MEDICARE SAVINGS PROGRAM APPLICATIONS.—

(1) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (72), by striking ''and'' at the end;

(B) in paragraph (73), by striking the period at the end and inserting ''; and''; and

(C) by inserting after paragraph (73) the following new paragraph:

''(74) provide that the State coordinates with the State agency that administers benefits under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) to ensure that individuals applying for medical assistance provided under section 1902(a)(10)(E), as described in sections 1905(p) and 1933, have the opportunity to apply for, establish eligibility for, and, if eligible, receive supplemental nutrition assistance program benefits.''.

(2) EFFECTIVE DATE.—

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

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by paragraph (1), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

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

SEC. 11. EXPEDITING LOW-INCOME SUBSIDIES UNDER THE MEDICARE PRESCRIPTION DRUG PROGRAM.

(a) TARGETED OUTREACH FOR LOW-INCOME SUBSIDIES.—

(1) IN GENERAL.—Section 1860D–14 of the Social Security Act (42 U.S.C. 1395w–114) is amended by adding at the end the following new subsection:

''(e) TARGETED OUTREACH FOR LOW-INCOME SUBSIDIES.—

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

''(A) IN GENERAL.—The Commissioner of Social Security shall provide for the identification of individuals who are potentially eligible for low-income assistance under this section through requests to the Secretary of the Treasury in accordance with the criterion established under section 6103(l)(21) of the Internal Revenue Code of 1986 for information indicating whether the individual involved is likely eligible for such assistance.

''(B) INITIATION OF IDENTIFICATIONS.—Not later than 90 days after the date of the enactment of this subsection, the Commissioner of Social Security shall begin the identification of individuals through the process described in subparagraph (A) and shall, by such date and through such process, submit to the Secretary of the Treasury requests for part D eligible individuals who the Commissioner has identified as potentially eligible for low-income subsidies under this section before such date of enactment.

''(2) NOTIFICATION OF POTENTIALLY ELIGIBLE INDIVIDUALS.—In the case of each individual identified under paragraph (1) who has not otherwise applied for, or been determined eligible for, benefits under this section (or who has applied for and been determined ineligible for such benefits based on excess income, resources, or both), the Commissioner shall transmit by mail to the individual a letter including the information and application required to be provided under subparagraphs (A), (B), and (D) of section 1144(c)(1).

''(3) FOLLOW-UP COMMUNICATIONS.—If an individual to whom a letter is transmitted under paragraph (2) does not affirmatively respond to such letter either by making an enrollment, completing an application, or declining either or both, the Commissioner shall make additional attempts to contact the individual to obtain such an affirmative response.

''(4) USE OF PREFERRED LANGUAGE IN SUBSEQUENT COMMUNICATIONS.—In the case an application is completed by an individual pursuant to this subsection in which a language other than English is specified, the Commissioner shall provide that subsequent communications under this part to the individual shall be in such language as needed.

''(5) CONSTRUCTION.—Nothing in this subsection shall be construed as precluding the Commissioner from taking additional outreach efforts to enroll eligible individuals under this part and to provide low-income subsidies to eligible individuals.

''(6) MAINTENANCE OF EFFORT WITH RESPECT TO OUTREACH.—In no case shall the level of effort with respect to outreach to and enrollment of individuals who are potentially eligible for low-income assistance under this

section after the date of the enactment of this subsection be less than such level of effort before such date of enactment until at least 90 percent of such potentially eligible individuals have affirmatively responded.

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

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

"(B) how the Commissioner of Social Security has used any savings resulting from the implementation of this section and section 6103(l)(21) of the Internal Revenue Code of 1986 to improve outreach to individual described in subparagraph (A) to increase enrollment of such individuals under this part;

"(C) the effectiveness of using information from the Secretary of the Treasury in accordance with section 6103(l)(21) of the Internal Revenue Code of 1986 for purposes of indicating whether individuals are eligible for low-income assistance under this section; and

"(D) the effectiveness of the outreach conducted by the Commissioner of Social Security based on the data described in subparagraph (C).".

(2) CONFORMING AMENDMENT.—Section 1144(c)(1) of the Social Security Act (42 U.S.C. 1320b–14(c)(1)) is amended by inserting "(including through request to the Secretary of the Treasury pursuant to section 1860D–14(e))" before ", the Commissioner shall".

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

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

(2) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

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

"(F) SIMPLIFIED LOW-INCOME SUBSIDY APPLICATION AND PROCESS.—

"(i) IN GENERAL.—The Secretary, jointly with the Commissioner of Social Security, shall—

"(I) develop a model, simplified application form and process consistent with clause (ii) for the determination and verification of a part D eligible individual's assets or resources under this paragraph; and

"(II) provide such form to States.

"(ii) DOCUMENTATION AND SAFEGUARDS.—Under such process—

"(I) the application form shall consist of an attestation under penalty of perjury regarding the level of assets or resources (or combined assets and resources in the case of a married part D eligible individual) and valuations of general classes of assets or resources;

"(II) such form shall not require the submittal of additional documentation regarding income or assets;

"(III) matters attested to in the application shall be subject to appropriate methods of administrative verification;

"(IV) the applicant shall be permitted to authorize another individual to act as the applicant's personal representative with respect to communications under this part and the enrollment of the applicant into a prescription drug plan (or MA–PD plan) and for low-income subsidies under this section; and

"(V) the application form shall allow for the specification of a language (other than English) that is preferred by the individual for subsequent communications with respect to the individual under this part.

"(iii) NO RECOVERY FOR CERTAIN SUBSIDIES IMPROPERLY PAID.—If an individual in good faith and in the absence of fraud is provided low-income subsidies under this section, and if the individual is subsequently found not eligible for such subsidies, there shall be no recovery made against the individual because of such subsidies improperly paid.".

(c) DISCLOSURES TO FACILITATE IDENTIFICATION OF INDIVIDUALS LIKELY TO BE ELIGIBLE FOR THE LOW-INCOME ASSISTANCE UNDER THE MEDICARE PRESCRIPTION DRUG PROGRAM.—

(1) IN GENERAL.—

Subsection (l) of section 6103 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(21) DISCLOSURE OF RETURN INFORMATION TO FACILITATE IDENTIFICATION OF INDIVIDUALS LIKELY TO BE ELIGIBLE FOR LOW-INCOME SUBSIDIES UNDER MEDICARE PRESCRIPTION DRUG PROGRAM.—

"(A) IN GENERAL.—The Secretary, upon written request from the Commissioner of Social Security, shall disclose to officers and employees of the Social Security Administration, with respect to any individual identified by the Commissioner—

"(i) whether, based on the criterion determined under subparagraph (B), such individual is likely to be eligible for low-income assistance under section 1860D–14 of the Social Security Act, or

"(ii) that, based on such criterion, there is insufficient information available to the Secretary to make the determination described in clause (i).

"(B) CRITERION.—Not later than 90 days after the date of the enactment of this paragraph, the Secretary, in consultation with the Commissioner of Social Security, shall develop the criterion by which the determination under subparagraph (A)(i) shall be made (and the criterion for determining that insufficient information is available to make such determination). Such criterion may include analysis of information available on such individual's return, the return of such individual's spouse, and any information related to such individual or such individual's spouse which is available on any information return.".

(2) PROCEDURES AND RECORDKEEPING RELATED TO DISCLOSURES.—Paragraph (4) of section 6103(p) of such Code is amended by striking "or (17)" each place it appears and inserting "(17), or (21)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to disclosures made after the date of the enactment of this Act.

SEC. 12. ENHANCED OVERSIGHT AND ENFORCEMENT RELATING TO REIMBURSEMENTS FOR RETROACTIVE LIS ENROLLMENT.

(a) IN GENERAL.—In the case of a retroactive LIS enrollment beneficiary (as defined in subsection (e)(4)) who is enrolled under a prescription drug plan under part D of title XVIII of the Social Security Act (or an MA–PD plan under part C of such title)—

(1) the beneficiary (or any eligible third party) is entitled to reimbursement by the plan for covered drug costs (as defined in subsection (e)(1)) incurred by the beneficiary during the retroactive coverage period of the beneficiary in accordance with subsection (b) and in the case of such a beneficiary described in subsection (e)(4)(A)(i), such reimbursement shall be made automatically by the plan upon receipt of appropriate notice the beneficiary is eligible for assistance described in such subsection (e)(4)(A)(i) without further information required to be filed with the plan by the beneficiary;

(2) the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall not make payment to the plan—

(A) in the case that the beneficiary is described in subsection (e)(4)(A)(i), for premium subsidies and cost sharing subsidies under section 1860D–14 of the Social Security Act (42 U.S.C. 1395w-114) with respect to the provision of prescription drug coverage to the beneficiary during such retroactive period; and

(B) in the case that the beneficiary is described in subsection (e)(4)(A)(ii), for direct subsidies under section 1860D–15(a)(1) of such Act and premium subsidies and cost-sharing subsidies under section 1860D–14 of such Act with respect to the provision of prescription drug coverage to the beneficiary during such retroactive period;

unless the plan demonstrates to the Secretary that the plan has provided timely and accurate reimbursement to the beneficiary (or eligible third party) in accordance with paragraph (1);

(3) the Secretary shall not make any payment described in paragraph (2) to the plan with respect to such beneficiary for any month of the retroactive enrollment period during which no expenses for covered part D drugs (as defined in section 1860D–2(e) of the Social Security Act (42 U.S.C. 1395w-102(e)) were incurred by such beneficiary (or eligible third party on behalf of such beneficiary); and

(4) any payment owed the plan pursuant to this section, taking into account paragraphs (2) and (3), shall be made at the time the Centers for Medicare & Medicaid Services reconciles payments for the entire plan year following the end of the plan year, and not before such time.

(b) ADMINISTRATIVE REQUIREMENTS RELATING TO REIMBURSEMENTS.—

(1) LINE-ITEM DESCRIPTION.—Each reimbursement made by a prescription drug plan or MA–PD plan under subsection (a)(1) shall include a line-item description of the items for which the reimbursement is made.

(2) TIMING OF REIMBURSEMENTS.—A prescription drug plan or MA–PD plan must make a reimbursement under subsection (a)(1) to a retroactive LIS enrollment beneficiary, with respect to a claim, not later than 30 days after—

(A) in the case of a beneficiary described in subsection (e)(4)(A)(i), the date on which the plan receives notice from the Secretary that the beneficiary is eligible for assistance described in such subsection; or

(B) in the case of a beneficiary described in subsection (e)(4)(A)(ii), the date on which the beneficiary files the claim with the plan.

(c) NOTICE REQUIREMENTS.—

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

(A) with respect to a beneficiary described in subsection (e)(4)(A)(i), inform the beneficiary of the beneficiary's right to automatic reimbursement as described in subsection (a)(1); and

(B) with respect to a beneficiary described in subsection (e)(4)(A)(ii), include a description of a clear process that the beneficiary should follow to seek such reimbursement.

(2) BY PRESCRIPTION DRUG PLANS.—

(A) IN GENERAL.—Each prescription drug plan under part D of title XVIII of the Social Security Act (and MA–PD plan under part C of such title) shall include in a notice from the plan to a retroactive LIS enrollment beneficiary described in subsection (e)(4)(A)(ii) a model notice developed under subparagraph (B) describing the process the beneficiary must follow to seek retroactive reimbursement. Such notice shall include any form required by the plan to complete such reimbursement and shall indicate the period of retroactive coverage for which the beneficiary is eligible for such reimbursement.

