importance of enabling health centers and other safety net providers to continue to offer accessible, affordable, and continuous care to their current patients and to every American who lacks access to preventive and primary care services.

S. RES. 159

At the request of Mr. BURRIS, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from Michigan (Mr. LEVIN), the Senator from Kansas (Mr. BROWNBACK) and the Senator from New York (Mrs. GILLIBRAND) were added as cosponsors of S. Res. 159, a resolution recognizing the historical significance of Juneteenth Independence Day and expressing the sense of the Senate that history should be regarded as a means for understanding the past and solving the challenges of the future.

S. RES. 170

At the request of Mr. CASEY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. Res. 170, a resolution expressing the sense of the Senate that children should benefit, and in no case be worse off, as a result of reform of the Nation's health care system.

S. RES. 179

At the request of Mr. KAUFMAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. Res. 179, a resolution congratulating the American Society of Mechanical Engineers on its 125 years of codes and standards development.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1236. A bill to amend title XVIII of the Social Security Act to transition to the use of metropolitan statistical areas as fee schedule areas for the physician fee schedule in California under the Medicare program; to the Committee on Finance.

Mrs. FEINSTEIN. Mr. President, I rise to introduce legislation to correct a longstanding flaw in the Medicare Geographic Practice Cost Index, GPCI, system that negatively impacts physicians in California and several other states.

This legislation will base California physician payments on Metropolitan Statistical Areas, MSAs. Hospital payments are developed this way, and it makes sense to pay our doctors in the same manner.

It holds harmless the counties, predominately rural ones, whose locality average would otherwise drop as other counties are reclassified.

Congressman SAM FARR, along with several California colleagues, is introducing companion legislation.

The Medicare Geographic Practice Cost Index measures the cost of providing a Medicare covered service in a geographic area. Medicare payments are supposed to reflect the varying costs of rent, malpractice insurance, and other expenses necessary to operate a medical process. Counties are assigned to ''payment localities'' that are supposed to accurately capture these costs.

Here is the problem. Some of these payment localities have not changed since 1997. Others have been in place since 1966. Many areas that were rural even 10 years ago have experienced significant population growth, as metropolitan areas and suburbs have spread. Many counties now find themselves in payment localities that do not accurately reflect their true practice costs.

These payment discrepancies have a real and serious impact on physicians and the Medicare beneficiaries they are unable to serve. My home State of California has been hit particularly hard.

San Diego County physicians are underpaid by 4 percent. A number of physicians have left the county and 60 percent of remaining San Diego physicians report that they cannot recruit new doctors to their practices.

Santa Cruz County receives an 8.6 percent underpayment, and as a result, no physicians are accepting new Medicare patients. Instead, they are moving to neighboring Santa Clara, which has similar practice cost expense, but is reimbursed at a much higher rate. This means that seniors often need to travel at least 20 miles to see a physician.

Sacramento County, a major metropolitan area, is underpaid by 2.7 percent. The county's population has grown by 9.6 percent, while the number of physicians has declined by 11 percent.

Sonoma County physicians are paid at least 6.2 percent less than their geographic practice costs. They have experienced at 10 percent decline in specialists and a 9 percent decline in primary care physicians.

Health care coverage is not the same as access to health care. Seniors' Medicare cards are of no value if physicians in their community cannot afford to provide them with health care.

Physicians deserve to be fairly compensated for the work they perform. California doctors simply want to be compensated at the correct rate for the practice expenses they face.

This is not too much to ask.

The underpayment problem grows more severe every year, and the longer we wait to address it, the more drastic the solution will need to be. This legislation provides a common sense solution, increasing payment for those facing the most drastic underpayments, while protecting other counties from cuts in the process.

This is an issue of equity. It costs more to provide health care in expensive areas, and physicians serving our seniors must be fairly compensated.

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. 1236

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 ''GPCI Justice Act of 2009''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) From 1966 through 1991, the Medicare program paid physicians based on what they charged for services. The Omnibus Reconciliation Act of 1989 required the establishment of a national Medicare physician fee schedule, which was implemented in 1992, replacing the charge-based system.

(2) The Medicare physician fee schedule currently includes more than 7000 services together with their corresponding payment rates. In addition, each service on the fee schedule has three relative value units (RVUs) that correspond to the three physician payment components of physician work, practice expense, and malpractice expense.

(3)(A) Each geographically adjusted RVU measures the relative costliness of providing a particular service in a particular location referred to as a locality. Physician payment localities are primarily consolidations of the carrier-defined localities that were established in 1966.

(B) When physician payment localities were redesignated in 1997, the Administrator of the Centers for Medicare & Medicaid Services acknowledged that the new payment locality configuration had not been established on a consistent geographic basis. Some were based on zip codes or Metropolitan Statistical Areas (MSAs) while others were based on political boundaries, such as cities, counties, or States.

(C) The Medicare program has not revised the geographic boundaries of the physician payment localities since the 1997 revision.

(4) Medicare's geographic adjustment for a particular physician payment locality is determined using three GPCIs (Geographic Practice Cost Indices) that also correspond to the three Medicare physician payment components of physician work, practice expense, and malpractice expense.

(5) The major data source used in calculating the GPCIs is the decennial census which provides new data only once every 10 years.

(6) This system of geographic payment designation has resulted in more than half of the current physician payment localities having counties within them with a large payment difference of 5 percent or more. A disproportionate number of these underpaid counties are located in California, Georgia, Minnesota, Ohio, and Virginia.

(7) For purposes of payment under the Medicare program, hospitals are organized and reimbursed for geographic costs according to MSAs.

(8) Studies by the Medicare Payment Advisory Commission (MedPAC) in 2007, the Government Accountability Office (GAO) in 2007, the Urban Institute in 2008, and Acumen LLC in 2008 have all documented this physician GPCI payment discrepancy—specifically that more than half of the current physician payment localities had counties within them with a large payment difference (that is, a payment difference of 5 percent or more) between GAO's measure of physicians' costs and Medicare's geographic adjustment for an area. All these objective studies have recommended changes to the locality system to correct the payment discrepancies.

(9) A common recommendation among the GPCI payment discrepancy studies referred to in paragraph (8) is to eliminate the county-based locality and replace it with one determined by Metropolitan Statistical Area.

SEC. 3. REDESIGNATING THE GEOGRAPHICAL PRACTICE COST INDEX (GPCI) LOCALITIES IN CALIFORNIA.

(a) IN GENERAL.—Section 1848(e) of the Social Security Act (42 U.S.C.1395w–4(e)) is amended by adding at the end the following new paragraph:

''(6) TRANSITION TO USE OF MSAS AS FEE SCHEDULE AREAS IN CALIFORNIA.—

''(A) IN GENERAL.—

''(i) REVISION.—Subject to clause (ii) and notwithstanding the previous provisions of this subsection, for services furnished on or after January 1, 2010, the Secretary shall revise the fee schedule areas used for payment under this section applicable to the State of California using the Metropolitan Statistical Area (MSA) iterative Geographic Adjustment Factor methodology as follows:

''(I) The Secretary shall configure the physician fee schedule areas using the Core-Based Statistical Areas-Metropolitan Statistical Areas (each in this paragraph referred to as an 'MSA'), as defined by the Director of the Office of Management and Budget, as the basis for the fee schedule areas. The Secretary shall employ an iterative process to transition fee schedule areas. First, the Secretary shall list all MSAs within the State by Geographic Adjustment Factor described in paragraph (2) (in this paragraph referred to as a 'GAF') in descending order. In the first iteration, the Secretary shall compare the GAF of the highest cost MSA in the State to the weighted-average GAF of the group of remaining MSAs in the State. If the ratio of the GAF of the highest cost MSA to the weighted-average GAF of the rest of State is 1.05 or greater then the highest cost MSA becomes a separate fee schedule area.

''(II) In the next iteration, the Secretary shall compare the MSA of the second-highest GAF to the weighted-average GAF of the group of remaining MSAs. If the ratio of the second-highest MSA's GAF to the weighted-average of the remaining lower cost MSAs is 1.05 or greater, the second-highest MSA becomes a separate fee schedule area. The iterative process continues until the ratio of the GAF of the highest-cost remaining MSA to the weighted-average of the remaining lower-cost MSAs is less than 1.05, and the remaining group of lower cost MSAs form a single fee schedule area, If two MSAs have identical GAFs, they shall be combined in the iterative comparison.

''(ii) TRANSITION.—For services furnished on or after January 1, 2010, in the State of California, after calculating the work, practice expense, and malpractice geographic indices described in clauses (i), (ii), and (iii) of paragraph (1)(A) that would otherwise apply through application of this paragraph, the Secretary shall increase any such index to the county-based fee schedule area value on December 31, 2009, if such index would otherwise be less than the value on January 1, 2010.

''(B) SUBSEQUENT REVISIONS.—

''(i) PERIODIC REVIEW AND ADJUSTMENTS IN FEE SCHEDULE AREAS.—Subsequent to the process outlined in paragraph (1)(C), not less often than every three years, the Secretary shall review and update the California Rest-of-State fee schedule area using MSAs as defined by the Director of the Office of Management and Budget and the iterative methodology described in subparagraph (A)(i).

''(ii) LINK WITH GEOGRAPHIC INDEX DATA REVISION.—The revision described in clause (i) shall be made effective concurrently with the application of the periodic review of the adjustment factors required under paragraph (1)(C) for California for 2012 and subsequent periods. Upon request, the Secretary shall make available to the public any county-level or MSA derived data used to calculate the geographic practice cost index.

''(C) REFERENCES TO FEE SCHEDULE AREAS.—Effective for services furnished on or after January 1, 2010, for the State of California, any reference in this section to a fee schedule area shall be deemed a reference to an MSA in the State.''.

(b) CONFORMING AMENDMENT TO DEFINITION OF FEE SCHEDULE AREA.—Section 1848(j)(2) of the Social Security Act (42 U.S.C. 1395w(j)(2)) is amended by striking ''The term'' and inserting ''Except as provided in subsection (e)(6)(C), the term''.

By Mr. BINGAMAN (for himself, Mr. THUNE, and Mrs. GILLIBRAND):

S. 1239. A bill to amend section 340B of the Public Health Service Act to revise and expand the drug discount program under that section to improve the provision of discounts on drug purchases for certain safety net providers; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today with my colleague from South Dakota, Sen. THUNE, to introduce the 340B Program Improvement and Integrity Act of 2009. This legislation is designed to address the growing burden faced by our Nation's health care safety net institutions in being able to provide adequate pharmaceutical care to the most vulnerable patient populations.

Communities across the country rely on public and non-profit hospitals to serve as the health care ''safety net'' for low-income, uninsured, and underinsured patients. With the ever-increasing cost of pharmaceuticals, these institutions are struggling more and more to provide basic pharmaceutical care to those least able to afford it.

Fortunately, many safety net hospitals are currently able to participate in the federal 340B Drug Discount Program, which enables them to purchase outpatient drugs for their patients at discounted prices. These hospitals, known as ''covered entities'' under the 340B statute, include high-Medicaid disproportionate share hospitals, DSH, large and small urban hospitals, and certain rural hospitals.

I am introducing legislation today, the 340B Program Improvement and Integrity Act of 2009, which would extend discounted drug prices currently mandated only for outpatient drugs to inpatient drugs purchased by covered entities under the 340B program. Although the Medicare Modernization Act (MMA) of 2003 permitted pharmaceutical manufacturers to offer 340B drug discounts to covered entities, this legislation did not include a mandate. Without a mandate we have seen very little willingness on the part of manufactures to offer 340B drug discounts for inpatient drugs. As the prices of pharmaceutical drugs continue to increase sharply, the need for these inpatient discounts grows more and more acute.

My legislation would also allow expanded participation in the program to a subset of rural hospitals that, for a variety of reasons, cannot currently access 340B discounts. These newly eligible rural hospitals include: critical access hospitals, sole community hospitals, and rural referral centers. In proposing this modest expansion to the program, we have struck an important balance between ensuring a close nexus with low-income and indigent care, ensuring that a significant portion of savings are passed on to the Medicaid program, and strengthening the integrity of the program.

Specifically, newly eligible rural hospitals would have to meet appropriate standards demonstrating their ''safety net'' status, as do all hospitals that currently participate in the program. For example, sole community hospitals and rural referral centers, all of which are paid under the prospective payment system, would be required under this legislation to serve a significant percentage of low-income and indigent patients, have public or non-profit status, and, if privately owned and operated, to have a contract with state or local government to provide a significant level of indigent care. All standards are designed to reinforce the obligation of these covered entities to continue serving low-income and uninsured patients.

This legislation would also generate savings for the Medicaid program by requiring participating hospitals to credit to their State Medicaid program a percentage of their savings on inpatient drugs. It would address the overall efficiency and integrity of the 340B program through improved enforcement and compliance measures with respect to manufacturers and covered entities. This is designed to improve program administration and to prevent and remedy instances of program abuse.

The 340B Program Improvement and Integrity Act of 2009 would help safety net providers stretch their limited resources through increased access to discounted pharmaceuticals, enhance 340B program integrity by making sure participants are complying with program rules, and improve the care provided to this Nation's most vulnerable populations.

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. 1239

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 ''340B Program Improvement and Integrity Act of 2009''.

SEC. 2. EXPANDED PARTICIPATION IN SECTION 340B PROGRAM.