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

(d) PUBLIC POSTING TO TRACK PAYMENTS.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary shall post (and annually update) on the public Internet website of the Department of Health and Human Services information on the total amount of payments made by the Secretary under subsection (a)(2) to prescription drug plans during the most recent plan year for which plan data is available.

(2) SPECIFIC INFORMATION.—Such information posted—

(A) in 2010 or in a subsequent year before 2016, shall include information on payments made for years beginning with 2006 and ending with the year for which the most current information is available; and

(B) in 2016 or a subsequent year, shall include information on payments made for at least the 10 previous years.

(e) DEFINITIONS.—In this section:

(1) COVERED DRUG COSTS.—The term ''covered drug costs'' means, with respect to a retroactive LIS enrollment beneficiary enrolled under a prescription drug plan under part D of title XVIII of the Social Security Act (or an MA–PD plan under part C of such title), the amount by which—

(A) the costs incurred by such beneficiary during the retroactive coverage period of the beneficiary for covered part D drugs, premiums, and cost-sharing under such title; exceeds

(B) such costs that would have been incurred by such beneficiary during such period if the beneficiary had been both enrolled in the plan and recognized by such plan as qualified during such period for the low income subsidy under section 1860D–14 of the Social Security Act to which the individual is entitled.

(2) ELIGIBLE THIRD PARTY.—The term ''eligible third party'' means, with respect to a retroactive LIS enrollment beneficiary, an organization or other third party that paid on behalf of such beneficiary for covered drug costs incurred by such beneficiary during the retroactive coverage period of such beneficiary.

(3) RETROACTIVE COVERAGE PERIOD.—The term ''retroactive coverage period'' means—

(A) with respect to a retroactive LIS enrollment beneficiary described in paragraph (4)(A)(i), the period—

(i) beginning on the effective date of the assistance described in such paragraph for which the individual is eligible; and

(ii) ending on the date the plan effectuates the status of such individual as so eligible; and

(B) with respect to a retroactive LIS enrollment beneficiary described in paragraph (4)(A)(ii), the period—

(i) beginning on the date the individual is both entitled to benefits under part A, or enrolled under part B, of title XVIII of the Social Security Act and eligible for medical assistance under a State plan under title XIX of such Act; and

(ii) ending on the date the plan effectuates the status of such individual as a full-benefit dual eligible individual (as defined in section 1935(c)(6) of such Act).

(4) RETROACTIVE LIS ENROLLMENT BENEFICIARY.—

(A) IN GENERAL.—The term ''retroactive LIS enrollment beneficiary'' means an individual who—

(i) is enrolled in a prescription drug plan under part D of title XVIII of the Social Security Act (or an MA–PD plan under part C of such title) and subsequently becomes eligible as a full-benefit dual eligible individual (as defined in section 1935(c)(6) of such Act), an individual receiving a low-income subsidy under section 1860D–14 of such Act, an individual receiving assistance under the Medicare Savings Program implemented under clauses (i), (ii), (iii), and (iv) of section 1902(a)(10)(E) of such Act, or an individual receiving assistance under the supplemental security income program under section 1611 of such Act; or

(ii) subject to subparagraph (B)(i), is a full-benefit dual eligible individual (as defined in section 1935(c)(6) of such Act) who is automatically enrolled in such a plan under section 1860D–1(b)(1)(C) of such Act.

(B) EXCEPTION FOR BENEFICIARIES ENROLLED IN RFP PLAN.—

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

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

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

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

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

SEC. 13. INTELLIGENT ASSIGNMENT IN ENROLLMENT.

(a) IN GENERAL.—Section 1860D–1(b)(1) of the Social Security Act (42 U.S.C. 1395w–101(b)(1), as amended by section 7(b), is amended—

(1) in the second sentence of subparagraph (C), by striking ''on a random basis among all such plans'' and inserting '', subject to subparagraph (E), in the most appropriate plan for such individual''; and

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

''(E) INTELLIGENT ASSIGNMENT.—In the case of any auto-enrollment under subparagraph (C), no part D eligible individual described in such subparagraph shall be enrolled in a prescription drug plan which does not meet requirements established by the Secretary.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to enrollments effected on or after November 15, 2010.

SEC. 14. MEDICARE ENROLLMENT ASSISTANCE.

(a) ADDITIONAL FUNDING FOR STATE HEALTH INSURANCE ASSISTANCE PROGRAMS.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall use amounts made available under subparagraph (B) to make grants to States for State health insurance assistance programs receiving assistance under section 4360 of the Omnibus Budget Reconciliation Act of 1990.

(B) FUNDING.—For purposes of making grants under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w–23(f)), of $14,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for fiscal year 2011, to remain available until expended.

(2) AMOUNT OF GRANTS.—The amount of a grant to a State under this subsection from the total amount made available under paragraph (1) shall be equal to the sum of the amount allocated to the State under paragraph (3)(A) and the amount allocated to the State under subparagraph (3)(B).

(3) ALLOCATION TO STATES.—

(A) ALLOCATION BASED ON PERCENTAGE OF LOW-INCOME BENEFICIARIES.—The amount allocated to a State under this subparagraph from ⅔ of the total amount made available under paragraph (1) shall be based on the number of individuals who meet the requirement under subsection (a)(3)(A)(ii) of section 1860D–14 of the Social Security Act (42 U.S.C. 1395w–114) but who have not enrolled to receive a subsidy under such section 1860D–14 relative to the total number of individuals who meet the requirement under such subsection (a)(3)(A)(ii) in each State, as estimated by the Secretary.

(B) ALLOCATION BASED ON PERCENTAGE OF RURAL BENEFICIARIES.—The amount allocated to a State under this subparagraph from ⅓ of the total amount made available under paragraph (1) shall be based on the number of part D eligible individuals (as defined in section 1860D–1(a)(3)(A) of such Act (42 U.S.C. 1395w–101(a)(3)(A))) residing in a rural area relative to the total number of such individuals in each State, as estimated by the Secretary.

(4) PORTION OF GRANT BASED ON PERCENTAGE OF LOW-INCOME BENEFICIARIES TO BE USED TO PROVIDE OUTREACH TO INDIVIDUALS WHO MAY BE SUBSIDY ELIGIBLE INDIVIDUALS OR ELIGIBLE FOR THE MEDICARE SAVINGS PROGRAM.—Each grant awarded under this subsection with respect to amounts allocated under paragraph (3)(A) shall be used to provide outreach to individuals who may be subsidy eligible individuals (as defined in section 1860D–14(a)(3)(A) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)(A)) or eligible for the Medicare Savings Program (as defined in subsection (f)).

(b) ADDITIONAL FUNDING FOR AREA AGENCIES ON AGING.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary, acting through the Assistant Secretary for Aging, shall make grants to States for area agencies on aging (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)) and Native American programs carried out under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

(B) FUNDING.—For purposes of making grants under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w–23(f)), of $10,000,000 to the Administration on Aging for fiscal year 2011, to remain available until expended.

(2) AMOUNT OF GRANT AND ALLOCATION TO STATES BASED ON PERCENTAGE OF LOW-INCOME AND RURAL BENEFICIARIES.—The amount of a grant to a State under this subsection from the total amount made available under paragraph (1) shall be determined in the same manner as the amount of a grant to a State under subsection (a), from the total amount made available under paragraph (1) of such subsection, is determined under paragraph (2) and subparagraphs (A) and (B) of paragraph (3) of such subsection.

(3) REQUIRED USE OF FUNDS.—

(A) ALL FUNDS.—Subject to subparagraph (B), each grant awarded under this subsection shall be used to provide outreach to eligible Medicare beneficiaries regarding the benefits available under title XVIII of the Social Security Act.

(B) OUTREACH TO INDIVIDUALS WHO MAY BE SUBSIDY ELIGIBLE INDIVIDUALS OR ELIGIBLE FOR THE MEDICARE SAVINGS PROGRAM.—Subsection (a)(4) shall apply to each grant awarded under this subsection in the same manner as it applies to a grant under subsection (a).

(c) ADDITIONAL FUNDING FOR AGING AND DISABILITY RESOURCE CENTERS.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to Aging and Disability Resource Centers under the Aging and Disability Resource Center grant program that are established centers under such program on the date of the enactment of this Act.

(B) FUNDING.—For purposes of making grants under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w–23(f)), of $10,000,000 to the Administration on Aging for fiscal year 2011, to remain available until expended.

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

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

(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary for Aging, in cooperation with related Federal agency partners, shall make a grant to, or enter into a contract with, a qualified, experienced entity under which the entity shall—

(A) maintain and update web-based decision support tools, and integrated, person-centered systems, designed to inform older individuals (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)) about the full range of benefits for which the individuals may be eligible under Federal and State programs;

(B) utilize cost-effective strategies to find older individuals with the greatest economic need (as defined in such section 102) and inform the individuals of the programs;

(C) develop and maintain an information clearinghouse on best practices and the most cost-effective methods for finding older individuals with greatest economic need and informing the individuals of the programs; and

(D) provide, in collaboration with related Federal agency partners administering the Federal programs, training and technical assistance on the most effective outreach, screening, and follow-up strategies for the Federal and State programs.

(2) FUNDING.—For purposes of making a grant or entering into a contract under paragraph (1), the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w–23(f)), of $10,000,000 to the Administration on Aging for fiscal year 2011, to remain available until expended.

(e) MEDICARE SAVINGS PROGRAM DEFINED.—For purposes of this section, the term ''Medicare Savings Program'' means the program of medical assistance for payment of the cost of medicare cost-sharing under the Medicaid program pursuant to sections 1902(a)(10)(E) and 1933 of the Social Security Act (42 U.S.C. 1396a(a)(10)(E), 1396u–3).

SEC. 15. QMB BUY-IN OF PART A AND PART B PREMIUMS.

(a) REQUIREMENT.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by section 10, is amended—

(1) in paragraph (73), by striking ''and'' at the end;

(2) in paragraph (74), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (74) the following new paragraph:

''(75) provide that the State enters into a modification of an agreement under section 1818(g).''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section take effect on the date that is 6 months after the date of enactment of this Act.

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

SEC. 16. INCREASING AVAILABILITY OF MSP APPLICATIONS THROUGH AVAILABILITY ON THE INTERNET AND DESIGNATION OF PREFERRED LANGUAGE.

(a) REQUIREMENT FOR STATES.—

(1) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by section 15, is amended—

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

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

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

''(76) provide—

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

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

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection take effect on the date that is 2 years after the date of enactment of this Act.

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

(b) REQUIREMENT FOR THE SECRETARY.—Section 1905(p)(5) of the Social Security Act (42 U.S.C. 1396d(p)(5)) is amended by adding at the end the following new sentence: ''Such form shall allow an individual to specify a preferred language for subsequent communication.''.

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

(a) TECHNICAL AMENDMENTS.—

(1) IN GENERAL.—Section 1144(c)(3)(A)(i) of the Social Security Act (42 U.S.C. 1320b–14(c)(3)(A)(i)), as amended by section 10, is amended—

(A) by striking ''transmittal''; and

(B) by inserting ''(as specified in section 1935(a)(4))'' before the semicolon at the end.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of section 113(a) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275).