(a) EXPANSION OF COVERED ENTITIES RECEIVING DISCOUNTED PRICES.—Section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)) is amended by adding at the end the following:

''(M) A children's hospital excluded from the Medicare prospective payment system pursuant to section 1886(d)(1)(B)(iii) of the Social Security Act which would meet the

requirements of subparagraph (L), including the disproportionate share adjustment percentage requirement under clause (ii) of such subparagraph, if the hospital were a subsection (d) hospital as defined by section 1886(d)(1)(B) of the Social Security Act.

''(N) An entity that is a critical access hospital (as determined under section 1820(c)(2) of the Social Security Act), and that meets the requirements of subparagraph (L)(i).

''(O) An entity that is a rural referral center, as defined by section 1886(d)(5)(C)(i) of the Social Security Act, or a sole community hospital, as defined by section 1886(d)(5)(C)(iii) of such Act, and that both meets the requirements of subparagraph (L)(i) and has a disproportionate share adjustment percentage equal to or greater than 8 percent.''.

(b) EXTENSION OF DISCOUNTS TO INPATIENT DRUGS.—Section 340B of the Public Health Service Act (42 U.S.C. 256b) is amended—

(1) in subsection (a), by striking ''outpatient'' each place that such appears in paragraphs (2), (5), (7), and (9); and

(2) in subsection (b)—

(A) by striking ''In this section'' and inserting the following:

''(A) IN GENERAL.—In this section''; and

(B) by adding at the end the following:

''(B) COVERED DRUG.—In this section, the term 'covered drug'—

''(i) means a covered outpatient drug (as defined in section 1927(k)(2) of the Social Security Act); and

''(ii) includes, notwithstanding paragraph (3)(A) of such section 1927(k), a drug used in connection with an inpatient or outpatient service provided by a hospital described in subparagraph (L), (M), (N), or (O) of subsection (a)(4) that is enrolled to participate in the drug discount program under this section.

''(C) PURCHASING ARRANGEMENTS FOR INPATIENT DRUGS.—The Secretary shall ensure that a hospital described in subparagraph (L), (M), (N), or (O) of subsection (a)(4) that is enrolled to participate in the drug discount program under this section shall have multiple options for purchasing covered drugs for inpatients including by utilizing a group purchasing organization or other group purchasing arrangement, establishing and utilizing its own group purchasing program, purchasing directly from a manufacturer, and any other purchasing arrangements that the Secretary may deem appropriate to ensure access to drug discount pricing under this section for inpatient drugs taking into account the particular needs of small and rural hospitals.''.

(c) PROHIBITION ON GROUP PURCHASING ARRANGEMENTS.—Section 340B(a) of the Public Health Service Act (42 U.S.C. 256b(a)) is amended—

(1) in paragraph (4)(L)—

(A) in clause (i), by adding ''and'' at the end;

(B) in clause (ii), by striking ''; and'' and inserting a period; and

(C) by striking clause (iii); and

(2) in paragraph (5)—

(A) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E); respectively; and

(B) by inserting after subparagraph (B), the following:

''(C) PROHIBITING THE USE OF GROUP PURCHASING ARRANGEMENTS.—

''(i) IN GENERAL.—A hospital described in subparagraphs (L), (M), (N), or (O) of paragraph (4) shall not obtain covered outpatient drugs through a group purchasing organization or other group purchasing arrangement, except as permitted or provided for pursuant to clauses (ii) or (iii).

''(ii) INPATIENT DRUGS.—Clause (i) shall not apply to drugs purchased for inpatient use.

''(iii) EXCEPTIONS.—The Secretary shall establish reasonable exceptions to clause (i)—

''(I) with respect to a covered outpatient drug that is unavailable to be purchased through the program under this section due to a drug shortage problem, manufacturer noncompliance, or any other circumstance beyond the hospital's control;

''(II) to facilitate generic substitution when a generic covered outpatient drug is available at a lower price; or

''(III) to reduce in other ways the administrative burdens of managing both inventories of drugs subject to this section and inventories of drugs that are not subject to this section, so long as the exceptions do not create a duplicate discount problem in violation of subparagraph (A) or a diversion problem in violation of subparagraph (B).''.

(d) MEDICAID CREDITS ON INPATIENT DRUGS.—Section 340B(a)(5) of the Public Health Service Act (42 U.S.C. 256b(a)(5)) is amended by adding at the end the following:

''(E) MEDICAID CREDITS.—Not later than 90 days after the date of filing of the hospital's most recently filed Medicare cost report, the hospital shall issue a credit as determined by the Secretary to the State Medicaid program for inpatient covered drugs provided to Medicaid recipients.''.

(e) INTEGRITY IMPROVEMENTS.—Subsection (c) of section 340B of the Public Health Service Act (42 U.S.C. 256b(c)) is amended to read as follows:

''(c) IMPROVEMENTS IN PROGRAM INTEGRITY.—

''(1) MANUFACTURER COMPLIANCE.—

''(A) IN GENERAL.—From amounts appropriated under paragraph (4), the Secretary shall provide for improvements in compliance by manufacturers with the requirements of this section in order to prevent overcharges and other violations of the discounted pricing requirements specified in this section.

''(B) IMPROVEMENTS.—The improvements described in subparagraph (A) shall include the following:

''(i) The development of a system to enable the Secretary to verify the accuracy of ceiling prices calculated by manufacturers under subsection (a)(1) and charged to covered entities, which shall include the following:

''(I) Developing and publishing through an appropriate policy or regulatory issuance, precisely defined standards and methodology for the calculation of ceiling prices under such subsection.

''(II) Comparing regularly the ceiling prices calculated by the Secretary with the quarterly pricing data that is reported by manufacturers to the Secretary.

''(III) Performing spot checks of sales transactions by covered entities.

''(IV) Inquiring into the cause of any pricing discrepancies that may be identified and either taking, or requiring manufacturers to take, such corrective action as is appropriate in response to such price discrepancies.

''(ii) The establishment of procedures for manufacturers to issue refunds to covered entities in the event that there is an overcharge by the manufacturers, including the following:

''(I) Providing the Secretary with an explanation of why and how the overcharge occurred, how the refunds will be calculated, and to whom the refunds will be issued.

''(II) Oversight by the Secretary to ensure that the refunds are issued accurately and within a reasonable period of time, both in routine instances of retroactive adjustment to relevant pricing data and exceptional circumstances such as erroneous or intentional overcharging for covered drugs.

''(iii) The provision of access through the Internet website of the Department of Health and Human Services to the applicable ceiling prices for covered drugs as calculated and verified by the Secretary in accordance with this section, in a manner (such as through the use of password protection) that limits such access to covered entities and adequately assures security and protection of privileged pricing data from unauthorized re-disclosure.

''(iv) The development of a mechanism by which—

''(I) rebates and other discounts provided by manufacturers to other purchasers subsequent to the sale of covered drugs to covered entities are reported to the Secretary; and

''(II) appropriate credits and refunds are issued to covered entities if such discounts or rebates have the effect of lowering the applicable ceiling price for the relevant quarter for the drugs involved.

''(v) Selective auditing of manufacturers and wholesalers to ensure the integrity of the drug discount program under this section.

''(vi) The imposition of sanctions in the form of civil monetary penalties, which—

''(I) shall be assessed according to standards established in regulations to be promulgated by the Secretary within 180 days of the date of enactment of the 340B Program Improvement and Integrity Act of 2009;

''(II) shall not exceed $5,000 for each instance of overcharging a covered entity that may have occurred; and

''(III) shall apply to any manufacturer with an agreement under this section that knowingly and intentionally charges a covered entity a price for purchase of a drug that exceeds the maximum applicable price under subsection (a)(1).

''(2) COVERED ENTITY COMPLIANCE.—

''(A) IN GENERAL.—From amounts appropriated under paragraph (4), the Secretary shall provide for improvements in compliance by covered entities with the requirements of this section in order to prevent diversion and violations of the duplicate discount provision and other requirements specified under subsection (a)(5).

''(B) IMPROVEMENTS.—The improvements described in subparagraph (A) shall include the following:

''(i) The development of procedures to enable and require covered entities to regularly update (at least annually) the information on the Internet website of the Department of Health and Human Services relating to this section.

''(ii) The development of a system for the Secretary to verify the accuracy of information regarding covered entities that is listed on the website described in clause (i).

''(iii) The development of more detailed guidance describing methodologies and options available to covered entities for billing covered drugs to State Medicaid agencies in a manner that avoids duplicate discounts pursuant to subsection (a)(5)(A).

''(iv) The establishment of a single, universal, and standardized identification system by which each covered entity site can be identified by manufacturers, distributors, covered entities, and the Secretary for purposes of facilitating the ordering, purchasing, and delivery of covered drugs under this section, including the processing of chargebacks for such drugs.

''(v) The imposition of sanctions, in appropriate cases as determined by the Secretary, additional to those to which covered entities are subject under subparagraph (a)(5)(E), through one or more of the following actions:

''(I) Where a covered entity knowingly and intentionally violates subparagraph (a)(5)(B), the covered entity shall be required to pay a monetary penalty to a manufacturer or manufacturers in the form of interest on sums for which the covered entity is found liable

under paragraph (a)(5)(E), such interest to be compounded monthly and equal to the current short term interest rate as determined by the Federal Reserve for the time period for which the covered entity is liable.

''(II) Where the Secretary determines a violation of subparagraph (a)(5)(B) was systematic and egregious as well as knowing and intentional, removing the covered entity from the drug discount program under this section and disqualifying the entity from reentry into such program for a reasonable period of time to be determined by the Secretary.

''(III) Referring matters to appropriate Federal authorities within the Food and Drug Administration, the Office of Inspector General of Department of Health and Human Services, or other Federal agencies for consideration of appropriate action under other Federal statutes, such as the Prescription Drug Marketing Act.

''(3) ADMINISTRATIVE DISPUTE RESOLUTION PROCESS.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of the 340B Program Improvement and Integrity Act of 2009, the Secretary shall promulgate regulations to establish and implement an administrative process for the resolution of claims by covered entities that they have been overcharged for drugs purchased under this section, and claims by manufacturers, after the conduct of audits as authorized by subsection (a)(5)(D), of violations of subsections (a)(5)(A) or (a)(5)(B), including appropriate procedures for the provision of remedies and enforcement of determinations made pursuant to such process through mechanisms and sanctions described in paragraphs (1)(B) and (2)(B).

''(B) DEADLINE AND PROCEDURES.—Regulations promulgated by the Secretary under subparagraph (A) shall—

''(i) designate or establish a decision-making official or decision-making body within the Department of Health and Human Services to be responsible for reviewing and finally resolving claims by covered entities that they have been charged prices for covered drugs in excess of the ceiling price described in subsection (a)(1), and claims by manufacturers that violations of subsection (a)(5)(A) or (a)(5)(B) have occurred;

''(ii) establish such deadlines and procedures as may be necessary to ensure that claims shall be resolved fairly, efficiently, and expeditiously;

''(iii) establish procedures by which a covered entity may discover and obtain such information and documents from manufacturers and third parties as may be relevant to demonstrate the merits of a claim that charges for a manufacturer's product have exceeded the applicable ceiling price under this section, and may submit such documents and information to the administrative official or body responsible for adjudicating such claim;

''(iv) require that a manufacturer conduct an audit of a covered entity pursuant to subsection (a)(5)(D) as a prerequisite to initiating administrative dispute resolution proceedings against a covered entity;

''(v) permit the official or body designated under clause (i), at the request of a manufacturer or manufacturers, to consolidate claims brought by more than one manufacturer against the same covered entity where, in the judgment of such official or body, consolidation is appropriate and consistent with the goals of fairness and economy of resources; and

''(vi) include provisions and procedures to permit multiple covered entities to jointly assert claims of overcharges by the same manufacturer for the same drug or drugs in one administrative proceeding, and permit such claims to be asserted on behalf of covered entities by associations or organizations representing the interests of such covered entities and of which the covered entities are members.

''(C) FINALITY OF ADMINISTRATIVE RESOLUTION.—The administrative resolution of a claim or claims under the regulations promulgated under subparagraph (A) shall be a final agency decision and shall be binding upon the parties involved, unless invalidated by an order of a court of competent jurisdiction.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for fiscal year 2010, and each succeeding fiscal year.''.

(f) CONFORMING AMENDMENTS.—

(1) SOCIAL SECURITY ACT.—Section 1927 of the Social Security Act (42 U.S.C. 1396r–8), is amended—

(A) in subsection (a)(5)—

(i) in subparagraph (A), by striking ''covered outpatient drugs'' and inserting ''covered drugs (as defined in section 340B(b)(2) of the Public Health Service Act)'';

(ii) by striking subparagraph (D); and

(iii) by redesignating subparagraph (E) as subparagraph (D);

(B) in subsection (c)(1)(C)(i), by redesignating subclauses (II) through (IV) as subclauses (III) through (V), respectively and by inserting after subclause (I) the following new subclause:

''(II) any prices charged for a covered drug (as defined in section 340B(b)(2) of the Public Health Service Act);''; and

(C) in subsection (k)(1)—

(i) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (D)''; and

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

''(D) CALCULATION FOR COVERED DRUGS.—With respect to a covered drug (as defined in section 340B(b)(2) of the Public Health Service Act), the average manufacturer price shall be determined in accordance with subparagraph (A) except that, in the event a covered drug is not distributed to the retail pharmacy class of trade, it shall mean the average price paid to the manufacturer for the drug in the United States by wholesalers for drugs distributed to the acute care class of trade, after deducting customary prompt pay discounts. The Secretary shall establish a mechanism for collecting the necessary data for the acute care class of trade from manufacturers.''.