(b) CLARIFICATION OF STATE MEDICAID AGENCY CONSIDERATION OF LOW-INCOME SUBSIDY APPLICATION.—Section 1935(a)(4) of the Social Security Act (42 U.S.C. 1396u-5(a)(4)), as added by section 113(b) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), is amended—

(1) by striking ''PROGRAM.—The State'' and inserting ''PROGRAM.—

''(A) IN GENERAL.—The State'';

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

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

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

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

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

S. 1186. A bill to amend title XVIII of the Social Security Act to eliminate the in the home restriction for Medicare coverage of mobility devices for individuals with expected long-term needs; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today along with Senators COLLINS, LIEBERMAN and HARKIN to introduce the Medicare Independent Living Act of 2009. This legislation would eliminate Medicare's ''in the home'' restriction for the coverage of mobility devices, including wheelchairs and scooters, for those with disabilities and expected long-term needs. This includes people with multiple sclerosis, paraplegia, osteoarthritis, and cerebrovascular disease including acute stroke and conditions like aneurysms.

As currently interpreted by the Centers for Medicare and Medicaid Services, CMS, the ''in the home'' restriction only permits beneficiaries to obtain wheelchairs that are necessary for use inside the home. As a result, seriously disabled beneficiaries who would primarily utilize a wheelchair outside the home are prevented from receiving this critical and basic equipment through Medicare. For example, this restriction prevents beneficiaries from receiving wheelchairs to access their work, the community-at-large, place of worship, school, physician's offices, or pharmacies.

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

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

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

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

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

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

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

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

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

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

S. 1186

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Independent Living Act of 2009''.

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

(a) IN GENERAL.—Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n) is amended by inserting ''or, in the case of a mobility device required by an individual with expected long-term need, used in customary settings for the purpose of normal domestic, vocational, or community activities'' after ''1819(a)(1))''.

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

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

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

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

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

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

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

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

Finally, this legislation provides grants for tele-mental health in medically-underserved areas, and invests in health IT for mental health providers. These proposals address the twin goals of improving the quality of mental

health treatment while expanding access to that treatment in rural and underserved areas.

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

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

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

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

S. 1188

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Community Mental Health Services Improvement Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) almost 60,000,000 Americans, or one in four adults and one in five children, have a mental illness that can be diagnosed and treated in a given year;

(2) mental illness costs our economy more than $80,000,000,000 annually, accounting for 15 percent of the total economic burden of disease;

(3) alcohol and drug abuse contributes to the death of more than 100,000 people and costs society upwards of half a trillion dollars a year;

(4) individuals with serious mental illness die on average 25 years sooner than individuals in the general population; and

(5) community mental and behavioral health organizations provide cost-efficient and evidence-based treatment and care for millions of Americans with mental illness and addiction disorders.

SEC. 3. CO-LOCATING PRIMARY AND SPECIALTY CARE IN COMMUNITY-BASED MENTAL HEALTH SETTINGS.

Subpart 3 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb–31 et seq.) is amended by adding at the end the following:

''SEC. 520K. GRANTS FOR CO-LOCATING PRIMARY AND SPECIALTY CARE IN COMMUNITY-BASED MENTAL HEALTH SETTINGS.

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a qualified community mental health program defined under section 1913(b)(1).

''(2) SPECIAL POPULATIONS.—The term 'special populations' refers to the following 3 groups:

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

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

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

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

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

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

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

''(d) USE OF FUNDS.—

''(1) IN GENERAL.—For the benefit of special populations, an eligible entity shall use funds awarded under this section for—

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

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

''(ii) diagnostic and laboratory services; or

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

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

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

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

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

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

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

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

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,0000 for fiscal year 2010 and such sums as may be necessary for each of fiscal years 2011 through 2014.''.

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

Section 520I of the Public Health Service Act (42 U.S.C. 290bb–40) is amended—

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

''(j) FUNDING.—The Secretary shall make available to carry out this section, $14,000,000 for fiscal year 2010, $20,000,000 for fiscal year 2011, and such sums as may be necessary for each of fiscal years 2012 through 2014. Such sums shall be made available in equal amount from amounts appropriated under sections 509 and 520A.''; and

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

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

SEC. 5. IMPROVING THE MENTAL HEALTH WORKFORCE.

(a) NATIONAL HEALTH SERVICE CORPS.—Paragraph (1) of section 332(a) of the Public Health Service Act (42 U.S.C. 254e(a)) is amended by inserting ''and community mental health centers meeting the criteria specified in section 1913(c)'' after ''Social Security Act (42 U.S.C. 1395x(aa)),''.

(b) RECRUITMENT AND RETENTION OF MENTAL HEALTH PROFESSIONALS.—Subpart X of part D of title III of the Public Health Service Act (42 U.S.C. 256f et seq.) is amended by adding at the end the following:

''SEC. 340H. GRANTS FOR RECRUITMENT AND RETENTION OF MENTAL HEALTH PROFESSIONALS.

''(a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall award grants to States, territories, and Indian tribes or tribal organizations for innovative programs to address the behavioral and mental health workforce needs of designated mental health professional shortage areas.

''(b) USE OF FUNDS.—An eligible entity shall use grant funds awarded under this section for—

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

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

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

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

''(D) agree to—

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

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

''(2) behavioral and mental health professional recruitment and retention efforts, with a particular emphasis on candidates

from racial and ethnic minority and medically-underserved communities;

''(3) grants or low-interest or no-interest loans for behavioral and mental health professionals who participate in the Medicaid program under title XIX of the Social Security Act to establish or expand practices in designated mental health professional shortage areas, or to serve in qualified community mental health programs as defined in section 1913(b)(1);

''(4) placement and support for behavioral and mental health students, residents, trainees, and fellows or interns; or

''(5) continuing behavioral and mental health education, including distance-based education.

''(c) APPLICATION.—

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

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

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

''(e) SUPPLEMENT NOT SUPPLANT.—A grant awarded under this section shall be expended to supplement, and not supplant, the expenditures of the eligible entity and the value of in-kind contributions for carrying out the activities for which the grant was awarded.

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

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

''(h) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing data relating to whether grants provided under this section have increased access to behavioral and mental health services in designated mental health professional shortage areas.

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

(c) BEHAVIORAL AND MENTAL HEALTH EDUCATION AND TRAINING PROGRAMS.—Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following:

''SEC. 506C. GRANTS FOR BEHAVIORAL AND MENTAL HEALTH EDUCATION AND TRAINING PROGRAMS.

''(a) DEFINITION.—For the purposes of this section, the term 'related mental health personnel' means an individual who—

''(1) facilitates access to a medical, social, educational, or other service; and

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

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

''(c) APPLICATION.—

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

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

''(d) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applicants that—

''(1) demonstrate a familiarity with the use of evidenced-based methods in behavioral and mental health services;

''(2) provide interdisciplinary training experiences; and

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

''(e) USE OF FUNDS.—Funds awarded under this section shall be used to—

''(1) establish or expand accredited behavioral and mental health education programs, including improving the coursework, related field placements, or faculty of such programs; or

''(2) establish or expand accredited mental and behavioral health training programs for related mental health personnel.

''(f) REQUIREMENTS.—The Secretary may award a grant to an eligible entity only if such entity agrees that—

''(1) any behavioral or mental health program assisted under the grant will prioritize cultural competency and the recruitment of trainees from racial and ethnic minority and medically-underserved communities; and

''(2) with respect to any violation of the agreement between the Secretary and the entity, the entity will pay such liquidated damages as prescribed by the Secretary.

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

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

''(i) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing data relating to whether grants provided under this section have increased access to behavioral and mental health services in designated mental health professional shortage areas.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $4,000,0000 for fiscal year 2010, and such sums as may be necessary for each of fiscal years 2011 through 2014.''.

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

Subpart 3 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb–31 et seq.), as amended by section 3, is amended by inserting after section 520A the following:

''SEC. 520B. GRANTS FOR TELE-MENTAL HEALTH IN MEDICALLY-UNDERSERVED AREAS.

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

''(b) ELIGIBLE ENTITY.—To be eligible for assistance under the program under subsection (a), an entity shall be a qualified community mental health program (as defined in section 1913(b)(1)).

''(c) APPLICATION.—

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

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

''(d) USE OF FUNDS.—An eligible entity shall use funds received under a grant under this section for—

''(1) the provision of tele-mental health services; or

''(2) infrastructure improvements for the provision of tele-mental health services.

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

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

''(g) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report that shall evaluate the activities funded under this section.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $20,000,000 for fiscal year 2010, and such sums as may be necessary for each of fiscal years 2011 through 2014.''.

SEC. 7. IMPROVING HEALTH INFORMATION TECHNOLOGY FOR MENTAL HEALTH PROVIDERS.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by section 5(c), is further amended by adding at the end the following:

"SEC. 506D. IMPROVING HEALTH INFORMATION TECHNOLOGY FOR MENTAL HEALTH PROVIDERS.

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

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

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

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

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

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

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

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

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

However, as more consumers and businesses embrace wireless technologies and applications, more States and local governments are embracing it as a revenue source and applying these excessive and discriminatory taxes, which show up on consumers' bills each month. In fact, the effective rate of taxation on wireless services has increased four times faster than the rate on other taxable goods and services between January 2003 and January 2007.

These excessive and discriminatory taxes discourage wireless adoption and use, primarily with low-income individuals and families that still view a cellular phone as a luxury when many Americans consider it a necessity. By banning these taxes, we can equalize the taxation of the wireless industry with that of other goods and services and protect the wireless consumer from the weight of exorbitant fees, surcharges, and general business taxes. We cannot allow this essential and innovative industry as well as the consumers who benefit from its amazing services and applications to suffer excessive tax rates.

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

It is confounding that telecommunications, one of the most essential components of our economy and our daily lives, is one of the most highly taxed sectors. That is why I sincerely hope that my colleagues join Senator WYDEN and me in supporting this critical bipartisan legislation so we can continue our efforts to curtail discriminatory taxes on these vital services so that all Americans can leverage the benefits they offer. I would like to thank Senator MCCAIN for his past leadership on this issue and for cosponsoring this consumer-friendly legislation.

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

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

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

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

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

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

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

Ms. CANTWELL (for herself, Ms. SNOWE, Mr. ROCKEFELLER, and Mrs. HUTCHISON):

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

Ms. CANTWELL. Mr. President, for countless communities around the country, our oceans are the heartbeat of their histories and economies. In fact, according to a report by the Joint Oceans Commission, healthy oceans and coasts are an important means of transportation, trade, and national security. Ocean-dependent industries generate about $138 billion and support millions of jobs in the United States' economy.

According to the National Ocean Economic Project, 30 U.S. coastal States accounted for 82 percent of total population and 81 percent of all U.S. jobs in 2006. In my home State of Washington, the Port of Seattle's facilities and activities alone support 190,000 jobs, and the State has 3,000 fishing vessels that employ 10,000 fishermen.

There is no group that is more important to the health and safety of our ports, fishing industry, and maritime community than the U.S. Coast Guard. The brave men and women of the U.S. Coast Guard are charged with many missions—from serving as our environmental stewards, performing search and rescue missions, and protecting us from terrorism, to helping clean up oil spills and enforcing fisheries laws. They are largely responsible for keeping these coastal economic engines running, and have proved time and time again that they are, as their motto says, ''Always ready.''

But for the Coast Guard to do its job Congress needs to support those who serve in its ranks. We have a responsibility to ensure the Coast Guard has the tools it needs to carry out the missions of today, while looking ahead to the challenges of tomorrow.