(2) PUBLIC HEALTH SERVICE ACT.—Section 340B(a) of such Act (42 U.S.C. 256b(a)) is amended—

(A) in subsection (a)(1), by adding at the end the following: ''Each such agreement shall require that the manufacturer furnish the Secretary with reports, on a quarterly basis, of the price for each covered drug subject to the agreement that, according to the manufacturer, represents the maximum price that covered entities may permissibly be required to pay for the drug (referred to in this section as the 'ceiling price'), and shall require that the manufacturer offer each covered entity covered drugs for purchase at or below the applicable ceiling price if such drug is made available to any other purchaser at any price.''; and

(B) in the first sentence of subsection (a)(5)(E), as so redesignated by subsection (c)(2), by inserting ''after an audit as described in subparagraph (D), and'' after ''finds,''.

SEC. 3. EFFECTIVE DATES.

(a) IN GENERAL.—The amendments made by this Act shall take effect on January 1, 2010, and shall apply to drugs purchased on or after January 1, 2010.

(b) EFFECTIVENESS.—The amendments made by this Act shall be effective, and shall be taken into account in determining whether a manufacturer is deemed to meet the requirements of section 340B(a) of the Public Health Service Act (42 U.S.C. 256b(a)) and of section 1927(a)(5) of the Social Security Act (42 U.S.C. 1396r-8(a)(5)), notwithstanding any other provision of law.

By Mr. INHOFE (for himself and Mr. TESTER):

S. 1241. A bill to amend Public Law 106–206 to direct the Secretary of the Interior and the Secretary of Agriculture to require annual permits and assess annual fees for commercial filming activities on Federal land for film crews of 5 persons or fewer; to the Committee on Energy and Natural Resources.

Mr. INHOFE. Mr. President, I am introducing legislation today with Senator TESTER to lessen the burdens for small commercial filming on public lands. Specifically, this legislation provides special permitting to small film crews, defined in the bill as 5 persons or fewer, to simply pay a reasonable annual fee to be able to film on public lands.

Our Nation's public lands are an incredible natural resource, and the professional outdoor media industry is a valuable way to bring awareness to our Nation's resources and bring about awareness of the value of conservation of our Nation's land and resources through documentaries, sporting programs, and other productions. Small filming crews can be negatively affected by the current permitting and fee schedule because the business of wildlife filming is done on a speculative basis and often relies on unpredictable factors requiring much patience and time. Last Congress, Chairman RAHALL held a Natural Resources Committee hearing on the fees for filming and photography on public lands. At that hearing, Steve Scott, an independent television producer from Norman, OK, and Chairman of the Professional Outdoor Media Association, probably best described the work of small outdoor filming operations. He testified, ''By its very nature, wildlife photography is extremely time consuming, often done in the harshest conditions. . . . While large film and television production crews need relatively little time on public lands to complete their project, our nation's professional outdoor media may spend weeks or months in the field in order to capture a few magic seconds of unstaged Nature in its pristine state. And when outdoor media members spend time in the field, under the current fee structure, we also spend money, and lots of it.'' The small professional outdoor filming industry has enough natural barriers; The Federal Government should not impose itself as another through daily fees adding to the expense.

Last Congress, my colleague from Oklahoma, Congressman DAN BOREN, and DON YOUNG, introduced H.R. 5502 to

accomplish the same aim of the legislation Senator TESTER and I are introducing today. That legislation was supported by nearly 30 outdoors and sportsmen's organizations.

Those organizations supporting last Congress' legislation include the American Fisheries Society, the American Sportfishing Association, the Archery Trade Association, Bass Pro Shops, the Berkley Conservation Institute, Boone and Crockett Club, Bowhunting Preservation Alliance, Campfire Club of America, Catch-A-Dream Foundation, the Congressional Sportsmen's Foundation, Conservation Force, Dallas Safari Club, Mule Deer Foundation, the National Assembly of Sportsmen's Caucuses, the National Rifle Association, the National Shooting Sports Foundation, the National Wild Turkey Federation, the North American Bear Foundation, the North American Grouse Partnership, Pheasants Forever, Pure Fishing, Quality Deer Management Association, Quail Forever, the Ruffed Grouse Society, Safari Club International, the Texas Wildlife Association, the Theodore Roosevelt Conservation Partnership, the U.S. Sportsmen's Alliance, the Wild Sheep Foundation, and Wildlife Forever.

This Congress, Congressmen BOREN, RYAN, COURTNEY, MILLER, PUTNAM, and ROSS introduced H.R. 2031 on April 22, 2009, which is identical legislation to the legislation Senator TESTER and I are introducing today. I am sure it will enjoy the same support from our outdoor and sportsmen's organizations, and I look forward to its consideration in the Senate.

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. 1241

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

SECTION 1. PURPOSE.

The purpose of this Act is to provide commercial film crews of 5 persons or fewer access to film in areas designated for public use during public hours on Federal lands and waterways.

SEC. 2. ANNUAL PERMIT AND FEE FOR FILM CREWS OF 5 PERSONS OR FEWER.

(a) IN GENERAL.—Section (1)(a) of Public Law 106–206 (16 U.S.C. 4601–6d) is amended by—

(1) redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) striking ''The Secretary of the Interior'' and inserting ''(1) IN GENERAL.—Except as provided by paragraph (3), the Secretary of the Interior'';

(3) inserting ''(2) OTHER CONSIDERATIONS.—'' before ''The Secretary may include other factors''; and

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

''(3) SPECIAL RULES FOR FILM CREWS OF 5 PERSONS OR FEWER.—

''(A) For any film crew of 5 persons or fewer, the Secretary shall require a permit and assess an annual fee of $200 for commercial filming activities or similar projects on Federal lands and waterways administered by the Secretary. The permit shall be valid for commercial filming activities or similar projects that occur in areas designated for public use during public hours on all Federal lands and waterways administered by the Secretary for a 12-month period beginning on the date of issuance of the permit.

''(B) For persons holding a permit described in this paragraph, the Secretary shall not assess, during the effective period of the permit, any additional fee for commercial filming activities and similar projects that occur in areas designated for public use during public hours on Federal lands and waterways administered by the Secretary.

''(C) In this paragraph, the term 'film crew' includes all persons present on Federal land under the Secretary's jurisdiction who are associated with the production of a certain film.

''(D) The Secretary shall not prohibit, as a mechanized apparatus or under any other purposes, use of cameras or related equipment used for the purpose of commercial filming activities or similar projects in accordance with this paragraph on Federal lands and waterways administered by the Secretary.''.

(b) RECOVERY OF COSTS.—Section (1)(b) of Public Law 106–206 (16 U.S.C. 4601–6d) is amended by—

(1) striking ''collect any costs'' and inserting ''recover any costs''; and

(2) striking ''similar project'' and inserting ''similar projects''.

By Mr. THUNE (for himself, Mr. COBURN, Mr. INHOFE, Mr. VITTER, Mr. JOHANNS, Mr. CORNYN, Mr. KYL, Mr. MCCONNELL, Mr. BARRASSO, and Mr. ENSIGN):

S. 1242. A bill to prohibit the Federal Government from holding ownership interests, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. THUNE. Mr. President, over the past 15 months, the Federal Government has taken unprecedented actions to stabilize the U.S. economy. Unfortunately, these actions include the Federal Government acquiring direct ownership stakes in private companies, which exposes the American taxpayer to significant liabilities and creates a dangerous conflict of interest between the Federal Government and the private sector.

Thanks to the fact that the government has intervened in all these private companies, we now have about 500 banks, we have auto manufacturers, financial institutions, and insurance companies that the government now has an ownership interest in. President Obama has become a de facto CEO managing large segments of our economy, and Congress is now acting as a 535–Member board of directors.

I think it is fair to say when you combine business with politics, it inevitably leads to harmful conflicts of interest—which we are already beginning to see—because political decisions get substituted for business decisions.

As everyone in this Chamber knows all too well, government control of private business hampers investments. It hampers innovation, job creation. It diminishes the entrepreneurial spirit on which our economy is based.

Having the Federal Government call the shots for private industry is plain bad for business. It is bad for the economy, and it is bad for the American taxpayer.

So today I am introducing a piece of legislation, S. 1242, which gives the Federal Government an exit plan, a way of exiting the scene from the ownership that the Federal Government now has in all these various private companies in our economy. It essentially has four basic provisions.

The first provision is that upon enactment of the legislation, the Treasury Department may not purchase any additional ownership stake of private entities, such as warrants, preferred stock, or common stock purchased through the TARP program.

The second provision is this: The legislation would require the Treasury to sell any ownership stake of a private entity by July 1, 2010. Any revenue that comes in from the sale of those TARP assets would have to be used for debt reduction.

The third provision of the bill is that if the Treasury Secretary determines the assets are undervalued and there is a reasonable expectation that the assets will increase to their original purchase value, the Secretary may hold the assets for up to 1 additional year.

Finally, the fourth provision of the bill is that beyond July 1 of 2011, the Treasury Secretary may not hold any direct ownership of private companies unless Congress grants additional authority.

Essentially, what we are doing is saying that all this ownership interest the Federal Government now has acquired in all these private companies would have to be wound down, if you will, divested, by that July 1 deadline in the year 2010. If the Treasury Department determines that, in fact, doing so would impair the ability of the Treasury to recover the full value of those assets or if those assets are expected to appreciate, there is an additional year, up to a year of flexibility—essentially a waiver—from the July 1, 2010, deadline that would extend it to July 1, 2011. So it buys an additional year. But it does put a time certain out there, a deadline, if you will, by which the Federal Government has to dispose of and divest itself of all these ownership interests it has in our private economy.

The other issue I think is important is it prevents the Federal Government from acquiring an ownership stake going into the future. As I said before, any funds that are returned to the Treasury as a result of these assets being sold would have to be used for debt reduction. They cannot be recycled; they cannot be reused; they cannot go into some fund that is going to be used for additional acquisition of private sector assets.

I think the reason why this is important is if you look at what Secretary Geithner has said, he has indicated before that their intention is that when

some of these funds come back into the Treasury—and we saw this recently with banks that agreed to pay this money back—they are going to reuse it. I don't believe that is what was intended in the first place. I don't think this was at any point designed to become a slush fund that could be used for the acquisition of other assets; it was designed to be used—at least initially, the way it was presented—for the purchase of toxic assets, illiquid assets on the balance sheets of many of our financial institutions. It quickly evolved into something else. It became a fund that was used to acquire an equity stake, equity interest in many of these companies. So I don't think that was the purpose for which it was intended.

I think a lot of people who made votes assumed at the time it wouldn't be used to buy toxic assets. It ended up being used to buy an ownership interest in these companies, and I think, again, the American people are uncomfortable with the notion of the Federal Government owning a big share of our private economy. I also do not think it was intended in the first place to be used to buy the assets of other types of industries—essentially, to do industrial policy, as some people have referred to it—to acquire assets of auto manufacturers, for example; it was designed specifically for the financial services industry.

There is no real exit strategy out there. In fact, Secretary Geithner was asked in front of the Senate Banking Committee a couple weeks ago about whether there was a plan to dispose of some of these assets, and he said there isn't a plan; it is not necessary at this point.

Well, I think we need to have an exit strategy. Everybody talks about an exit strategy. The President needs an exit strategy in Iraq. It seems to me we need to have an exit strategy that would allow the American taxpayer to recover funds they have been investing through the TARP program in all these various companies that would get the Federal Government out of the way of these companies and out of the day-to-day decisionmaking and management of these companies. My bill would prohibit that as well, in addition to some of these other provisions I mentioned.

It would prohibit or bar the Federal Government from dictating to these companies with respect to hiring decisions when it comes to senior executives, when it comes to boards of directors, when it comes to where to relocate or locate or close certain plants. Those are decisions that should not be made by politicians in Washington. They should not be made by bureaucrats in Washington, DC. They ought to be business decisions and not political decisions.

The bill, as I said, is very straightforward.

There are a number of folks who have commented on, made observations about what is happening in the economy right now, and this sort of proliferation of companies in which the Federal Government now has an ownership share. I wish to read for my colleagues some of what has been said by folks who I think know a lot about the private economy and whether it is a good idea to have the Federal Government owning and controlling as much as they do currently of some of these companies. If you look at the various percentages, they are significant. Of course, we know most recently General Motors, a $50 billion investment there gets the taxpayer ownership interest to about 60 percent; Chrysler, about 12 percent; Citibank, about 36 percent, and you can go down the list of all these various private companies in which the government now has an ownership interest.

There was an editorial in the Kansas City Star that said that:

> What's worrisome is that while the administration said it isn't interested in running car companies, it has said little on an exit strategy.

It went on to say:

> Any government bailout of private industry should be temporary and as brief as possible.

Anne Mulcahy, chief executive of Xerox—I am sure I just butchered the name—said recently:

> I think all of us understand the need for the government to intervene and to take the actions they did, but I also think there's a need for an exit plan.

Jim Owens, who is the chief executive at Caterpillar, said:

> I think that's fundamentally unhealthy. The Federal Government needs to be in and out.