The bill I am introducing today, The Coast Guard Authorization Act for fiscal years 2010 and 2011, is designed to help the Coast Guard move toward the future, and ensure our maritime industries remain the clean and safe economic engine our nation's coastal communities have depended on for generations.

As the U.S. experiences major oil spills, tropical storms, hurricanes, and terrorism, our maritime economy faces ever-present threats. Congress needs to uphold its end of the bargain and provide the legislative backing the Coast Guard needs to do its job, and do its job well.

This bill gives the Coast Guard greater authority to work with international maritime authorities, get better access to global safety and security information, and work more cooperatively with other nations on law enforcement; allows the Coast Guard to rework its command structure and increase its alignment with other armed forces; better supports the men and women who serve in the U.S. Coast Guard by allowing greater reimbursement for medical-related expenses and allowing Coast Guard service-members to participate in the Armed Forces Retirement Home system; and directs the Coast Guard to conduct a thorough cost-benefit analysis for recapitalizing its polar icebreaker fleet so the service can prepare for future mission demands in the Arctic.

This bill also contains the most ambitious reform of its acquisitions program in the Coast Guard's history. The Coast Guard is struggling right now to replace their rapidly aging fleet of ships, aircraft, and facilities. At a cost of $24 billion, the Deepwater program is the Coast Guard's largest and most complex acquisition program ever. Congress has a responsibility to ensure there is transparency and oversight so this program is as efficient and effective as possible.

Unfortunately, the Coast Guard's Deepwater program has experienced major failures and setbacks. The program utilized a private sector lead systems integrator, LSI, know as Integrated Coast Guard Systems, ICGS, to oversee acquisition of a ''system of systems.'' When the Deepwater contract was originally awarded in 2002, the Coast Guard did not have the personnel within their ranks to manage such a large contract. Congress was told that outsourcing that role to industry would save the Coast Guard time and money over the long run.

That approach, which may have seemed innovative at the time, has not produced the promised results. Instead of cost and time savings, we have seen cost overruns, schedule delays, less competition and inadequate technical oversight.

The Department of Homeland Security Inspector General, IG, released three reports in 2006 and early 2007 detailing some of the problems with Deepwater, including problems with electronics equipment, crucial design flaws and cost overruns created by a faulty contract structure and lack of oversight, and serious issues with the 123–foot cutter conversion project.

This legislation wipes the slate clean and makes fundamental changes to the Coast Guard's acquisition program. It requires the Coast Guard to abandon the industry-led Lead Systems Integrator and get back to basics—full and open competition for all future assets.

It requires a completely new ''analysis of alternatives'' for all future Deepwater acquisitions to ensure that the Coast Guard is getting the assets best-suited for their needs.

It requires the Coast Guard to follow a rigorous acquisitions process to make sure taxpayer dollars are spent wisely.

And, it gives the Coast Guard the tools it needs to manage acquisitions effectively, including requiring the Coast Guard to make internal management changes to ensure open competition, increase technical oversight and improve reporting to Congress.

This legislation takes major steps towards getting the Coast Guard the assets they need while ensuring responsible management of taxpayer dollars. I look forward to working with my colleagues to enact the changes I am proposing today so we can get this program back on track and help the Coast Guard accomplish its missions.

If we fail to pass legislation, we are doing a major disservice to those very people we depend on. We will do so as they continue to place their lives at risk while they perform the mission of the Coast Guard.

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

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

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

S. 1194

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 ''Coast Guard Authorization Act for Fiscal Years 2010 and 2011''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AUTHORIZATIONS

Sec. 101. Authorization of appropriations.
Sec. 102. Authorized levels of military strength and training.

TITLE II—ADMINISTRATION

Sec. 201. Authority to distribute funds through grants, cooperative agreements, and contracts to maritime authorities and organizations.
Sec. 202. Assistance to foreign governments and maritime authorities.
Sec. 203. Cooperative agreements for industrial activities.
Sec. 204. Defining Coast Guard vessels and aircraft.

TITLE III—ORGANIZATION

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

TITLE IV—PERSONNEL

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

TITLE V—ACQUISITION REFORM

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

''CHAPTER 15—ACQUISITIONS

''SUBCHAPTER 1—GENERAL PROVISIONS

''Sec.

''561. Acquisition directorate
''562. Senior acquisition leadership team
''563. Improvements in Coast Guard acquisition management
''564. Recognition of Coast Guard personnel for excellence in acquisition
''565. Prohibition on use of lead systems integrators
''566. Required contract terms
''567. Department of Defense consultation
''568. Undefinitized contractual actions

''SUBCHAPTER 2—IMPROVED ACQUISITION PROCESS AND PROCEDURES

''Sec.
''571. Identification of major system acquisitions
''572. Acquisition
''573. Preliminary development and demonstration
''574. Acquisition, production, deployment, and support
''575. Acquisition program baseline breach

''SUBCHAPTER 3—DEFINITIONS

''Sec.
''581. Definitions''
Sec. 503. Report and guidance on excess pass-through charges.

TITLE VI—SHIPPING AND NAVIGATION

Sec. 601. Technical amendments to chapter 313 of title 46, United States Code.
Sec. 602. Clarification of rulemaking authority.
Sec. 603. Coast Guard maintenance of LORAN-C navigation system.
Sec. 604. Icebreakers.
Sec. 605. Vessel size limits.

TITLE VII—VESSEL CONVEYANCE

Sec. 701. Short title.
Sec. 702. Conveyance of Coast Guard vessels for public purposes.

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for each of fiscal years 2010 and 2011 as follows:

(1) For the operation and maintenance of the Coast Guard, $6,556,188,000, of which $24,500,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(2) For the acquisition, construction, renovation, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $1,383,980,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990, to remain available until expended; such funds appropriated for personnel compensation and benefits and related costs of acquisition, construction, and improvements shall be available for procurement of services necessary to carry out the Integrated Deepwater Systems program.

(3) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,361,245,000.

(4) For environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $13,198,000.

(5) For research, development, test, and evaluation programs related to maritime technology, $19,745,000.

(6) For operation and maintenance of the Coast Guard reserve program, $133,632,000.

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

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength of active duty personnel of 49,954 as of September 30, 2010, and 52,452 as of September 30, 2011.

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

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

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

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

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

TITLE II—ADMINISTRATION

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

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

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

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

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

''(d) AUTHORIZED ACTIVITIES.—

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

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

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

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

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

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

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

SEC. 203. COOPERATIVE AGREEMENTS FOR INDUSTRIAL ACTIVITIES.

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

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

(2) by adding at the end the following:

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

SEC. 204. DEFINING COAST GUARD VESSELS AND AIRCRAFT.

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

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

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

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

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

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

''638a. Coast Guard vessels and aircraft defined.''.

TITLE III—ORGANIZATION

SEC. 301. VICE COMMANDANT; VICE ADMIRALS.

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

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

''§ 50. Vice admirals

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

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

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

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

''(b)(1) The appointment and the grade of vice admiral shall be effective on the date the officer assumes that duty and, except as provided in paragraph (2) of this subsection or in section 51(d) of this title, shall terminate on the date the officer is detached from that duty.

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

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

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

''(C) while awaiting retirement, beginning on the date the officer is detached from duty and ending on the day before the officer's retirement, but not for more than 60 days.

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

''(2) An officer serving in a grade above rear admiral who holds the permanent grade

of rear admiral (lower half) shall be considered for promotion to the permanent grade of rear admiral as if the officer was serving in the officer's permanent grade.

''(d) Whenever a vacancy occurs in a position designated under subsection (a), the Commandant shall inform the President of the qualifications needed by an officer serving in that position or office to carry out effectively the duties and responsibilities of that position or office.''.

(c) REPEAL.—Section 50a of such title is repealed.

(d) CONFORMING AMENDMENTS.—Section 51 of such title is amended—

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

''(a) An officer, other than the Commandant, who, while serving in the grade of admiral or vice admiral, is retired for physical disability shall be placed on the retired list with the highest grade in which that officer served.

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

''(c) An officer, other than the Commandant, who, after serving less than 2½ years in the grade of admiral or vice admiral, is retired while serving in a lower grade, shall be retired in his permanent grade.''; and

(2) by striking ''Area Commander, or Chief of Staff'' in subsection (d)(2) and inserting ''or Vice Admiral''.

(e) CLERICAL AMENDMENTS.—

(1) The section caption for section 47 of such title is amended to read as follows:

''§ 47. Vice commandant; appointment''.

(2) The table of contents for chapter 3 of such title is amended—

(A) by striking the item relating to section 47 and inserting the following:

''47. Vice Commandant; appointment.'';

(B) by striking the item relating to section 50a; and

(C) by striking the item relating to section 50 and inserting the following:

''50. Vice admirals.''.

(f) TECHNICAL CORRECTION.—Section 47 of such title is further amended by striking ''subsection'' in the fifth sentence and inserting ''section''.

(g) TREATMENT OF INCUMBENTS; TRANSITION.—

(1) Notwithstanding any other provision of law, the officer who, on the date of enactment of this Act, is serving as Vice Commandant—

(A) shall continue to serve as Vice Commandant;

(B) shall have the grade of admiral with pay and allowances of that grade; and

(C) shall not be required to be reappointed by reason of the enactment of that Act.

(2) Notwithstanding any other provision of law, an officer who, on the date of enactment of this Act, is serving as Chief of Staff, Commander, Atlantic Area, or Commander, Pacific Area—

(A) shall continue to have the grade of vice admiral with pay and allowance of that grade until such time that the officer is relieved of his duties and appointed and confirmed to another position as a vice admiral or admiral; and

(B) for the purposes of transition, may continue, for not more than 1 year after the date of enactment of this Act, to perform the duties of the officer's former position and any other such duties that the Commandant prescribes.

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

(a) IN GENERAL.—Section 42 of title 14, United States Code, is amended—

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

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

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

''(1) 0.375 percent for rear admiral.

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

''(3) 6.0 percent for captain.

''(4) 15.0 percent for commander.

''(5) 22.0 percent for lieutenant commander.

The Secretary shall prescribe the percentages applicable to the grades of lieutenant, lieutenant (junior grade), and ensign. The Secretary may, as the needs of the Coast Guard require, reduce any of the percentages set forth in paragraphs (1) through (5) and apply that total percentage reduction to any other lower grade or combination of lower grades.

''(c) The Secretary shall, at least once a year, compute the total number of commissioned officers authorized to serve in each grade by applying the grade distribution percentages of this section to the total number of commissioned officers listed on the current active duty promotion list. In making such calculations, any fraction shall be rounded to the nearest whole number. The number of commissioned officers on the active duty promotion list serving with other departments or agencies on a reimbursable basis or excluded under the provisions of section 324(d) of title 49, shall not be counted against the total number of commissioned officers authorized to serve in each grade.'';

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

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

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

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

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

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

TITLE IV—PERSONNEL

SEC. 401. LEAVE RETENTION AUTHORITY.

Section 701(f)(2) of title 10, United States Code, is amended by inserting ''or a declaration of a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93–288, 42 U.S.C. 5121 et seq.)'' after ''operation''.

SEC. 402. LEGAL ASSISTANCE FOR COAST GUARD RESERVISTS.