Google's Eric Schmidt noted that the U.S. stimulus package was designed to cover a 2-year period. He said:

> It's very important that government get out of business and let business do its thing. The most important thing to remember, I think, is that jobs, wealth, are created in the private sector. That's about capitalism.

In a Wall Street Journal opinion piece, Paul Ingrassia argues:

> . . . must have a clear exit timetable for the government to sell its shares for both Chrysler and GM and get the companies back in the hands of private investors. Mr. Obama has an exit strategy for Iraq; he needs one for Detroit, too.

So there are a lot of people who have a lot of experience when it comes to running companies who have concluded that the government does, in fact, need an exit strategy. I think, as I said before, it is fair to say that one doesn't exist today, and when Secretary Geithner testified in front of the Senate Banking Committee a couple weeks back he admitted as much, that there isn't an exit plan.

What my bill does is it gives us an exit plan. It gives us an exit plan with a deadline, with a little flexibility in the deadline, some ability to provide a waiver for the Treasury Department that would allow for an additional year, if necessary; if those assets the government holds are considered to be assets that could appreciate over time and, therefore, yield a higher return for the Federal Government but, at some point, we have to say enough is enough. We have to put an end to this practice we have gotten involved with, this precedent we have now created of having the Federal Government own more and more of our private economy.

I would argue, again, that is not good for business, it is not good for the economy, it is not good for job creation; it stifles the entrepreneurial spirit which has built this country and made it great, and I don't think it does anything to create jobs and get our economy back on track.

I hope we will have an opportunity to debate this. It seems to me at least that in the days ahead there will be various bills that will be debated on the floor of the Senate that would give us a chance to debate this issue. I intend to offer this, if I can't get some interest in moving it as a freestanding bill, as an amendment to other vehicles that might be moving through the Senate in the days and the weeks and the months ahead. But I do think it is important. I think it is important to the American taxpayer. I think it is important to the American economy. I think it is important to American business that the Federal Government have an exit strategy. We have a plan whereby we can move and get away from this practice we have undertaken now with great regularity and great frequency of acquiring even more and more interests in American business.

By Mr. HATCH (for himself and Mrs. LINCOLN):

S. 1243. A bill to require repayments of obligations and proceeds from the sale of assets under the Troubled Asset Relief Program to be repaid directly into the Treasury for reduction of the public debt; to the Committee on Banking, Housing, and Urban Affairs.

Mr. HATCH. Mr. President, I rise today to introduce the Stop TARP Asset Recycling Act, or the STAR Act, a bill that would require any funds returned to the Treasury Department that were originally allocated under the Troubled Asset Relief Program, TARP, to be placed in the general fund rather than being put back into TARP. I am proud to say that this is a bipartisan bill, cosponsored by my friend from Arkansas, Senator LINCOLN.

It is apparent that TARP has become a slush fund for the Obama administration to acquire banks, insurance companies and auto manufacturers. We need to ensure that the original purpose of TARP is maintained and Treasury is prevented from unilaterally and arbitrarily nationalizing our nation's private sector.

The Emergency Economic Stabilization Act, which was signed into law last October, created TARP. This act authorized TARP to purchase up to $700 billion in troubled assets from financial institutions ''to restore liquidity and stability to the financial system.'' However, since its inception,

TARP has taken on a different role in our free enterprise system. It seems to have become the go-to solution for all of our problems. It has been used to bail out banks, insurance companies and automobile manufacturers. What is next, Mr. President?

Some of our healthier banks are now returning this money because, I believe, of the unreasonable regulations that have been and could be placed on firms with TARP funds. While it is clear that proceeds from TARP sales must be placed in the general fund to pay down our increasing debt, it is unclear under the law whether or not the original investment from TARP must be placed in the general fund or can be recycled back into TARP. The latter option would result in an ever-revolving slush fund for TARP and could provide this administration with the means to pick and choose which company it would next like to nationalize.

For example, the Treasury Department recently used $30 billion to purchase up to 60 percent of General Motors' shares. If, in the future, Treasury sells these shares at a gain, let us say $32 billion, the $2 billion profit must be put back into the general fund, but it is unclear whether the original $30 billion investment recovered from the sale can be put back into TARP.

I do not believe any of my colleagues intended TARP to get this out of control. It is time that we reestablish the purpose of TARP by requiring Treasury to put the original investment back into the general fund. Congress must no longer stand by and watch Treasury amass an everlasting fund it can use to bail out any industry it deems ''too big to fail'' without congressional approval.

Ten large banks have recently received Treasury approval to repay $68 billion received under TARP. I believe now is the time to start restricting Treasury's access to these funds. My bill would force Treasury to put this money back into the general fund once it is used. It would not prevent Treasury from using up to $700 billion already authorized under TARP, but it would force Treasury to make sure that the taxpayers' investment is spent wisely.

The American taxpayer has been told to foot the bill for rescuing the financial sector, but now they are being forced to bail out any company at the discretion of the Department of Treasury. Many Utahns are saying it is time to be fiscally conservative, and I agree. So do millions elsewhere across the Nation.

I hope my colleagues would agree as well and support this legislation; otherwise, we have not only written a blank check to Treasury, but we have delegated an enormous amount of power over our free enterprise system. This money belongs to the people, not the Obama administration. I think it is time Congress acts to ensure that TARP is being used for its intended purpose.

By Mr. MERKLEY:

S. 1244. A bill to amend the Civil Rights Act of 1964 to protect breastfeeding by new mothers, to provide for a performance standard for breast pumps, and to provide tax incentives to encourage breastfeeding; to the Committee on Finance.

Mr. MERKLEY. Mr. President, I rise today to discuss a bill to help promote and protect breastfeeding in the workplace.

The science is undisputable—babies who are breastfed the first 6 months of life have a greatly reduced risk for acute and chronic disease—yet only ten percent of all infants receive this nourishment that they need to remain healthy. One of the primary reasons for this is that working moms face real and serious challenges to expressing milk when they return to work.

Well, today is a day to change that. In Oregon, we have enacted strong legislation to make sure that working moms are afforded the time and space they need at work to express milk. In fact, my first event as a candidate for U.S. Senate was at a luncheon celebrating the success of Oregon's breastfeeding promotion law. I said that day that I would work to expand Oregon's efforts nationwide, and today we take the important first step towards enacting legislation to protect working moms across the country.

First, I want to thank Representative CAROLYN MALONEY of New York for her strong leadership on this issue. For years, she has been a champion for working moms everywhere, and I applaud her determination to make it easier for women.

We know that 72 percent of moms work full time, and that number is growing. In fact, according to the Center on Work and Family at Boston College, the fastest-growing segment of the U.S. workforce is women with children under three years of age.

Women who decide to breastfeed often face unique challenges and at times, social stigmas, for trying to give their baby the healthiest start in life.

In an environment where mothers return to work as early as 3 to 6 weeks post-partum, often driven by economic necessity, it is simply an act of human decency to protect their right to continue breastfeeding after they return to work to help meet their basic needs with regard to the care and nourishment of their children. But for most, it is an unachievable goal.

If we are to have any hope of increasing the number of babies being breastfed, we need to implement a strategy that addresses workplace conditions.

The Breastfeeding Promotion Act that Representative MALONEY and I are introducing today is a measured step in this direction.

It protects breastfeeding women from discrimination in the workplace, provides tax credits to employers who make accommodations for breastfeeding moms, and most importantly, it affords working moms with the time, space, and privacy they need to express milk.

Many of these changes have been successfully implemented in my home State of Oregon where we have seen a tremendous difference in the experiences of mothers, as well as positive impacts for employers, as a result of this type of legislation.

Tonya Hirte, a senior customer service representative in Portland, said that before the law took effect, she had to express breast milk in a bathroom on a separate floor from her worksite, but that after implementation of the law, her company converted a storage closet into a private, simply-furnished room, bringing dignity to her experience as a mother, and helping her feel valued as an employee.

A Lane County employee said that having a breastfeeding-friendly workplace allowed her to focus better on her work, knowing her daughter's needs were being met emotionally and physically because the work breaks to express breast milk facilitated their breastfeeding relationship when they were together.

But it's not just the employees who are seeing positive changes as a result of the Oregon law. Jim Rochs, General Manager of Carinos Italian Restaurant in Bend, Oregon, says that they create a better team overall if they take care of one another. The time and space his employee needed to express breast milk was not difficult to provide.

Gretchen Peterson, Human Resources Manager for Hanna Andersson clothing design, manufacturer and retail store, said that ''legislation to encourage longer-term breastfeeding by eliminating potential workplace barriers has been successfully passed and implemented in Oregon with no negative impact to business.'' She goes on to say, ''Without this opportunity, our employees may have made the choice to stay at home or choose to work for another company which would have caused a significant disruption to our business.''

Research from the Maternal Child Health Bureau demonstrates a significant return on investment when businesses support worksite lactation programs.

The Mutual of Omaha insurance company conducted a study that found health care costs for newborns to be three times lower for babies whose mothers participate in their company's maternity and lactation program. Per person health care costs were $2,146 more for employees who did not participate in the program, with a yearly savings of $115,881 in health care claims for the breastfeeding mothers and babies.

This is truly a public health issue. Encouraging breastfeeding for working mothers will help alleviate the negative effects of low breastfeeding rates, including a 21 percent greater infant mortality rate for babies not exclusively breastfed for 6 months, and

greater risk over a lifetime for many illnesses including asthma, diabetes, obesity, and certain cancers.

Finally, the timing could not be better as we ramp up our efforts to reform our health care system and work to contain costs. A 2001 USDA study found that if half of the babies in the U.S. were exclusively breastfed for 6 months, we would realize a savings of $3.6 billion in health care costs for the three leading childhood illnesses alone. According to the U.S. Breastfeeding Committee, if we replicate that study based on current breastfeeding statistics, the savings could reach nearly $14 billion in health care costs for all childhood illnesses.

Colleagues, I look forward to passing the Breastfeeding Promotion Act to help make it easier for moms to breastfeed, which will lead to healthier babies, stronger families, and happier workers.

Mr. WHITEHOUSE (for himself and Ms. SNOWE):

S. 1245. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for property owners who remove lead-based paint hazards; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today along with my friend Senator WHITEHOUSE to introduce the Home Lead Safety Tax Credit Act. Unfortunately, lead paint remains a serious risk to families across the country and poses an especially dangerous hazard for children. According to the Department of Housing and Urban Development, HUD, 23 million homes in the United States currently have a significant amount of lead-based paint, and exposure has caused 240,000 children under the age of six to have blood-lead levels high enough to cause irreversible neurological damage and learning disabilities.

The current Federal abatement programs are simply inadequate to address the home repair requirements of millions of families who remain exposed to lead. In fiscal year 2008, HUD's Lead Hazard Control Program provided for lead abatement of only 12,600 homes. It doesn't take an advanced degree in mathematics to know that 12,600 is an insufficient abatement number when 240,000 children have already been exposed to harmful levels of lead-based paint.

The tax credit in the Whitehouse-Snowe bill would be worth up to $3,000 per eligible housing unit for abatement costs or up to $1,000 for each unit for interim control costs—which reduce but do not eliminate the hazard. These incentives will encourage property owners to make their homes and properties lead-safe. According to the Maine Indoor Air Quality Council, almost 80 percent of homes and apartments in Maine built before 1978 could have lead paint. That being said, the tax credit in our legislation will help greatly reduce that number and in turn reduce the number of children who require medical treatment as a result of lead exposure.

The Whitehouse-Snowe bill will provide a powerful tax incentive to landlords and make a much greater impact in reducing household lead exposure. It is no surprise that many of our poorest residents are the most affected by lead-based paint illnesses. Whatever their economic situation, no family should be forced to choose between affordability and the safety of their children. Our citizens are facing a multitude of difficult financial decisions in the midst of the current recession, and many people are unable to bear the costs of lead abatement.

It is not news that health care costs are spiraling out of control, and Congress is working hard to find a solution to this complicated problem. Lead-based paint does not require such a complicated solution, and the Home Lead Safety Tax Credit Act takes a proactive role in preventing an illness that doesn't have to exist at all. Children exposed to lead-based paint will pay thousands of dollars in health care costs. Our legislation will not only save the lives of children across our country, but help mitigate the unnecessary burden of lead-based paint poisoning on our health care system. We must do everything in our power to encourage landlords an property owners to rid homes of harmful lead-based paint and I hope my colleagues will join us in supporting this legislation.

By Mr. SANDERS:

S. 1246. A bill to establish a home energy retrofit finance program; to the Committee on Energy and Natural Resources.

Mr. SANDERS. Mr. President, I am pleased to introduce legislation to establish a Home Energy Retrofit Finance Program. My office has worked closely with a number of stakeholders and experts in developing this Program. It is supported by the Vermont Energy Investment Corporation, the National Trust for Historic Preservation, Green for All, the Apollo Alliance, and the Union of Concerned Scientists, because they know that improving residential sector energy use is a strategy to address global warming, save families on their utility bills, and create jobs.

Households across the Nation will be able to lower their energy bills and generate their own renewable energy through the Program. It would provide initial capital to States, according to the established State energy program formula, to set up state revolving finance funds. These State funds would in turn provide financial support for local government programs, such as clean energy district financing, and energy utility programs, such as on-bill financing.

There are already a number of innovative programs to help finance residential energy efficiency and renewable energy across the country. For example, States such as Vermont, New Mexico, California, Virginia, Texas, and Maryland have authorized local governments to provide financing to homeowners for energy improvements. Homeowners then can pay back the cost of the improvements over time on their property tax bills.