Section 1044(a)(4) of title 10, United States Code, is amended—

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

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

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

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

(1) by striking ''IN GENERAL.—In'' and inserting ''IN GENERAL.—(1) In''; and

(2) by adding at the end the following:

''(2) In any case in which a covered beneficiary resides on an INCONUS island that lacks public access roads to the mainland and is referred by a primary care physician to a specialty care provider on the mainland who provides services less than 100 miles from the location in which the beneficiary resides, the Secretary shall reimburse the reasonable travel expenses of the covered beneficiary, and, when accompaniment by an adult is necessary, for a parent or guardian of the covered beneficiary or another member of the covered beneficiary's family who is at least 21 years of age.''.

SEC. 404. RESERVE COMMISSIONED WARRANT OFFICER TO LIEUTENANT PROGRAM.

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

''(a) The President may appoint temporary commissioned officers—

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

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

SEC. 405. ENHANCED STATUS QUO OFFICER PROMOTION SYSTEM.

(a) Section 253(a) of title 14, United States Code, is amended—

(1) by inserting ''and'' after ''considered,''; and

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

(b) Section 258 of such title is amended—

(1) by inserting ''(a)'' before ''The Secretary''; and

(2) by adding at the end the following:

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

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

''(2) such other guidance that the Secretary believes may be necessary to enable the board to properly perform its functions. Selections made based on the direction and guidance provided under this subsection shall not exceed the maximum percentage of officers who may be selected from below the announced promotion zone at any given selection board convened under section 251 of this title.''.

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

(d) Section 260(b) of such title is amended by inserting ''to meet the needs of the service (as noted in the specific direction furnished the board under section 258 of this title)'' after ''qualified for promotion''.

SEC. 406. APPOINTMENT OF CIVILIAN COAST GUARD JUDGES.

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

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

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

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

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

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

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

(2) by striking ''and'' in paragraph (5)(C);

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

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

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

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

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

(b) DEDUCTIONS.—

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

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

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

(C) by striking subsection (c).

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

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

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

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

TITLE V—ACQUISITION REFORM

SEC. 501. CHIEF ACQUISITION OFFICER.

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

''§ 55. Chief Acquisition Officer

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

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

''(1) the program executive officer;

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

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

''(4) a combination of such positions.

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

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

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

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

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

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

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

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

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

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

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

''55. Chief Acquisition Officer.''.

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

SEC. 502. ACQUISITIONS.

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

''CHAPTER 15. ACQUISITIONS

''SUBCHAPTER 1—GENERAL PROVISIONS

''Sec.
''561. Acquisition directorate
''562. Senior acquisition leadership team
''563. Improvements in Coast Guard acquisition management
''564. Recognition of Coast Guard personnel for excellence in acquisition
''565. Prohibition on use of lead systems integrators
''566. Required contract terms
''567. Department of Defense consultation
''568. Undefinitized contractual actions

''SUBCHAPTER 2—IMPROVED ACQUISITION PROCESS AND PROCEDURES

''Sec.
''571. Identification of major system acquisitions
''572. Acquisition
''573. Preliminary development and demonstration
''574. Acquisition, production, deployment, and support
''575. Acquisition program baseline breach

''SUBCHAPTER 3—DEFINITIONS

''Sec.
''581. Definitions

''SUBCHAPTER 1—GENERAL PROVISIONS

''§ 561. Acquisition directorate

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

''(b) MISSION.—The mission of the acquisition directorate is—

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

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

''§ 562. Senior acquisition leadership team

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

''(1) the Vice Commandant;

''(2) the Deputy and Assistant Commandants;

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

''(4) appropriate senior staff members for each assigned field activity or command; and

''(5) any other Coast Guard officer or employee designated by the Commandant.

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

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

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

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

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

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

''§ 563. Improvements in Coast Guard acquisition management

''(a) PROJECT AND PROGRAM MANAGERS.—

''(1) PROJECT OR PROGRAM MANAGER DEFINED.—In this section, the term 'project or program manager' means an individual designated—

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

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

''(2) LEVEL 1 PROJECTS.— An individual may not be assigned as the project or program manager for a Level 1 acquisition unless the individual holds a Level III acquisition certification as a program manager.

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

''(b) GUIDANCE ON TENURE AND ACCOUNTABILITY OF PROGRAM AND PROJECT MANAGERS.—Not later than one year after the date of enactment of the Coast Guard Authorization Act for Fiscal years 2010 and 2011, the Commandant shall issue guidance to address the qualifications, resources, responsibilities, tenure, and accountability of program and project managers for the management of acquisition programs and projects. The guidance shall address, at a minimum—

''(1) the qualifications required for project or program managers, including the number of years of acquisition experience and the professional training levels to be required of those appointed to project or program management positions; and

''(2) authorities available to project or program managers, including, to the extent appropriate, the authority to object to the addition of new program requirements that would be inconsistent with the parameters established for an acquisition program.

''(c) ACQUISITION WORKFORCE.—

''(1) IN GENERAL.—The Commandant shall designate a sufficient number of positions to be in the Coast Guard's acquisition workforce to perform acquisition-related functions at Coast Guard headquarters and field activities.

''(2) REQUIRED POSITIONS.—The Commandant shall ensure that members of the acquisition workforce have expertise, education, and training in at least 1 of the following acquisition career fields:

''(A) Acquisition logistics.

''(B) Auditing.

''(C) Business, cost estimating, and financial management.

''(D) Contracting.

''(E) Facilities engineering.

''(F) Industrial or contract property management.

''(G) Information technology.

''(H)) Manufacturing, production, and quality assurance.

''(I) Program management.

''(J) Purchasing.

''(K) Science and technology.

''(L) Systems planning, research, development, and engineering.

''(M) Test and evaluation.

''(3) ACQUISITION WORKFORCE EXPEDITED HIRING AUTHORITY.—

''(A) IN GENERAL.—For purposes of sections 3304, 5333, and 5753 of title 5, the Commandant may—

''(i) designate any category of acquisition positions within the Coast Guard as shortage category positions; and

''(ii) use the authorities in such sections to recruit and appoint highly qualified person directly to positions so designated.

''(B) LIMITATION.—The Commandant may not appoint a person to a position of employment under this paragraph after September 30, 2012.

''(d) MANAGEMENT INFORMATION SYSTEM.—

''(1) IN GENERAL.—The Commandant shall establish a management information system capability to improve acquisition workforce management and reporting.

''(2) INFORMATION MAINTAINED.—Information maintained with such capability shall include the following standardized information on individuals assigned to positions in the workforce:

''(A) Qualifications, assignment history, and tenure of those individuals assigned to positions in the acquisition workforce or holding acquisition-related certifications.

''(B) Promotion rates for officers and members of the Coast Guard in the acquisition workforce.

''(e) CAREER PATHS.—To establish acquisition management as a core competency of the Coast Guard, the Commandant shall—

''(1) ensure that career paths for officers, members, and employees of the Coast Guard who wish to pursue careers in acquisition are identified in terms of the education, training, experience, and assignments necessary for career progression of those officers, members, and employees to the most senior positions in the acquisition workforce; and

''(2) publish information on such career paths.

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

''(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011, the Commandant shall commence implementation of a program to recognize excellent performance by individuals and teams comprised of officers, members, and employees of the Coast Guard that contributed to the long-term success of a Coast Guard acquisition project or program.

''(b) ELEMENTS.—The program shall include—

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

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

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

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

''§ 565. Prohibition on use of lead systems integrators

''(a) IN GENERAL.—

''(1) USE OF LEAD SYSTEMS INTEGRATOR.—Except as provided in subsection (b), the Commandant may not use a private sector entity as a lead systems integrator for an acquisition contract awarded or delivery order or task order issued after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011.

''(2) FULL AND OPEN COMPETITION.—The Commandant and any lead systems integrator engaged by the Coast Guard, pursuant to the exceptions described in subsection ((b), shall use full and open competition for any acquisition contract awarded after the date of enactment of that Act, unless otherwise excepted in accordance with the Competition in Contracting Act of 1984 (41 U.S. C. 251 note), the amendments made by that Act, and the Federal Acquisition Regulations.

''(3) NO EFFECT ON SMALL BUSINESS ACT.—Nothing in this subsection shall be construed to supersede or otherwise affect the authorities provided by and under the Small Business Act (15 U.S.C. 631 et seq.).

''(b) EXCEPTIONS.—

''(1) NATIONAL DISTRESS AND RESPONSE SYSTEM MODERNIZATION PROGRAM; NATIONAL SECURITY CUTTERS 2 AND 3.—Notwithstanding subsection (a), the Commandant may use a private sector entity as a lead systems integrator for the Coast Guard to complete the National Distress and Response System Modernization Program, the C4ISR projects directly related to the Integrated Deepwater Program, and National Security Cutters 2 and 3 if the Secretary of Homeland Security certifies that—

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

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

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

''(A) September 30, 2012; or

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

''§ 566. Required contract terms

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

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

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

''(3) requires that any measurement of contractor and subcontractor performance be based on the status of all work performed, including the extent to which the work performed met all performance, cost, and schedule requirements;

''(4) specifies that, for the acquisition or upgrade of air, surface, or shore capabilities and assets for which compliance with TEMPEST certification is a requirement, the standard for determining such compliance will be the air, surface, or shore standard then used by the Department of the Navy for that type of capability or asset; and

''(5) for any contract awarded to acquire an Offshore Patrol Cutter, includes provisions specifying the service life, fatigue life, and days underway in general Atlantic and North Pacific Sea conditions, maximum range, and maximum speed the cutter will be built to achieve.

''(b) PROHIBITED CONTRACT PROVISIONS.—The Commandant shall ensure that any contract awarded or delivery order or task order issued by the Coast Guard after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011 does not include any provision allowing for equitable adjustment that is not consistent with the Federal Acquisition Regulations.

''(c) INTEGRATED PRODUCT TEAMS.—Integrated product teams, and all teams that oversee integrated product teams, shall be chaired by officers, members, or employees of the Coast Guard.

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

''§ 567. Department of Defense consultation

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

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

''(1) the exchange of technical assistance and support that the Assistant Commandants for Acquisition, Human Resources, Engineering, and Information technology may identify;

''(2) the use, as appropriate, of Navy technical expertise; and

''(3) the exchange of personnel between the Coast Guard and the Office of the Assistant Secretary of the Navy for Research, Development, and Acquisition, including Naval Systems Commands, to facilitate the development of organic capabilities in the Coast Guard.

''(c) TECHNICAL REQUIREMENT APPROVAL PROCEDURES.—The Chief Acquisition Officer shall adopt, to the extent practicable, procedures modeled after those used by the Navy Senior Acquisition Official to approve all technical requirements.

''§ 568. Undefinitized contractual actions

''(a) IN GENERAL.—The Coast Guard may not enter into an undefinitized contractual action unless such action is directly approved by the Head of Contracting Activity of the Coast Guard.

''(b) REQUESTS FOR UNDEFINITIZED CONTRACTUAL ACTIONS.—Any request to the Head of Contracting Activity for approval of an undefinitized contractual action shall include a description of the anticipated effect on requirements of the Coast Guard if a delay is incurred for the purposes of determining contractual terms, specifications, and price before performance is begun under the contractual action.