The Home Energy Retrofit Finance Program would give these efforts a boost by supporting local government and utility programs that provide households with cost-effective financing for energy efficiency measures and renewable energy. This Program offers a win-win situation where we can achieve our economic and environmental goals. I ask that my colleagues consider the merits of the Home Energy Retrofit Finance Program as we move forward with comprehensive energy and climate change legislation.

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

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

S. 1246

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 ''Home Energy Retrofit Finance Program Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) many families lack access to upfront capital to make cost-effective energy improvements to homes and apartments;

(2) a number of States, local governments, and energy utilities are considering enacting, or have already enacted, innovative energy efficiency and renewable energy finance programs;

(3) home retrofits create and support jobs in the United States in a number of fields, including jobs for electricians, heating and air conditioning installers, carpenters, construction, roofers, industrial truck drivers, energy auditors and inspectors, construction managers, insulation workers, renewable energy installers, and others;

(4) cost-effective energy improvements pay for themselves over time and also save consumers energy, reduce energy demand and peak electricity demand, move the United States towards energy independence, reduce greenhouse gas emissions, and improve the value of residential properties;

(5) modeling has shown that—

(A) energy efficiency and renewable energy upgrades in just 15 percent of residential buildings in the United States would require $280,000,000,000 in financing; and

(B) the upgrades described in subparagraph (A) could reduce carbon dioxide emissions by more than a gigaton; and

(6) home retrofits—

(A) are a key strategy to reducing global warming pollution; and

(B) create and support green jobs.

SEC. 3. DEFINITIONS.

In this Act:

(1) ELIGIBLE PARTICIPANT.—The term ''eligible participant'' means a homeowner, apartment complex owner, residential cooperative association, or condominium association that finances energy efficiency measures and renewable energy improvements to homes and residential buildings under this Act.

(2) ENERGY EFFICIENCY MEASURE AND RENEWABLE ENERGY IMPROVEMENT.—The term

''energy efficiency measure and renewable energy improvement'' means any installed measure (including products, equipment, systems, services, and practices) that would result in a reduction in—

(A) end-use demand for externally supplied energy or fuel by a consumer, facility, or user; and

(B) carbon dioxide emissions, as determined by the Secretary.

(3) PROGRAM.—The term ''program'' means the Home Energy Retrofit Finance Program established under section 4(a).

(4) QUALIFIED PROGRAM DELIVERY ENTITY.—The term ''qualified program delivery entity'' means a local government, energy utility, or any other entity designated by the Secretary that administers the program for a State under this Act.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 4. HOME ENERGY RETROFIT FINANCE PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall provide Home Energy Retrofit Finance Program grants to States for the purpose of establishing or expanding a State revolving finance fund to support financing offered by qualified program delivery entities for energy efficiency measures and renewable energy improvements to existing homes and residential buildings (including apartment complexes, residential cooperative associations, and condominium buildings under 5 stories).

(b) FUNDING MECHANISM.—In carrying out the program, the Secretary shall provide funds to States, for use by qualified program delivery entities that administer finance programs directly or under agreements with collaborating third party entities, to capitalize revolving finance funds and increase participation in associated financing programs.

(c) ELIGIBILITY OF QUALIFIED PROGRAM DELIVERY ENTITIES.—

(1) IN GENERAL.—The Secretary shall provide guidance to the States on application requirements for a local government or energy utility that seeks to participate in the program, including criteria that require, at a minimum—

(A) a description of a method for determining eligible energy professionals who can be contracted with under the program for energy audits and energy improvements, including a plan to provide preference for entities that—

(i) hire locally;

(ii) partner with State Workforce Investment Boards, labor organizations, community-based organizations, and other job training entities; or

(iii) are committed to ensuring that at least 15 percent of all work hours are performed by participants from State-approved apprenticeship programs; and

(B) a certification that all of the work described in subparagraph (A) will be carried out in accordance with subchapter IV of chapter 31 of title 40, United States Code.

(2) REPAYMENT OVER TIME.—To be eligible to participate in the program, a qualified program delivery entity shall establish a method by which eligible participants may pay over time for the financed cost of allowable energy efficiency measures and renewable energy improvements.

(d) ALLOCATION.—In making funds available to States for each fiscal year under this Act, the Secretary shall use the allocation formula used to allocate funds to States to carry out State energy conservation plans under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(e) USE OF FUNDS.—Of the amounts in a State revolving finance fund—

(1) not more than 20 percent may be used by qualified program delivery entities for interest rate reductions for eligible participants; and

(2) the remainder shall be available to provide direct funding or other financial support to qualified program delivery entities.

(f) STATE REVOLVING FINANCE FUNDS.—On repayment of any funds made available by qualified program delivery entities under the program, the funds shall be deposited in the applicable State revolving finance fund to support additional financing to qualified program delivery entities for energy efficiency measures and renewable energy improvements.

(g) COORDINATION WITH STATE ENERGY EFFICIENCY RETROFIT PROGRAMS.—Home energy retrofit programs that receive financing through the program shall be carried out in accordance with all authorized measures, performance criteria, and other requirements of any applicable Federal home energy efficiency retrofit programs.

(h) PROGRAM EVALUATION.—

(1) IN GENERAL.—The Secretary shall conduct a program evaluation to determine—

(A) how the program is being used by eligible participants, including what improvements have been most typical and what regional distinctions exist, if any;

(B) what improvements could be made to increase the effectiveness of the program; and

(C) the quantity of verifiable energy savings and renewable energy deployment achieved through the program.

(2) REPORTS.—

(A) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes the results of the program evaluation required under this subsection, including any recommendations.

(B) STATE REPORTS.—Not less than once every 2 years, States participating in the program shall submit to the Secretary reports on the use of funds through the program that include any information that the Secretary may require.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act for each of fiscal years 2010 through 2015.

(b) ADMINISTRATIVE EXPENSES.—An amount not exceeding 5 percent of the amounts made available under subsection (a) shall be available for each fiscal year to pay the administrative expenses necessary to carry out this Act.

By Mr. CASEY:

S. 1248. A bill to establish a program in the Department of Energy to encourage consumers to trade in older vehicles for more fuel-efficient vehicles and motorcycles, and for other purposes; to the Committee on Finance.

Mr. CASEY. Mr. President, I rise today to introduce the Green Transportation Efficiency Act of 2009. This bill would establish a voucher program in the Department of Energy to encourage American consumers to trade in their older, less fuel-efficient vehicles for new, more fuel-efficient vehicles, including motorcycles.

This act is very similar to other ''cash for clunkers'' bills offered in the House and Senate in that it will help stimulate the economy by providing a much needed boost to our struggling automobile industry, but will go a step further by bolstering the U.S. motorcycle industry as well. After 14 straight years of growth, sales of motorcycles in the U.S. declined eight percent in 2007, and, 10 percent in 2008. Due in large part to the downturn in our economy, motorcycle sales have dropped 30 percent in the first quarter of 2009, according to the Motorcycle Industry Council. In my home State of Pennsylvania, Harley-Davidson has had to cut production and reduce its work force as a result of these declines in motorcycle sales. Established in 1973, the Harley-Davidson assembly plant in York, PA, is the company's largest manufacturing facility and is the third largest employer in York County, PA, employing over 2,200 people. It has been reported that it is probably the leanest time that Harley has faced since the company went public in 1986. Harley-Davidson, like the auto makers and other manufacturing sectors, is fighting hard to maintain its workforce and to continue to produce a high quality, American-made product during these tough economic times. However, the specter of further reductions in motorcycle sales could lead to further job losses in my State, a State already hard hit by the current economic crisis.

Indeed, the economic impact of the American motorcycle industry also extends far beyond the direct employment at facilities such as the Harley-Davidson manufacturing plants in Pennsylvania, Missouri, or Wisconsin. Many of the same parts suppliers that provide the critical supply chain for our American auto manufacturers, in States such as Michigan, Indiana, Ohio, and many others, also rely upon motorcycle manufacturers as critical customers. These parts manufacturers and suppliers will also be aided by increased motorcycle sales. The effect of increased motorcycle sales will be immediate and meaningful. For example, Harley-Davidson utilizes ''Just In Time'' manufacturing principles, meaning they do not hold parts inventories. So, every new bike ordered triggers new orders for parts—there is very little elasticity in the supply chain, so the economic benefit down the line is immediate.

Finally, in terms of economic activity, this act recognizes the challenges faced by our auto dealerships and the best way to help those dealerships is to encourage the purchasing of new, more fuel-efficient vehicles. The same principle applies to our motorcycle dealers.

In addition to helping to spur economic recovery and protect manufacturing jobs in Pennsylvania and other parts of the country where motorcycles and motorcycle parts are manufactured and assembled, the inclusion of motorcycles in this act will help America move away from its dependence on foreign sources of oil. Motorcycles are inherently fuel efficient. Average miles-per-gallon for motorcycles ranges from 40–50 MPG, even higher for smaller bikes.

Allowing consumers the option of trading in their older, inefficient vehicles for newer, more fuel efficient cars, trucks, and motorcycles will help the Nation achieve the dual goals of reducing our demand for imported oil and reducing our emissions of greenhouse gases—both critical components of our energy future. Just as importantly, the act will provide a much needed jump start to the auto and motorcycle industries at a time when their sales are at historic lows, plants are closing, and jobs are being lost.

I urge all of my colleagues to join me in support of this Act so that consumers are given a strong signal from Washington to trade in their older, inefficient vehicles and purchase new, high-fuel-efficient cars, trucks, or motorcycles.

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. 1248

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 ''Green Transportation Efficiency Act of 2009''.

SEC. 2. DEFINITIONS.

In this Act:

(1) AUTOMOBILE.—The term ''automobile'' has the meaning given the term in section 32901(a) of title 49, United States Code.

(2) CATEGORY 1 TRUCK.—

(A) IN GENERAL.—The term ''category 1 truck'' means a non-passenger automobile that has a combined fuel economy value of at least 18 miles per gallon.

(B) EXCLUSION.—The term ''category 1 truck'' does not include a category 2 truck.

(3) CATEGORY 2 TRUCK.—The term ''category 2 truck'' means a non-passenger automobile that is a large van or a large pickup, as categorized by the Secretary using the method used by the Environmental Protection Agency and described in the report entitled ''Light-Duty Automotive Technology and Fuel Economy Trends: 1975 through 2008''.

(4) CATEGORY 3 TRUCK.—The term ''category 3 truck'' means a work truck.

(5) COMBINED FUEL ECONOMY VALUE.—The term ''combined fuel economy value'' means—

(A) in the case of a qualifying vehicle, the number, expressed in miles per gallon, centered below the term ''Combined Fuel Economy'' on the label required to be affixed or caused to be affixed on a qualifying vehicle pursuant to part 600 of title 40, Code of Federal Regulations (or comparable regulations);

(B) in the case of an eligible trade-in vehicle, the equivalent of the number described in subparagraph (A) that is posted—

(i) under the term ''Estimated New EPA MPG'' and above the term ''Combined'' for vehicles of model years 1984 through 2007; or

(ii) under the term ''New EPA MPG'' and above the term ''Combined'' for vehicles of model year 2008 or later on the fuel economy website of the Environmental Protection Agency for the make, model, and year of the vehicle; or

(C) in the case an eligible trade-in vehicle manufactured during model years 1978 through 1984, the equivalent of the number described in subparagraph (A), as determined by the Secretary (and posted on the website of the National Highway Traffic Safety Administration) using data maintained by the Environmental Protection Agency for the make, model, and year of the eligible trade-in vehicle.

(6) DEALER.—The term ''dealer'' means a person licensed by a State who engages in the sale of new automobiles to ultimate purchasers.

(7) ELIGIBLE TRADE-IN VEHICLE.—The term ''eligible trade-in vehicle'' means an automobile, work truck, or motorcycle that, at the time the automobile, work truck, or motorcycle is presented for trade-in under this Act—

(A) is in drivable condition;

(B) has been continuously insured consistent with the applicable State law and registered to the same owner for a period of not less than 1 year immediately prior to the trade-in;

(C) was manufactured less than 25 years before the date of the trade-in; and

(D) in the case of an automobile, has a combined fuel economy value of 18 miles per gallon or less.

(8) MOTORCYCLE.—The term ''motorcycle'' means a motor vehicle with motive power having a seat or saddle for the use of the rider and designed to travel on not more than 3 wheels in contact with the ground.

(9) NEW FUEL-EFFICIENT AUTOMOBILE.—The term ''new fuel-efficient automobile'' means a passenger automobile, category 1 truck, category 2 truck, or category 3 truck—

(A) the equitable or legal title of which has not been transferred to any person other than the ultimate purchaser;

(B) that carries a manufacturer's suggested retail price of $45,000 or less;

(C) that—

(i) in the case of a passenger automobile, category 1 truck, or category 2 truck, is certified to applicable standards established under section 86.1811–04 of title 40, Code of Federal Regulations (or a successor regulation); or

(ii) in the case of a category 3 truck, is certified to the applicable vehicle or engine standards established under section 86.1816–08, 86.007–11, or 86.008–10 of title 40, Code of Federal Regulations (or successor regulations); and

(D) that has the combined fuel economy value of—

(i) in the case of a passenger automobile, 22 miles per gallon;

(ii) in the case of a category 1 truck, 18 miles per gallon; and

(iii) in the case of a category 2 truck or a category 3 truck, 15 miles per gallon.

(10) NEW FUEL-EFFICIENT MOTORCYCLE.—The term ''new fuel-efficient motorcycle'' means a motorcycle—

(A) the equitable or legal title of which has not been transferred to any person other than the ultimate purchaser;

(B) that carries a manufacturer's suggested retail price of not less than $7,000 and not more than $20,000; and

(C) that has a manufacturer's estimated combined fuel economy of at least 40 miles per gallon.

(11) NON-PASSENGER AUTOMOBILE.—The term ''non-passenger automobile'' has the meaning given the term in section 32901(a) of title 49, United States Code.

(12) PASSENGER AUTOMOBILE.—The term ''passenger automobile'' means a passenger automobile (as defined in section 32901(a) of title 49, United States Code) that has a combined fuel economy value of at least 22 miles per gallon.

(13) PROGRAM.—The term ''Program'' means the Green Transportation Efficiency Program established by section 3.

(14) QUALIFYING LEASE.—The term ''qualifying lease'' means a lease of an automobile for a period of not less than 5 years.

(15) QUALIFYING VEHICLE.—The term ''qualifying vehicle'' means—

(A) a new fuel-efficient automobile; or

(B) a new fuel-efficient motorcycle.

(16) SCRAPPAGE VALUE.—The term ''scrappage value'' means the amount received by the dealer for a vehicle on transferring title of the vehicle to the person responsible for ensuring the dismantling and destroying of the vehicle.

(17) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(18) ULTIMATE PURCHASER.—The term ''ultimate purchaser'' means, in the case of any qualifying vehicle, the first person who in good faith purchases the qualifying vehicle for purposes other than resale.

(19) VEHICLE IDENTIFICATION NUMBER.—The term ''vehicle identification number'' means the 17-character number used by the automobile industry to identify individual automobiles.

(20) WORK TRUCK.—The term ''work truck'' has the meaning given the term in section 32901(a) of title 49, United States Code.

SEC. 3. GREEN TRANSPORTATION EFFICIENCY PROGRAM.

(a) ESTABLISHMENT.—There is established in the Department of Energy a voluntary program to be known as the ''Green Transportation Efficiency Program'' under which the Secretary, in accordance with this section and regulations issued under subsection (h), shall—

(1) authorize the issuance of an electronic voucher in accordance with subsection (c) to offset the purchase price, or lease price for a qualifying lease, of a qualifying vehicle on the surrender of an eligible trade-in vehicle to a dealer participating in the Program;

(2) certify dealers for participation in the Program—

(A) to accept vouchers in accordance with this section as partial payment or down payment for the purchase or qualifying lease of any qualifying vehicle offered for sale or lease by the dealer; and

(B) in accordance with subsection (c)(2), to transfer each eligible trade-in vehicle surrendered to the dealer to an entity for disposal;

(3) in consultation with the Secretary of the Treasury, make electronic payments to dealers for vouchers accepted by the dealers, in accordance with the regulations issued under subsection (h);

(4) in consultation with the Secretary of the Treasury, provide for the payment of rebates to persons who qualify for a rebate under subsection (c)(3); and

(5) in consultation with the Secretary of the Treasury and the Inspector General of the Department of Energy, establish and provide for the enforcement of measures to prevent and penalize fraud under the Program.

(b) QUALIFICATIONS FOR AND VALUE OF VOUCHERS.—

(1) IN GENERAL.—A voucher issued under the Program shall have a value that may be applied to offset the purchase price, or lease price for a qualifying lease, of a qualifying vehicle in accordance with this subsection.

(2) NEW FUEL-EFFICIENT AUTOMOBILES.—

(A) $3,500 VALUE.—A voucher may be used to offset the purchase price or lease price of a new fuel-efficient automobile by $3,500 if the new fuel-efficient automobile is —

(i) a passenger automobile and the combined fuel economy value of the passenger automobile is at least 4 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(ii) a category 1 truck and the combined fuel economy value of the category 1 truck is at least 2 miles per gallon higher than the

combined fuel economy value of the eligible trade-in vehicle;

(iii) a category 2 truck that has a combined fuel economy value of at least 15 miles per gallon and—

(I) the eligible trade-in vehicle is a category 2 truck and the combined fuel economy value of the new fuel-efficient automobile is at least 1 mile per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

(II) the eligible trade-in vehicle is a category 3 truck of model year 2001 or earlier; or

(iv) a category 3 truck and the eligible trade-in vehicle is a category 3 truck of model year of 2001 or earlier and is of similar size or larger than the new fuel-efficient automobile, as determined in a manner prescribed by the Secretary.

(B) $4,500 VALUE.—A voucher may be used to offset the purchase price or lease price of the new fuel-efficient automobile by $4,500 if the new fuel-efficient automobile is—

(i) a passenger automobile and the combined fuel economy value of the passenger automobile is at least 10 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(ii) a category 1 truck and the combined fuel economy value of the category 1 truck is at least 5 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

(iii) a category 2 truck that has a combined fuel economy value of at least 15 miles per gallon and the combined fuel economy value of the category 2 truck is 2 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle and the eligible trade-in vehicle is a category 2 truck.

(3) NEW FUEL-EFFICIENT MOTORCYCLES.—A voucher may be used to offset the purchase price of the new fuel-efficient motorcycle by $2,500 if—

(A) the new fuel-efficient motorcycle is street-use approved; and

(B) the manufacturer's estimated combined fuel economy is at least 15 miles higher than the combined fuel economy value of the eligible trade-in vehicle.

(c) PROGRAM SPECIFICATIONS.—

(1) LIMITATIONS.—

(A) GENERAL PERIOD OF ELIGIBILITY.—A voucher issued under the Program shall be used only for the purchase or qualifying lease of a qualifying vehicle that occurs during the period—

(i) beginning on January 1, 2009; and

(ii) ending on the date that is 3 years after the date on which the regulations issued under subsection (h) are issued.

(B) NUMBER OF VOUCHERS PER PERSON AND PER TRADE-IN VEHICLE.—

(i) SINGLE PERSON.—Not more than 1 voucher may be issued for a single person.

(ii) JOINT REGISTERED OWNERS.—Not more than 1 voucher may be issued for the joint registered owners of a single eligible trade-in vehicle.

(C) NO COMBINATION OF VOUCHERS.—Only 1 voucher issued under the Program may be applied toward the purchase or qualifying lease of a qualifying vehicle.

(D) LIMITATION ON FUNDS FOR CATEGORY 3 TRUCKS AND MOTORCYCLES.—Not more than 7.5 percent and 15 percent of the total funds made available for the Program shall be used for vouchers for the purchase or qualifying lease of category 3 trucks and motorcycles, respectively.

(E) COMBINATION WITH OTHER INCENTIVES PERMITTED.—The availability or use of a Federal, State, or local incentive or a State-issued voucher for the purchase or lease of a qualifying vehicle shall not limit the value or issuance of a voucher under the Program to any person otherwise eligible to receive the voucher.

(F) NO ADDITIONAL FEES.—A dealer participating in the Program may not charge a person purchasing or leasing a qualifying vehicle any additional fees associated with the use of a voucher under the Program.

(G) NUMBER AND AMOUNT.—The total number and value of vouchers issued under the Program may not exceed the amounts made available for vouchers under subsection (i).

(2) DISPOSITION OF ELIGIBLE TRADE-IN VEHICLES.—

(A) IN GENERAL.—Subject to subparagraph (B), for each eligible trade-in vehicle surrendered to a dealer under the Program, the dealer shall certify to the Secretary, in such manner as the Secretary shall prescribe by regulation, that the dealer—

(i) has not and will not sell, lease, exchange, or otherwise dispose of the eligible trade-in vehicle for use as an automobile in the United States or in any other country; and

(ii) will transfer the eligible trade-in vehicle (including the engine and drive train), in such manner as the Secretary prescribes, to an entity that will ensure that the eligible trade-in vehicle—

(I) will be crushed or shredded within such period and in such manner as the Secretary prescribes; and

(II) has not been, and will not be, sold, leased, exchanged, or otherwise disposed of for use as an automobile in the United States or in any other country.

(B) SALE OF PARTS.—Nothing in subparagraph (A) prevents a person who dismantles or disposes of an eligible trade-in vehicle from—

(i) selling any parts of the disposed eligible trade-in vehicle other than the engine block and drive train (unless the engine or drive train has been crushed or shredded); or

(ii) retaining the proceeds from the sale.

(C) COORDINATION.—

(i) IN GENERAL.—The Secretary shall coordinate with the Attorney General and the Secretary of Transportation to ensure that the National Motor Vehicle Title Information System and other publicly accessible systems are appropriately updated on a timely basis to reflect the crushing or shredding of eligible trade-in vehicles under this section and appropriate reclassification of the titles of the eligible trade-in vehicles.

(ii) ACCESS TO VINS.—The commercial market shall have electronic and commercial access to the vehicle identification numbers of eligible trade-in vehicles that have been disposed of on a timely basis.

(3) ELIGIBLE PURCHASES OR LEASES PRIOR TO DATE OF ENACTMENT.—A person who purchased or leased a qualifying vehicle after January 1, 2009, and before the date of the enactment of this Act, shall be eligible for a cash rebate equivalent to the amount described in subsection (b)(2)(A) if the person proves to the satisfaction of the Secretary that—

(A)(i) the person was the registered owner of an eligible trade-in vehicle; or

(ii) if the person leased the qualifying vehicle, the lease was a qualifying lease; and

(B) the eligible trade-in vehicle has been disposed of in accordance with paragraph (2)(A).

(d) ANTI-FRAUD PROVISIONS.—

(1) VIOLATION.—It shall be unlawful for any person to knowingly violate this section (including a regulation issued pursuant to subsection (h)).

(2) PENALTIES.—Any person who commits a violation described in paragraph (1) shall be liable to the United States Government for a civil penalty of not more than $15,000 for each violation.

(e) INFORMATION TO CONSUMERS AND DEALERS.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act and promptly on the updating of any applicable information, the Secretary shall make available on an Internet website and through other means determined by the Secretary information about the Program, including—

(A) how to determine if a vehicle is an eligible trade-in vehicle;

(B) how to participate in the Program, including how to determine participating dealers; and

(C) a comprehensive list, by make and model, of qualifying vehicles meeting the requirements of the Program.

(2) PUBLIC AWARENESS CAMPAIGN.—Once information described in paragraph (1) is available, the Secretary shall conduct a public awareness campaign to inform consumers about the Program and where to obtain additional information.

(f) RECORDKEEPING AND REPORT.—

(1) DATABASE.—The Secretary, in coordination with the Secretary of Transportation, shall maintain a database of the vehicle identification numbers of all qualifying vehicles purchased or leased and all eligible trade-in vehicles disposed of under the Program.

(2) REPORT.—Not later than 60 days after the termination date described in subsection (c)(1)(A)(ii), the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that describes the efficacy of the Program, including—

(A) a description of Program results, including—

(i) the total number and amount of vouchers issued for purchase or lease of qualifying vehicles by manufacturer (including aggregate information concerning the make, model, model year, and category of automobile and motorcycle);

(ii) aggregate information regarding the make, model, model year, and manufacturing location of eligible trade-in vehicles traded in under the Program; and

(iii) the location of sale or lease;

(B) an estimate of the overall increase in fuel efficiency in terms of miles per gallon, total annual oil savings, and total annual greenhouse gas reductions, as a result of the Program; and

(C) an estimate of the overall economic and employment effects of the Program.

(g) EXCLUSION OF VOUCHERS AND REBATES FROM INCOME.—

(1) FOR PURPOSES OF ALL FEDERAL PROGRAMS.—A voucher issued under the Program or a cash rebate issued under subsection (c)(3) shall not be regarded as income and shall not be regarded as a resource for the month of receipt of the voucher or rebate and the following 12 months, for purposes of determining the eligibility of the recipient of the voucher or rebate (or the spouse or other family or household member of the recipient) for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program.

(2) FOR PURPOSES OF TAXATION.—A voucher issued under the Program or a cash rebate issued under subsection (c)(3) shall not be considered as gross income for purposes of the Internal Revenue Code of 1986.