''(c) REQUIREMENTS FOR UNDEFINITIZED CONTRACTUAL ACTIONS.—

''(1) DEADLINE FOR AGREEMENT ON TERMS, SPECIFICATIONS, AND PRICE.—A contracting officer of the Coast Guard may not enter into an undefinitized contractual action unless the contractual action provides for agreement upon contractual terms, specification, and price by the earlier of—

''(A) the end of the 180-day period beginning on the date on which the contractor submits a qualifying proposal to definitize the contractual terms, specifications, and price; or

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

''(2) LIMITATION ON OBLIGATIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the contracting officer for an undefinitized contractual action may not obligate under such contractual action an amount that exceeds 50 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

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

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

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

''(B) operations to prevent or respond to a transportation security incident (as defined in section 70101(6) of title 46);

''(C) an operation in response to an emergency that poses an unacceptable threat to human health or safety or to the marine environment; or

''(D) an operation in response to a natural disaster or major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

''(4) LIMITATION ON APPLICATION.—This subsection does not apply to an undefinitized contractual action for the purchase of initial spares.

''(d) INCLUSION OF NONURGENT REQUIREMENTS.—Requirements for spare parts and support equipment that are not needed on an urgent basis may not be included in an undefinitized contractual action by the Coast Guard for spare parts and support equipment that are needed on an urgent basis unless the Commandant approves such inclusion as being—

''(1) good business practice; and

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

''(e) MODIFICATION OF SCOPE.—The scope of an undefinitized contractual action under which performance has begun may not be modified unless the Commandant approves such modification as being—

''(1) good business practice; and

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

''(f) ALLOWABLE PROFIT.—The Commandant shall ensure that the profit allowed on an undefinitized contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

''(1) the possible reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated; and

''(2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract.

''(g) DEFINITIONS.—In this section:

''(1) UNDEFINITIZED CONTRACTUAL ACTION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'undefinitized contractual action' means a new procurement action entered into by the Coast Guard for which the contractual terms, specifications, or price are not agreed upon before performance is begun under the action.

''(B) EXCLUSION.—The term 'undefinitized contractual action' does not include contractual actions with respect to—

''(i) foreign military sales;

''(ii) purchases in an amount not in excess of the amount of the simplified acquisition threshold; or

''(iii) special access programs.

''(2) QUALIFYING PROPOSAL.—The term 'qualifying proposal' means a proposal that contains sufficient information to enable complete and meaningful audits of the information contained in the proposal as determined by the contracting officer.

''SUBCHAPTER 2—IMPROVED ACQUISITION PROCESS AND PROCEDURES

''§ 571. Identification of major system acquisitions

''(a) IN GENERAL.—

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

''(2) MISSION ANALYSIS; AFFORDABILITY ASSESSMENT.—The Commandant may not initiate a Level 1 or Level 2 acquisition project or program until the Commandant—

''(A) completes a mission analysis that—

''(i) identifies any gaps in capability; and

''(ii) develops a clear mission need; and

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

''(b) ELEMENTS.—

''(1) REQUIREMENTS.—The mechanisms required by subsection (a) shall ensure the implementation of a formal process for the development of a mission-needs statement, concept-of-operations document, capability development plan, and resource proposal for the initial project or program funding, and shall ensure the project or program is included in the Coast Guard Capital Investment Plan.

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

''(c) HUMAN RESOURCE CAPITAL PLANNING.—The Commandant shall develop staffing predictions, define human capital performance initiatives, and identify preliminary training needs for any such project or program.

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

''§ 572. Acquisition

''(a) IN GENERAL.—The Commandant may not establish a Level 1 or Level 2 acquisition project or program approved under section 571(d) until the Commandant—

''(1) clearly defines the operational requirements for the project or program;

''(2) establishes the feasibility of alternatives;

''(3) develops an acquisition project or program baseline;

''(4) produces a life-cycle cost estimate; and

''(5) assesses the relative merits of alternatives to determine a preferred solution in accordance with the requirements of this section.

''(b) ANALYSIS OF ALTERNATIVES.—

''(1) IN GENERAL.—The Commandant shall conduct an analysis of alternatives for the asset or capability to be acquired in an analyze and select phase of the acquisition process.

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

''(A) an assessment of the technical maturity, and technical and other risks;

''(B) an examination of capability, interoperability, and other disadvantages;

''(C) an evaluation of whether different combinations or quantities of specific assets or capabilities could meet the Coast Guard's overall performance needs;

''(D) a discussion of key assumptions and variables, and sensitivity to change in such assumptions and variables;

''(E) when an alternative is an existing asset or prototype, an evaluation of relevant safety and performance records and costs;

''(F) a calculation of life-cycle costs including—

''(i) an examination of likely research and development costs and the levels of uncertainty associated with such estimated costs;

''(ii) an examination of likely production and deployment costs and levels of uncertainty associated with such estimated costs;

''(iii) an examination of likely operating and support costs and the levels of uncertainty associated with such estimated costs;

''(iv) if they are likely to be significant, an examination of likely disposal costs and the levels of uncertainty associated with such estimated costs; and

''(v) such additional measures as the Commandant or the Secretary of Homeland Security determines to be necessary for appropriate evaluation of the asset; and

''(G) the business case for each viable alternative.

''(c) TEST AND EVALUATION MASTER PLAN.—

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

''(2) TEST AND EVALUATION STRATEGY.—The master plan shall—

''(A) set forth an integrated test and evaluation strategy that will verify that capability-level or asset-level and subsystem-level design and development, including performance and supportability, have been sufficiently proven before the capability, asset, or subsystem of the capability or asset is approved for production; and

''(B) require that adequate developmental tests and evaluations and operational tests and evaluations established under subparagraph (A) are performed to inform production decisions.

''(3) OTHER COMPONENTS OF THE MASTER PLAN.—At a minimum, the master plan shall identify—

''(A) the key performance parameters to be resolved through the integrated test and evaluation strategy;

''(B) critical operational issues to be assessed in addition to the key performance parameters;

''(C) specific development test and evaluation phases and the scope of each phase;

''(D) modeling and simulation activities to be performed, if any, and the scope of such activities;

''(E) early operational assessments to be performed, if any, and the scope of such assessments;

''(F) operational test and evaluation phases;

''(G) an estimate of the resources, including funds, that will be required for all test, evaluation, assessment, modeling, and simulation activities; and

''(H) the Government entity or independent entity that will perform the test, evaluation, assessment, modeling, and simulation activities.

''(4) UPDATE.—The Chief Acquisition Officer shall approve an updated master plan whenever there is a revision to project or program test and evaluation strategy, scope, or phasing.

''(5) LIMITATION.—The Coast Guard may not—

''(A) proceed beyond that phase of the acquisition process that entails approving the supporting acquisition of a capability or asset before the master plan is approved by the Chief Acquisition Officer; or

''(B) award any production contract for a capability, asset, or subsystem for which a master plan is required under this subsection before the master plan is approved by the Chief Acquisition Officer.

''(d) LIFE-CYCLE COST ESTIMATES.—

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

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

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

''(e) DHS ACQUISITION APPROVAL.—A project or program may not enter the obtain phase under section 573 unless the Department of Homeland Security Acquisition Review Board or the Joint Review Board (or other entity to which such responsibility is delegated by the Secretary of Homeland Security) has approved the analysis of alternatives for the project. The Joint Review Board may also approve the low rates initial production quantity for the project or program if such an initial production quantity is planned by the acquisition project or program and deemed appropriate by the Joint Review Board.

''§ 573. Preliminary development and demonstration

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

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

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

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

''(b) TESTS AND EVALUATIONS.—

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

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

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

''(4) ASSET ALREADY IN LOW, INITIAL, OR FULL-RATE PRODUCTION.—If operational test and evaluation on a capability or asset already in low, initial, or full-rate production identifies a safety concern with the capability or asset or any subsystems of the capability or asset not previously identified during developmental or operational test and evaluation, the Commandant shall—

''(A) notify the program manager and the Chief Acquisition Officer of the safety concern as soon as practicable, but not later than 30 days after the completion of the test and evaluation event or activity that identified the safety concern; and

''(B) notify the Chief Acquisition Officer and include in such notification—

''(i) an explanation of the actions that will be taken to correct or mitigate the safety concern in all capabilities or assets and subsystems of the capabilities or assets yet to be produced, and the date by which those actions will be taken;

''(ii) an explanation of the actions that will be taken to correct or mitigate the safety concern in previously produced capabilities or assets and subsystems of the capabilities or assets, and the date by which those actions will be taken; and

''(iii) an assessment of the adequacy of current funding to correct or mitigate the safety concern in capabilities or assets and subsystems of the capabilities or assets and in previously produced capabilities or assets and subsystems.

''(c) TECHNICAL CERTIFICATION.—

''(1) IN GENERAL.—The Commandant shall— ensure that any Level 1 or Level 2 acquisition project or program is certified by the technical authority of the Coast Guard after review by an independent third party with capabilities in the mission area, asset, or particular asset component.

''(2) TEMPEST TESTING.—The Commandant shall—

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

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

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

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

''§ 574. Acquisition, production, deployment, and support

''(a) IN GENERAL.—The Commandant shall—

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

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

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

''(b) ELEMENTS.—The Commandant shall—

''(1) execute the productions contracts;

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

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

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

''§ 575. Acquisition program baseline breach

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

''(1) a likely cost overrun greater than 15 percent of the acquisition program baseline for that individual capability or asset or a class of capabilities or assets;

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

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

''(b) CONTENT.—The report submitted under subsection (a) shall include—

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

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

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

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

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

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

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

''(c) SUBSTANTIAL VARIANCES IN COSTS OR SCHEDULE.—If a likely cost overrun is greater than 25 percent or a likely delay is greater than 12 months from the costs and schedule described in the acquisition program baseline for any Level 1 or Level 2 acquisition project or program of the Coast Guard, the Commandant shall include in the report a written certification, with a supporting explanation, that—

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

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

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

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

''SUBCHAPTER 3—DEFINITIONS

''§ 581. Definitions

''In this chapter:

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

''(2) CHIEF ACQUISITION OFFICER.—The term 'Chief Acquisition Officer' means the officer appointed under section 55 of this title.

''(3) COMMANDANT.—The term 'Commandant' means the Commandant of the Coast Guard.

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

''(5) LEVEL 1 ACQUISITION.—The term 'Level 1 acquisition' means—

''(A) an acquisition by the Coast Guard—

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

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

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

''(i) due to—

''(I) the experimental or technically immature nature of the asset;

''(II) the technological complexity of the asset;

''(III) the commitment of resources; or

''(IV) the nature of the capability or set of capabilities to be achieved; or

''(ii) because such acquisition is a joint acquisition.

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

''(A) the estimated life-cycle costs of which are equal to or less than $1,000,000,000, but greater than $300,000,000; or

''(B) the estimated total acquisition costs of which are equal to or less than $300,000,0000, but greater than $100,000,000.

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

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

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

''15. Acquisitions ....561''.

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

(a) COMPTROLLER GENERAL REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall issue a report on pass-through charges on contracts, subcontracts, delivery orders, and task orders that were executed by a lead systems integrator under contract to the Coast Guard during the 3 full calendar years preceding the date of enactment of this Act.

(2) MATTERS COVERED.—The report under this subsection—

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

(B) shall assess the extent to which the Coast Guard has been particularly vulnerable to excessive pass-through charges on any specific category of contracts or by any specific category of contractors.