(h) REGULATIONS.—Notwithstanding section 553 of title 5, United States Code, not later than 30 days after the date of the enactment of this Act, the Secretary shall issue final regulations to implement the Program, including regulations that—

(1) provide for a means of certifying dealers for participation in the Program;

(2) establish procedures for the reimbursement of dealers participating in the Program to be made through electronic transfer of funds for both the amount of the vouchers and any reasonable administrative costs incurred by the dealer as soon as practicable but not later than 10 days after the submission to the Secretary of a voucher for a qualifying vehicle;

(3) allow the dealer to use the voucher in addition to any other rebate or discount offered by the dealer or the manufacturer for a qualifying vehicle and prohibit the dealer from using the voucher to offset any such other rebate or discount;

(4) require dealers to disclose to the person trading in an eligible trade-in vehicle the best estimate of the scrappage value of the vehicle and to permit the dealer to retain $50 of any amounts paid to the dealer for scrappage of the eligible trade-in vehicle as payment for any administrative costs to the dealer associated with participation in the Program;

(5) establish a process by which persons who qualify for a rebate under subsection (c)(3) may apply for the rebate;

(6) consistent with subsection (c)(2), establish requirements and procedures for the disposal of eligible trade-in vehicles and provide such information as may be necessary to entities engaged in the disposal to ensure that the eligible trade-in vehicles are disposed of in accordance with the requirements and procedures, including—

(A) requirements for the removal and appropriate disposition of refrigerants, antifreeze, lead products, mercury switches, and such other toxic or hazardous vehicle components prior to the crushing or shredding of an eligible trade-in vehicle, in accordance with procedures established by the Secretary in consultation with the Administrator of the Environmental Protection Agency, and in accordance with other applicable Federal and State requirements;

(B) a mechanism for dealers to certify to the Secretary that each eligible trade-in vehicle will be transferred to an entity that will ensure that the eligible trade-in vehicle is disposed of, in accordance with the requirements and procedures, and to submit the vehicle identification numbers of the vehicles disposed of and the qualifying vehicle purchased with each voucher; and

(C) a list of entities to which dealers may transfer eligible trade-in vehicles for disposal;

(7) consistent with subsection (c)(2), establish requirements and procedures for the disposal of eligible trade-in vehicles and provide such information as may be necessary to entities engaged in the disposal to ensure that the eligible trade-in vehicles are disposed of in accordance with the requirements and procedures; and

(8) provide for the enforcement of the penalties described in subsection (d).

(i) FUNDING.—From the amounts made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), the Director of the Office of Management and Budget may allocate such sums as the Director determines are necessary to carry out this Act.

By Mr. NELSON, of Florida (for himself, Mr. CRAPO, Mr. BINGAMAN, Mr. BENNET, Mr. MARTINEZ, Mr. CARDIN, and Mr. BROWNBACK):

S. 1250. A bill to amend the Internal Revenue code of 1986 to expand the definition of cellulosic biofuel to include algae-based biofuel for purposes of the cellulosic biofuel producer credit and the special allowance for cellulosic biofuel plant property; to the Committee on Finance.

Mr. NELSON of Florida. Mr. President, I rise today to introduce, with several of my colleagues, the Algae-based Renewable Fuel Promotion Act.

The energy, environmental, and food supply challenges confronting our nation are immense. The United States imports roughly 60 percent of the crude oil consumed domestically, much of it from unstable parts of the world. As global demand continues to rise, price shocks in oil markets are increasingly common, causing economic pain and hardship for American consumers. Our overwhelming reliance on traditional fossil fuels contributes to unsustainable greenhouse gas emissions levels and the damaging effects of global warming. Ethanol made from corn or soybean—also called first generation biofuels—serve an important function in diversifying our energy base, but their benefits are largely offset by their adverse effects on food prices and the environment.

Addressing these challenges requires a multi-faceted strategy that invests in renewable and alternative energy sources, green technology, and conservation measures. If we succeed, the payoff will be a cleaner, healthier, and more economically prosperous future.

I was pleased that the economic stimulus legislation enacted earlier this year included important investments in renewable energy and green technology programs. It also included a number of expanded tax incentives, including tax credits for renewable energy sources, such as wind, geothermal, hydropower, and biomass; energy-efficient home improvements; and plug-in electric vehicles, to name just a few.

The legislation I am introducing today with six of my colleagues in the Senate—three on each side of the aisle—builds on these investments and incentives by recognizing the powerful potential of a new and emerging energy source, algae.

After years of basic research at the academic and governmental level, new algae-based fuels are poised to move from the experimentation stage to commercial development. These fuels have the potential to make a significant contribution to our energy future. Algae are one of nature's most prolific and efficient photosynthetic organisms. They have a short growing cycle, high oil content, and can require little land or potable water. An algae-based fuel needs only sunlight, CO_2, and in some cases, other nutrient inputs to produce biomass that can be converted into readily usable liquid transportation fuels—gasoline, jet fuel, and diesel. Unlike some of the other energy sources currently under development, algae-based fuels are ''drop-in'' fuels, that is to say, they can be incorporated into our existing energy infrastructure, including our pipelines, terminals, and our fleet of trucks, cars and jets.

For example, over the past several months, commercial airlines have flown four successful test flights using a variety of biofuel jet fuel blends, including a Continental Airlines flight using a blend of algae- and jatropha-derived biofuel and a Japan Airlines flight using a similar blend that also included camelina.

Moreover, some algae-based fuel production processes even sequester and consume CO_2. Algae production facilities can use CO_2 emitted by a coal-fired electric utility as a feedstock for the production of the fuel. As a result, algae-based fuels can help transform the energy landscape by shifting our energy consumption to a renewable, home-grown fuel that is carbon neutral or better.

Unfortunately, current Federal tax policy inhibits the production of algae-based fuels by failing to provide a level playing—field relative to other alternative and renewable fuels. Tax incentives currently apply to the production of liquefied petroleum gas, compressed or liquefied natural gas, ethanol, liquefied hydrogen, biodiesel, liquid fuels derived from coal, and other alternative fuels. Many of these incentives were added to the tax code well before recent technological developments demonstrated the extraordinary promise of algae as a renewable fuel source. In order to ensure that Federal tax incentives stimulate the most promising and environmentally beneficial energy sources available, the tax code should be updated to incorporate and promote algae-based fuel production.

The Algae-based Renewable Fuel Promotion Act would make two modest changes to the tax code to promote the development and commercialization of algae-based fuels in the U.S. First, the bill would expand the $1.01 per gallon income tax credit for cellulosic biofuels to cover algae-based biofuels. The bill retains the current law December 31, 2012, expiration date for the cellulosic biofuel producer credit. Second, the bill would extend the capital investment tax incentives for cellulosic biofuels to cover equipment used to produce algae-based fuels. Specifically, the bill would modify the 50 percent bonus depreciation provision for property used to produce cellulosic biofuel by extending the provision to qualified algae-based biofuel plant property. The bill retains the current law requirement that qualified property must be placed in service before January 1, 2013. By ensuring that algae-based fuels fully benefit under Federal tax policies that promote renewable and alternative fuels, the legislation will encourage investment in this sustainable energy source and make an important contribution to our energy landscape for years to come.

Algae-based fuels are just one of the many renewable and alternative energy sources under development by aggressive and entrepreneurial start-up firms. These firms seek to capitalize on the commercial opportunities presented by the transition away from reliance on fossil fuels. It is critical that we regularly review the tax code to ensure

that it encourages and promotes the most promising renewable energy sources available. The Algae-based Renewable Fuel Promotion Act is one step in this direction. I encourage my colleagues to support it.

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. 1250

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 ''Algae-based Renewable Fuel Promotion Act of 2009''.

SEC. 2. INCLUSION OF ALGAE-BASED BIOFUEL IN DEFINITION OF CELLULOSIC BIOFUEL.

(a) CELLULOSIC BIOFUEL PRODUCER CREDIT.—

(1) GENERAL RULE.—Paragraph (4) of section 40(a) of the Internal Revenue Code of 1986 is amended by inserting ''and algae-based'' after ''cellulosic''.

(2) DEFINITIONS.—Paragraph (6) of section 40(b) of such Code is amended—

(A) by inserting ''AND ALGAE-BASED'' after ''CELLULOSIC'' in the heading,

(B) by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—The cellulosic and algae-based biofuel producer credit of any taxpayer is an amount equal to the applicable amount for each gallon of—

''(i) qualified cellulosic biofuel production, and

''(ii) qualified algae-based biofuel production.'',

(C) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (I), (J), and (K), respectively,

(D) by inserting ''AND ALGAE-BASED'' after ''CELLULOSIC'' in the heading of subparagraph (I), as so redesignated,

(E) by inserting ''or algae-based biofuel, whichever is appropriate,'' after ''cellulosic biofuel'' in subparagraph (J), as so redesignated,

(F) by inserting ''and qualified algae-based biofuel production'' after ''qualified cellulosic biofuel production'' in subparagraph (K), as so redesignated, and

(G) by inserting after subparagraph (E) the following new subparagraphs:

''(F) QUALIFIED ALGAE-BASED BIOFUEL PRODUCTION.—For purposes of this section, the term 'qualified algae-based biofuel production' means any algae-based biofuel which is produced by the taxpayer, and which during the taxable year—

''(i) is sold by the taxpayer to another person—

''(I) for use by such other person in the production of a qualified algae-based biofuel mixture in such other person's trade or business (other than casual off-farm production),

''(II) for use by such other person as a fuel in a trade or business, or

''(III) who sells such algae-based biofuel at retail to another person and places such algae-based biofuel in the fuel tank of such other person, or

''(ii) is used or sold by the taxpayer for any purpose described in clause (i).

The qualified algae-based biofuel production of any taxpayer for any taxable year shall not include any alcohol which is purchased by the taxpayer and with respect to which such producer increases the proof of the alcohol by additional distillation.

''(G) QUALIFIED ALGAE-BASED BIOFUEL MIXTURE.—For purposes of this paragraph, the term 'qualified algae-based biofuel mixture' means a mixture of algae-based biofuel and gasoline or of algae-based biofuel and a special fuel which—

''(i) is sold by the person producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the person producing such mixture.

''(H) ALGAE-BASED BIOFUEL.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'algae-based biofuel' means any liquid fuel, including gasoline, diesel, aviation fuel, and ethanol, which—

''(I) is produced from the biomass of algal organisms, and

''(II) meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545).

''(ii) ALGAL ORGANISM.—The term 'algal organism' means a single- or multi-cellular organism which is primarily aquatic and classified as a non-vascular plant, including microalgae, blue-green algae (cyanobacteria), and macroalgae (seaweeds).

''(iii) EXCLUSION OF LOW-PROOF ALCOHOL.—Such term shall not include any alcohol with a proof of less than 150. The determination of the proof of any alcohol shall be made without regard to any added denaturants.''.

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (D) of section 40(d)(3) of such Code is amended—

(i) by inserting ''AND ALGAE-BASED'' after ''CELLULOSIC'' in the heading,

(ii) by inserting ''or (b)(6)(F)'' after ''(b)(6)(C)'' in clause (ii), and

(iii) by inserting ''or algae-based'' after ''such cellulosic''.

(B) Paragraph (6) of section 40(d) of such Code is amended—

(i) by inserting ''AND ALGAE-BASED'' after ''CELLULOSIC'' in the heading, and

(ii) by striking the first sentence and inserting ''No cellulosic and algae-based biofuel producer credit shall be determined under subsection (a) with respect to any cellulosic or algae-based biofuel unless such cellulosic or algae-based biofuel is produced in the United States and used as a fuel in the United States.''

(C) Paragraph (3) of section 40(e) of such Code is amended by inserting ''AND ALGAE-BASED'' after ''CELLULOSIC'' in the heading.

(D) Paragraph (1) of section 4101(a) of such Code is amended—

(i) by inserting ''or algae-based'' after ''cellulosic'', and

(ii) by inserting ''and 40(b)(6)(H), respectively'' after ''section 40(b)(6)(E)''.

(b) SPECIAL ALLOWANCE FOR CELLULOSIC BIOFUEL PLANT PROPERTY.—Subsection (l) of section 168 of the Internal Revenue Code of 1986 is amended—

(1) by inserting ''AND ALGAE-BASED'' after ''CELLULOSIC'' in the heading,

(2) by inserting ''and any qualified algae-based biofuel plant property'' after ''qualified cellulosic biofuel plant property'' in paragraph (1),

(3) by redesignating paragraphs (4) through (8) as paragraphs (6) through (10), respectively,

(4) by inserting ''or qualified algae-based biofuel plant property'' after ''cellulosic biofuel plant property'' in paragraph (7)(C), as so redesignated,

(5) by striking ''with respect to'' and all that follows in paragraph (9), as so redesignated, and inserting ''with respect to any qualified cellulosic biofuel plant property and any qualified algae-based biofuel plant property which ceases to be such qualified property.'',

(6) by inserting ''or qualified algae-based biofuel plant property'' after ''cellulosic biofuel plant property'' in paragraph (10), as so redesignated, and

(7) by inserting after paragraph (3) the following new paragraphs:

''(4) QUALIFIED ALGAE-BASED BIOFUEL PLANT PROPERTY.—The term 'qualified algae-based biofuel plant property' means property of a character subject to the allowance for depreciation—

''(A) which is used in the United States solely to produce algae-based biofuel,

''(B) the original use of which commences with the taxpayer after December 31, 2008,

''(C) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after December 31, 2008, but only if no written binding contract for the acquisition was in effect on or before such date, and

''(D) which is placed in service by the taxpayer before January 1, 2013.

''(5) ALGAE-BASED BIOFUEL.—

''(A) IN GENERAL.—The term 'algae-based biofuel' means any liquid fuel which is produced from the biomass of algal organisms.

''(B) ALGAL ORGANISM.—The term 'algal organism' means a single- or multi-cellular organism which is primarily aquatic and classified as a non-vascular plant, including microalgae, blue-green algae (cyanobacteria), and macroalgae (seaweeds).''.

(c) EFFECTIVE DATES.—

(1) CELLULOSIC BIOFUEL PRODUCER CREDIT.—The amendments made by subsection (a) shall apply to fuel produced after December 31, 2008.

(2) SPECIAL ALLOWANCE FOR CELLULOSIC BIOFUEL PLANT PROPERTY.—The amendments made by subsection (b) shall apply to property purchased and placed in service after December 31, 2008.

Mr. CRAPO. Mr. President, I rise today to speak in support of the Algae-based Renewable Fuel Promotion Act.