(b) GUIDANCE REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commandant shall prescribe guidance to ensure that pass-through charges on contracts, subcontracts, delivery orders, and task orders that are executed with a private entity acting as a lead systems integrator by or on behalf of the Coast Guard are not excessive in relation to the cost of work performed by the relevant contractor or subcontractor. The guidance shall, at a minimum—

(A) set forth clear standards for determining when no, or negligible, value has been added to a contract by a contractor or subcontractor;

(B) set forth procedures for preventing the payment by the Government of excessive pass-through charges; and

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

(2) SCOPE OF GUIDANCE.—The guidance prescribed under this subsection—

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

(i) awarded on the basis of adequate price competition, as determined by the Commandant; or

(ii) for the acquisition of a commercial item, as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)); and

(B) may include such additional exceptions as the Commandant determines to be necessary in the interest of the United States.

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

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

TITLE VI—SHIPPING AND NAVIGATION

SEC. 601. TECHNICAL AMENDMENTS TO CHAPTER 313 OF TITLE 46, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 313 of title 46, United States Code, is amended—

(1) by striking ''of Transportation'' in sections 31302, 31306, 31321, 31330, and 31343 each place it appears;

(2) by striking ''and'' after the semicolon in section 31301(5)(F);

(3) by striking ''office.'' in section 31301(6) and inserting ''office; and''; and

(4) by adding at the end of section 31301 the following:

''(7) 'Secretary' means the Secretary of the Department of Homeland Security, unless otherwise noted.''.

(b) SECRETARY AS MORTGAGEE.—Section 31308 of such title is amended by striking ''When the Secretary of Commerce or Transportation is a mortgagee under this chapter, the Secretary'' and inserting ''The Secretary of Commerce or Transportation, as a mortgagee under this chapter,''.

(c) SECRETARY OF TRANSPORTATION.—Section 31329(d) of such title is amended by striking ''Secretary.'' and inserting ''Secretary of Transportation.''.

(d) MORTGAGEE.—

(1) Section 31330(a)(1) of such title, as amended by subsection (a)(1) of this section, is amended—

(A) by inserting ''or'' after the semicolon in subparagraph (B);

(B) by striking ''Secretary; or'' in subparagraph (C) and inserting ''Secretary.''; and

(C) by striking subparagraph (D).

(2) Section 31330(a)(2) is amended—

(A) by inserting ''or'' after the semicolon in subparagraph (B);

(B) by striking ''faith; or'' in subparagraph (C) and inserting ''faith.''; and

(C) by striking subparagraph (D).

SEC. 602. CLARIFICATION OF RULEMAKING AUTHORITY.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended by adding at the end the following:

''§ 70122. Regulations

''Unless otherwise provided, the Secretary may issue regulations necessary to implement this chapter.''.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 701 of such title is amended by adding at the end the following new item:

''70122. Regulations.''.

SEC. 603. COAST GUARD TO MAINTAIN LORAN–C NAVIGATION SYSTEM.

(a) IN GENERAL.—The Secretary of Transportation shall maintain the LORAN–C navigation system until such time as the Secretary is authorized by statute, explicitly referencing this section, to cease operating the system but expedite modernization projects necessary for transition to eLORAN technology.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation, in addition to funds authorized under section 101 of this Act for the Coast Guard for operation of the LORAN–C system and for the transition to eLORAN, for capital expenses related to the LORAN–C infrastructure and to modernize and upgrade the LORAN infrastructure to provide eLORAN services, $37,000,000 for each of fiscal years 2010 and 2011. The Secretary of Transportation may transfer from the Federal Aviation Administration and other agencies of the Department of Transportation such funds as may be necessary to reimburse the Coast Guard for related expenses.

(c) REPORT ON TRANSITION TO ELORAN TECHNOLOGY.—No later than 6 months after the date of enactment of this Act, the Secretary of Transportation, in cooperation with the Secretary of the Department in which the Coast Guard is operating, shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a detailed 5-year plan for transition to eLORAN technology that includes—

(1) the timetable, milestones, projects, and future funding required to complete the transition from LORAN-C to eLORAN technology for provision of positioning, navigation, and timing services; and

(2) the benefits of eLORAN for national transportation safety, security, and economic growth.

SEC. 604. ICEBREAKERS.

(a) ANALYSES.—Not later than 90 days after the date of enactment of this Act or the date of completion of the ongoing High Latitude Study to assess polar ice-breaking mission requirements, which ever occurs later, the Commandant of the Coast Guard shall—

(1) conduct a comparative cost-benefit analysis of—

(A) rebuilding, renovating, or improving the existing fleet of polar icebreakers for operation by the Coast Guard,

(B) constructing new polar icebreakers for operation by the Coast Guard for operation by the Coast Guard, and

(C) any combination of the activities described in subparagraphs (A) and (B),

to carry out the missions of the Coast Guard; and

(2) conduct an analysis of the impact on mission capacity and the ability of the United States to maintain a presence in the polar regions through the year 2020 if recapitalization of the polar icebreaker fleet, either by constructing new polar icebreakers or rebuilding, renovating, or improving the existing fleet of polar icebreakers, is not fully funded.

(b) REPORTS TO CONGRESS.—

(1) Not later than 90 days after the date of enactment of this Act or the date of completion of the ongoing High Latitude Study to assess polar ice-breaking mission requirements, which ever occurs later, the Commandant of the Coast Guard shall submit a report containing the results of the study, together with recommendations the Commandant deems appropriate under section 93(a)(24) of title 14, United States Code, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(2) Not later than 1 year after the date of enactment of this Act, the Commandant shall submit reports containing the results of the analyses required under paragraphs (1) and (2) of subsection (a), together with recommendations the Commandant deems appropriate under section 93(a)(24) of title 14, United States Code, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

SEC. 605. VESSEL SIZE LIMITS.

(a) LENGTH, TONNAGE, AND HORSEPOWER.—Section 12113(d)(2) of title 46, United States Code, is amended—

(1) by inserting ''and'' after the semicolon at the end of subparagraph (A)(i);

(2) by striking ''and'' at the end of subparagraph (A)(ii);

(3) by striking subparagraph (A)(iii);

(4) by striking the period at the end of subparagraph (B) and inserting ''; or''; and

(5) by inserting at the end the following:

''(C) the vessel is either a rebuilt vessel or a replacement vessel under section 208(g) of the American Fisheries Act (title II of division C of Public Law 105–277; 112 Stat. 2681–627) and is eligible for a fishery endorsement under this section.''.

(b) CONFORMING AMENDMENTS.—

(1) VESSEL REBUILDING AND REPLACEMENT.—Section 208(g) of the American Fisheries Act (title II of division C of Public Law 105–277; 112 Stat. 2681–627) is amended to read as follows:

''(g) VESSEL REBUILDING AND REPLACEMENT.—

''(1) IN GENERAL.—

''(A) REBUILD OR REPLACE.—Notwithstanding any limitation to the contrary on replacing, rebuilding, or lengthening vessels or transferring permits or licenses to a replacement vessel contained in sections 679.2 and 679.4 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011 and except as provided in paragraph (4), the owner of a vessel eligible under subsection (a), (b), (c), (d), or (e) (other than paragraph (21)), in order to improve vessel safety and operational efficiencies (including fuel efficiency), may rebuild or replace that vessel (including fuel efficiency) with a vessel documented with a fishery endorsement under section 12113 of title 46, United States Code.

''(B) SAME REQUIREMENTS.—The rebuilt or replacement vessel shall be eligible in the same manner and subject to the same restrictions and limitations under such subsection as the vessel being rebuilt or replaced.

''(C) TRANSFER OF PERMITS AND LICENSES.—Each fishing permit and license held by the owner of a vessel or vessels to be rebuilt or replaced under subparagraph (A) shall be transferred to the rebuilt or replacement vessel.

''(2) RECOMMENDATIONS OF NORTH PACIFIC COUNCIL.—The North Pacific Council may recommend for approval by the Secretary such conservation and management measures, including size limits and measures to control fishing capacity, in accordance with the Magnuson-Stevens Act as it considers necessary to ensure that this subsection does not diminish the effectiveness of fishery management plans of the Bering Sea and Aleutian Islands Management Area or the Gulf of Alaska.

''(3) SPECIAL RULE FOR REPLACEMENT OF CERTAIN VESSELS.—

''(A) IN GENERAL.—Notwithstanding the requirements of subsections (b)(2), (c)(1), and

(c)(2) of section 12113 of title 46, United States Code, a vessel that is eligible under subsection (a), (b), (c), (d), or (e) (other than paragraph (21)) and that qualifies to be documented with a fishery endorsement pursuant to section 203(g) or 213(g) may be replaced with a replacement vessel under paragraph (1) if the vessel that is replaced is validly documented with a fishery endorsement pursuant to section 203(g) or 213(g) before the replacement vessel is documented with a fishery endorsement under section 12113 of title 46, United States Code.

''(B) APPLICABILITY.—A replacement vessel under subparagraph (A) and its owner and mortgagee are subject to the same limitations under section 203(g) or 213(g) that are applicable to the vessel that has been replaced and its owner and mortgagee.

''(4) SPECIAL RULES FOR CERTAIN CATCHER VESSELS.—

''(A) IN GENERAL.—A replacement for a covered vessel described in subparagraph (B) is prohibited from harvesting fish in any fishery (except for the Pacific whiting fishery) managed under the authority of any regional fishery management council (other than the North Pacific Council) established under section 302(a) of the Magnuson-Stevens Act.

''(B) COVERED VESSELS.—A covered vessel referred to in subparagraph (A) is—

''(i) a vessel eligible under subsection (a), (b), or (c) that is replaced under paragraph (1); or

''(ii) a vessel eligible under subsection (a), (b), or (c) that is rebuilt to increase its registered length, gross tonnage, or shaft horsepower.

''(5) LIMITATION ON FISHERY ENDORSEMENTS.—Any vessel that is replaced under this subsection shall thereafter not be eligible for a fishery endorsement under section 12113 of title 46, United States Code, unless that vessel is also a replacement vessel described in paragraph (1).

''(6) GULF OF ALASKA LIMITATION.—Notwithstanding paragraph (1), the Secretary shall prohibit from participation in the groundfish fisheries of the Gulf of Alaska any vessel that is rebuilt or replaced under this subsection and that exceeds the maximum length overall specified on the license that authorizes fishing for groundfish pursuant to the license limitation program under part 679 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011.

''(7) AUTHORITY OF PACIFIC COUNCIL.—Nothing in this section shall be construed to diminish or otherwise affect the authority of the Pacific Council to recommend to the Secretary conservation and management measures to protect fisheries under its jurisdiction (including the Pacific whiting fishery) and participants in such fisheries from adverse impacts caused by this Act.''.

(2) EXEMPTION OF CERTAIN VESSELS.—Section 203(g) of the American Fisheries Act (title II of division C of Public Law 105–277; 112 Stat. 2681–620) is amended—

(A) by inserting ''and'' after ''(United States official number 651041)'';

(B) by striking '', NORTHERN TRAVELER (United States official number 635986), and NORTHERN VOYAGER (United States official number 637398) (or a replacement vessel for the NORTHERN VOYAGER that complies with paragraphs (2), (5), and (6) of section 208(g) of this Act)''; and

(C) by striking '', in the case of the NORTHERN'' and all that follows through ''PHOENIX,''.

(3) FISHERY COOPERATIVE EXIT PROVISIONS.—Section 210(b) of the American Fisheries Act (title II of division C of Public Law 105–277; 112 Stat. 2681–629) is amended—

(A) by moving the matter beginning with ''the Secretary shall'' in paragraph (1) 2 ems to the right; and

(B) by adding at the end the following:

''(7) FISHERY COOPERATIVE EXIT PROVISIONS.—

''(A) FISHING ALLOWANCE DETERMINATION.—For purposes of determining the aggregate percentage of directed fishing allowances under paragraph (1), when a catcher vessel is removed from the directed pollock fishery, the fishery allowance for pollock for the vessel being removed—

''(i) shall be based on the catch history determination for the vessel made pursuant to section 679.62 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2008; and

''(ii) shall be assigned, for all purposes under this title, in the manner specified by the owner of the vessel being removed to any other catcher vessel or among other catcher vessels participating in the fishery cooperative if such vessel or vessels remain in the fishery cooperative for at least one year after the date on which the vessel being removed leaves the directed pollock fishery.

''(B) ELIGIBILITY FOR FISHERY ENDORSEMENT.—Except as provided in subparagraph (C), a vessel that is removed pursuant to this paragraph shall be permanently ineligible for a fishery endorsement, and any claim (including relating to catch history) associated with such vessel that could qualify any owner of such vessel for any permit to participate in any fishery within the exclusive economic zone of the United States shall be extinguished, unless such removed vessel is thereafter designated to replace a vessel to be removed pursuant to this paragraph.

''(C) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this paragraph shall be construed—

''(i) to make the vessels AJ (United States official number 905625), DONA MARTITA (United States official number 651751), NORDIC EXPLORER (United States official number 678234), and PROVIDIAN (United States official number 1062183) ineligible for a fishery endorsement or any permit necessary to participate in any fishery under the authority of the New England Fishery Management Council or the Mid-Atlantic Fishery Management Council established, respectively, under subparagraphs (A) and (B) of section 302(a)(1) of the Magnuson-Stevens Act; or

''(ii) to allow the vessels referred to in clause (i) to participate in any fishery under the authority of the Councils referred to in clause (i) in any manner that is not consistent with the fishery management plan for the fishery developed by the Councils under section 303 of the Magnuson-Stevens Act.''.

TITLE VII—VESSEL CONVEYANCE

SEC. 701. SHORT TITLE.

This title may be cited as the ''Vessel Conveyance Act''.

SEC. 702. CONVEYANCE OF COAST GUARD VESSELS FOR PUBLIC PURPOSES.

(a) IN GENERAL.—Whenever the transfer of ownership of a Coast Guard vessel to an eligible entity for use for educational, cultural, historical, charitable, recreational, or other public purposes is authorized by law, the Coast Guard shall transfer the vessel to the General Services Administration for conveyance to the eligible entity.

(b) CONDITIONS OF CONVEYANCE.—The General Services Administration may not convey a vessel to an eligible entity as authorized by law unless the eligible entity agrees—

(1) to provide the documentation needed by the General Services Administration to process a request for aircraft or vessels under section 102.37.225 of title 41, Code of Federal Regulations;

(2) to comply with the special terms, conditions, and restrictions imposed on aircraft and vessels under section 102-37.460 of such title;

(3) to make the vessel available to the United States Government if it is needed for use by the Commandant of the Coast Guard in time of war or a national emergency; and

(4) to hold the United States Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising from use of the vessel by the United States Government under paragraph (3).

(c) ELIGIBLE ENTITY DEFINED.—In this section, the term ''eligible entity'' means a State or local government, nonprofit corporation, educational agency, community development organization, or other entity that agrees to comply with the conditions established under this section.

By Mr. SPECTER (for himself and Mr. CASEY):

S. 1195. A bill to require the Secretary of Agriculture to carry out the Philadelphia universal feeding pilot program until the last day of the 2012–2013 school year of the School District of Philadelphia; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. SPECTER. Mr. President, I rise today to speak on the Department of Agriculture's decision to end the Philadelphia School District's Universal Feeding Pilot Program and to introduce legislation extending the program. While changes to the Philadelphia program may be necessary, the appropriate time to consider these changes is during congressional reauthorization of the Child Nutrition Act. Senator CASEY and I are seeking to extend the program through the 2012–13 school year. This extension is necessary to ensure that thousands of children in Philadelphia's poorest schools are not deprived of the nutritional assistance they have relied on for over 17 years.

Recognizing the value of proper nutrition to successful learning, Congress, in 1946, passed the Richard B. Russell National School Lunch Act. This act provides the authority for the School Lunch Program, as well as several other child nutrition initiatives. In 1966 Congress expanded on its commitment to child nutrition by passing the Child Nutrition Act, which authorized the School Breakfast Program. These programs have continued to evolve through changing times and changing technologies to ensure that the goal of providing nutrition assistance to our Nation's school children is met.

In 1991 the Department of Agriculture worked with the Philadelphia School District to develop a more streamlined method of reimbursing the School District for meals served under the National School Breakfast and School Lunch Program, and ensuring all eligible students receive free meals.

This new method eliminated paper applications for free school meals, and replaced them with a socioeconomic survey based method of determining reimbursement rates and eligibility.

Paper applications are costly, and parents too often fail to return them. The socioeconomic survey based approach was chosen because it reduced administrative overhead costs and is thought to better ensure that all eligible students are accounted for. In addition, by providing Universal Service the stigma associated with receiving a free or reduced price school meal is eliminated. Indeed, during the first year of the Universal Feeding Pilot Program, the Philadelphia School District saw a 14 percent increase in lunch participation in elementary schools, a 45 percent increase in middle schools and a 180 percent increase in high schools. The Philadelphia Universal Feeding Pilot Program has successfully increased student participation in the school meal program. Should this program be ended, as the Department of Agriculture would have it, children in the Philadelphia School District will have their ability to learn undermined by Washington, DC, bureaucrats.

The students and parents in 200 of Philadelphia's poorest schools have not filled out paper applications for free and reduced priced school meals in over seventeen years. It is almost certain that some parents will fail to return paper applications to the school district, resulting in the underreporting of eligible students. In fact, the Secretary of Agriculture tacitly acknowledges the ineffectiveness of paper applications by offering outreach assistance to the Philadelphia School District.

A decrease in the amount of students claiming free or reduced lunches will lower the Department of Agriculture's reimbursement rate to the Philadelphia School District. Reducing the school meal reimbursement rate will not only cause the Philadelphia School District budgetary problems in relation to the school meals program, but because other grant funding is often based on the percentage of low income students in a district, as determined by participation rates in the school meal program, the District could potentially lose millions of dollars in other state and Federal grant funding. Federal E-rate funding, for example, which is used for educational technology, is based directly on school meal program eligibility percentages.

Congress is expected to take up the Child Nutrition Act reauthorization later this year. Universal Feeding and the National School Breakfast and Lunch Program will be a part of this debate, and this is an appropriate time and place to consider changes to the program. We know from experience that Congressional action is not always as swift as planned, and that the legislative calendar changes from week to week if not from day to day.

Therefore, Senator CASEY and I introduce legislation today to extend the Philadelphia School District's Universal Feeding Pilot Program through the close of the 2012–2013 school year to ensure that Philadelphia school children receive the necessary nutritional assistance until Congress can enact a new policy.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 168—COMMENDING THE UNIVERSITY OF WASHINGTON WOMEN'S SOFTBALL TEAM FOR WINNING THE 2009 NCAA WOMEN'S COLLEGE WORLD SERIES

Mrs. MURRAY (for herself and Ms. CANTWELL) submitted the following resolution; which was considered and agreed to:

S. RES. 168

Whereas on June 2, 2009, for the first time in university history, the University of Washington Women Huskies won the National Collegiate Athletic Association (''NCAA'') national softball championship game with a 3–2 victory over the University of Florida Gators;

Whereas University of Washington pitcher Danielle Lawrie was named the Women's College World Series Most Valuable Player and the USA Softball National Collegiate Player of the Year;

Whereas the Huskies finished the 2009 season with an impressive record of 51-12;

Whereas the members of the 2009 University of Washington softball team are excellent representatives of a university that is 1 of the premier academic institutions in Washington State, producing many outstanding student-athletes and other leaders; and

Whereas the members of the women's softball team have brought great honor to themselves, their families, the University of Washington, and the State of Washington: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Washington softball team for winning the 2009 Women's College World Series;

(2) recognizes the achievements of the players, coaches, students, and staff whose hard work and dedication helped the University of Washington win the championship; and

(3) respectfully requests the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) Mark A. Emmert, president of the University of Washington;

(B) Scott Woodward, director of athletics of the University of Washington; and

(C) Heather Tarr, head coach of the University of Washington softball team.

SENATE RESOLUTION 169—EXPRESSING THE SENSE OF THE SENATE THAT THE GOVERNMENT OF THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA SHOULD WORK WITHIN THE FRAMEWORK OF THE UNITED NATIONS PROCESS WITH GREECE TO ACHIEVE LONGSTANDING UNITED STATES AND UNITED NATIONS POLICY GOALS OF FINDING A MUTUALLY ACCEPTABLE COMPOSITE NAME, WITH A GEOGRAPHICAL QUALIFIER AND FOR ALL INTERNATIONAL USES FOR THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

Mr. MENENDEZ (for himself, Ms. SNOWE, Mrs. SHAHEEN, and Ms. MIKULSKI) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 169

Whereas, on April 8, 1993, the United Nations General Assembly admitted as a member the former Yugoslav Republic of Macedonia, under the name the ''former Yugoslav Republic of Macedonia'';

Whereas United Nations Security Council Resolution 817 (1993) states that the international dispute over the name must be resolved to maintain peaceful relations between Greece and the former Yugoslav Republic of Macedonia and regional stability;

Whereas Greece is a strategic partner and ally of the United States in bringing political stability and economic development to the Balkan region, having invested over $20,000,000,000 in the countries of the region, thereby creating over 200,000 new jobs, and having contributed over $750,000,000 in development aid for the region;

Whereas Greece has invested over $1,000,000,000 in the former Yugoslav Republic of Macedonia, thereby creating more than 10,000 new jobs and having contributed $110,000,000 in development aid;

Whereas Senate Resolution 300, introduced in the 110th Congress, urged the former Yugoslav Republic of Macedonia to abstain from hostile activities and stop the utilization of materials that violate provisions of the United Nations-brokered Interim Agreement between the former Yugoslav Republic of Macedonia and Greece regarding ''hostile activities or propaganda'';

Whereas NATO's Heads of State and Government unanimously agreed in Bucharest on April 3, 2008, that ''. . . within the framework of the UN, many actors have worked hard to resolve the name issue, but the Alliance has noted with regret that these talks have not produced a successful outcome. Therefore we agreed that an invitation to the former Yugoslav Republic of Macedonia will be extended as soon as a mutually acceptable solution to the name issue has been reached. We encourage the negotiations to be resumed without delay and expect them to be concluded as soon as possible'';

Whereas the Heads of State and Government participating in the meeting of the North Atlantic Council in Strasbourg/Kehl on April 4, 2009, reiterated their unanimous support for the agreement at the Bucharest Summit ''to extend an invitation to the former Yugoslav Republic of Macedonia as soon as a mutually acceptable solution to the name issue has been reached within the framework of the UN, and urge intensified efforts towards that goal.''; and

Whereas authorities in the former Yugoslav Republic of Macedonia urged their citizens to boycott Greek investments in the