I would first like to thank Senator BILL NELSON for his leadership on this extraordinary piece of legislation, which gives algae-based biofuels the same tax incentives that cellulosic biofuels currently enjoy. Specifically, the bill would provide a $1.01 per gallon tax credit and offer 50 percent bonus depreciation for property used in the production of algae-based biofuels. In short, this legislation will level the playing field for algae, resulting in enhanced development and commercialization.

Recent technological advances have showcased the tremendous potential of algae as a renewable fuel source. Algae-based biofuels can be refined into gasoline, jet fuel and diesel. These fuels are renewable, have a low-carbon footprint, and can fit seamlessly into our existing energy infrastructure. Additionally, algae does not compete for arable land or potable water. Algae grows best in very sunny climates, making the desert an ideal place for production, and it utilizes saltwater, not freshwater, to grow. It also has a short-life cycle and high oil content.

Algae-based renewable fuels will play an important role in America's clean energy portfolio, and provide an answer to the question of how we will decrease our dependence on foreign oil and increase our domestic security. Again, I thank my colleague, Senator BILL NELSON, and I look forward to working with my colleagues in the Senate on this important piece of legislation.

By Mr. WARNER:

S. 1251. A bill to amend title XVIII of the Social Security Act to provide for advanced illness care management services for Medicare beneficiaries, and for other purposes; to the Committee on Finance.

Mr. WARNER. Mr. President, I rise today to introduce legislation to help seniors navigate through a complicated and often overwhelming health care delivery system. Because of the fragmented nature of our healthcare system, we often fail to provide patients, their families, and caregivers with the necessary tools, information, and support to age well and with dignity in the setting of their preference. I believe that if we provide patients with better information about advance care planning in non-crisis situations, they will make decisions for themselves and their families that result in better care and better quality of life.

Our health care system is in need of sweeping reforms that will not only provide broader coverage but will also increase value and efficient access to quality care. As we provide meaningful reforms for the healthcare system, we should take the opportunity to refine and enhance those parts of the Medicare system that work well for seniors.

Currently, Medicare beneficiaries with advanced illnesses have a good option in the Medicare hospice benefit to receive care, family support, and counseling during the last six months of life. For those who are ill or in need of advanced illness care, but are not eligible for the hospice benefit, there are very few options for counseling and services that would help them make informed choices about their care options. Often, they are left in the dark about their treatment alternatives and without the support they and their family members need to prepare and plan for the care they want and need. Frankly, it is unconscionable to leave it to families to resolve these extraordinarily difficult decisions, often in moments of crisis, without appropriate information, materials and supportive services. The Senior Navigation and Planning Act of 2009 will help seniors and their families navigate through an extremely complex system and will help them make informed medical decisions.

My legislation would provide access to an advanced illness care management benefit, increase the awareness of advance care planning through a national education campaign and clearinghouse, reduce legal hurdles to the enforcement of advance directives, create incentives for hospitals and physicians to get accredited and certified in palliative care, increase compliance with medical orders and discharge instructions, educate entities including faith-based organizations on advance care planning issues, and increase integration and coordination between the Medicare and Medicaid programs. Collectively, these initiatives will create a more accessible environment for seniors to receive the care they need, when they need it, in the setting they prefer.

Specifically, the advanced illness care management benefit would allow Medicare beneficiaries who have been diagnosed with a life expectancy of 18 months or less to have access to the guidance and expertise of a hospice team and receive services such as consultations on palliative care, advance care planning that is patient-centered, and counseling, respite, and care giving training for their family members. This new advanced illness care management benefit will provide seniors with the support they need to make informed decisions.

This initiative builds upon the efforts of the hospice community and the private sector. For example, United Health Group has created an Advanced Illness model in their benefit design and offers this program to the seniors they serve in Medicare Advantage and Special Needs Plans. They have found by providing access to the hospice and palliative care teams earlier, patients experience an increase in the quality of their life and duplicative or futile care is reduced. Aetna and Kaiser Permanente have also implemented these types of programs with similar results.

In addition to the impact a lack of advance care planning and access to supportive services has on a patient's quality of life, inadequate access to advance care planning services contributes to 27 percent of Medicare costs spent in the last year of life. Advanced illness, palliative, and hospice care have been shown to improve quality of care at a reduced cost. Specifically, studies demonstrate that if an additional 2 percent of hospitalized Medicare beneficiaries received palliative care, direct cost savings to the Medicare program would be $1.57 billion. Given health care costs are growing at an alarming rate and that seniors may not be getting the necessary information they need to make appropriate treatment decisions, we need to act now to provide them with access to advanced illness and advance care planning services.

I believe that rather than deny or withhold healthcare services, overall health reform should include a thoughtful process that informs patients, their families, and caregivers on how to navigate and think through decisions about when and how long to pursue treatments at the end-of-life. By doing this, we will provide a culture in which all of us will have the ability to age well, with dignity, in the setting of our choosing.

It is my hope that this legislation will be incorporated into the broader health care reform effort that is underway in the Finance and Health, Education, Labor, and Pensions Committees. I look forward to working with Chairmen BAUCUS and KENNEDY to implement these meaningful reforms so seniors have access to the information and services they need to receive the care they deserve.

By Mr. ROCKEFELLER (for himself, Mr. INOUYE, and Ms. CANTWELL):

S. 1252. A bill to promote ocean and human health and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. ROCKEFELLER. Mr. President, oceans affect human health both directly and indirectly from the water quality at our beaches to the safety of seafood at U.S. markets; therefore, it is important to understand the relationship between environmental stressors, coastal conditions, climate change, and human health. Over the last several decades ocean and coastal waters have become channels for environmental threats to human health including infectious disease, harmful toxins from algae, and chemical pollutants from contact with contaminated seafood, polluted drinking water, and dirty beaches. Since the 1960s, scientists have realized that marine plants, animals, and microbes can also produce substances that benefit human health, such as anticancer, anti-inflammatory, and antibiotic medicines.

Through well designed research and monitoring programs, we can maximize the health benefits derived from the oceans, improve the safety of American seafood, reduce beach closures, and detect emerging threats to human health in a proactive rather than reactive manner.

In 2004, Congress enacted the Oceans and Human Health Act which authorized the National Oceanic and Atmospheric Administration, the National Science Foundation, and the National Institutes of Health to conduct research to improve understanding of the connection between the oceans and public health. Today, Senator INOUYE, Senator CANTWELL, and I are introducing the Oceans and Human Health Reauthorization Act of 2009.

This legislation would direct the President, working through the National Science and Technology Council, to coordinate a national research program to improve understanding of the role of the oceans, coasts and Great Lakes in human health and deliver information, products, and services to assist the nation in reducing public health risks, including those related to climate change, and enhancing health benefits from the ocean. It would establish the Oceans and Human Health Task Force that will include a number of federal agencies, such as the National Oceanic and Atmospheric Administration, the National Institutes of Health, the National Science Foundation, the National Institute for Environmental Health Science, and the Center for Disease Control. It would direct the Interagency Oceans and Human Health Task Force to develop an implementation plan that: establishes the goals and priorities for federal research that advance scientific

understanding of the connections between oceans and human health; provides information for the prediction, surveillance, and forecasting of marine-related public health problems, including those related to climate change; and uses the biological and chemical potentials of the oceans to develop new products for the prevention and treatment of diseases and to increase our understanding of the biological properties of ocean resources. The legislation would also reauthorize the National Oceanic and Atmospheric Administration's Oceans and Human Health Initiative and establish a Distinguished Scholars program for scientists to work with the National Oceanic and Atmospheric Administration on the oceans and human health initiative.

Importantly, this bill would recognize the effects of climate change on oceans and human health. The effects of climate change do not stop with sea level rise and increased water temperatures. Without physical and ecological boundaries, climate change causes a cascade of effects throughout ocean environments that can result in surprising impacts on ocean and human health. This reauthorization bill would include climate change and oceans and human health as a new research area.

Our oceans impact every American and they are a foundation of America's economy. The research and monitoring supported by this bill will help make sure we have healthy oceans where people can swim, fish, play, and eat seafood. It will also help us develop new blue jobs in marine natural products and lead to new discoveries in medicines to cure deadly diseases.

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. 1252

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 ''Oceans and Human Health Reauthorization Act of 2009''.

SEC. 2. INTERAGENCY OCEANS AND HUMAN HEALTH RESEARCH PROGRAM.

(a) COORDINATION.—Subsection (a) of section 902 of the Oceans and Human Health Act (33 U.S.C. 3101) is amended by striking ''in human health.'' and inserting '', coasts, and Great Lakes in human health and deliver information, products, and services to assist the nation in reducing public health risks, including those related to climate change, and enhancing health benefits from the ocean.''.

(b) IMPLEMENTATION PLAN.—Subsection (b) of section 902 of the Oceans and Human Health Act (33 U.S.C. 3101) is amended—

(1) by amending the matter preceding paragraph (1) to read as follows:

''(b) IMPLEMENTATION PLAN.—Not later than 5 years after the date of the enactment of the Oceans and Human Health Reauthorization Act of 2009, an Interagency Oceans and Human Health Task Force or working group established by the National Science and Technology Council, through the Director of the Office of Science and Technology Policy, shall revise and update the 2007 'Interagency Oceans and Human Health Research Implementation Plan' and submit to the Congress the updated Plan. Nothing in this subsection is intended to duplicate or supersede the activities of the Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia established under section 603 of the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 (Public Law 105–383; 16 U.S.C. 1451 note). The updated plan shall—'';

(2) in paragraph (1)—

(A) by inserting '', surveillance, and forecasting'' after ''prediction'';

(B) by inserting '', including problems related to climate change,'' after ''health problems'';

(C) by inserting ''and chemical'' after ''biological''; and

(D) by inserting ''products for the prevention and'' after ''new'';

(3) in paragraph (2), by striking ''and participation;'' and all that follows through the end and inserting ''participation in national and international research and outreach efforts, and outreach to the medical community and the public;'';

(4) in paragraph (3), by inserting '', including joint efforts,'' after ''departments'';

(5) in paragraph (4), by striking ''preventive'' and inserting ''preventing'';

(6) in paragraph (5), by inserting ''Resources'' after ''the Ocean'';

(7) in paragraph (6), by striking ''and'' at the end;

(8) by amending paragraph (7) to read as follows:

''(7) estimate funding needed for research, surveillance, education, and outreach activities to be conducted within or supported by Federal agencies and departments under the program.''; and

(9) by at the end the following:

''(8) build on, and complement, the research, surveillance, and outreach activities of the National Oceanic and Atmospheric Administration, the National Science Foundation, the National Institutes of Health, the Centers for Disease Control and Prevention, the National Institute of Environmental Health Sciences, and other departments and agencies.''.

(c) PROGRAM SCOPE.—Subsection (c) of section 902 of the Oceans and Human Health Act (33 U.S.C. 3101) is amended—

(1) by amending paragraph (1) to read as follows:

''(1) Interdisciplinary research among the ocean, atmospheric, and medical sciences, and coordinated research and activities to improve understanding of processes within the ocean that may affect human and marine animal health and to explore the potential contribution of marine organisms to medicine and research, including—

''(A) vector-, water-, and food-borne diseases of humans and marine organisms, including marine mammals, corals, and fish;

''(B) health effects for both humans and marine animals associated with harmful algal blooms and hypoxia (in collaboration with the Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia);

''(C) health effects for humans and marine organisms associated with climate change impacts in ocean, coastal, and Great Lakes waters;

''(D) marine-derived pharmaceuticals and other natural products;

''(E) marine organisms and habitats as models for biomedical research and as indicators of human health and well being and marine environmental health;

''(F) marine environmental microbiology;

''(G) legacy and emerging chemicals of concern, including bioaccumulative and endocrine-disrupting chemical contaminants;

''(H) predictive models based on indicators of marine environmental health or public health threats; and

''(I) social, economic, and behavioral studies of relationships between the condition of oceans, coasts, and Great Lakes and human health and well-being.'';

(2) by amending paragraph (2) to read as follows:

''(2) Coordination with any appropriate interagency working group of the Joint Subcommittee on Ocean Science and Technology, or its successor body, through the National Science and Technology Council, to ensure that any integrated ocean and coastal observing system provides information necessary to monitor and reduce marine public health problems, including climate change information, health-related data on biological populations, and detection of toxins and contaminants in marine waters and seafood.''; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking ''genomics and proteomics'' and inserting ''genomics, proteomics, metabolomics, and other related sciences'';

(B) by amending subparagraph (C) to read as follows:

''(C) in situ, laboratory, and remote sensors—

''(i) to detect, quantify, and predict the presence, distribution, concentration, toxicity, or virulence of infectious microbes, harmful algae, toxins, and chemical contaminants in ocean, coastal, and Great Lakes waters, sediments, organisms, and seafood; and

''(ii) to identify new genetic resources for biomedical purposes;''; and

(C) in subparagraph (E), by striking ''equipment and technologies'' and inserting ''equipment, technologies, and methodologies''.

(d) BIENNIAL REPORT.—Subsection (d) of section 902 of the Oceans and Human Health Act (33 U.S.C. 3101) is amended—

(1) in the heading, by striking ''ANNUAL'' and inserting ''BIENNIAL'';

(2) in the material preceding paragraph (1)—

(A) by striking ''24 months after the date of enactment of this Act'' and inserting ''12 months after the date of the enactment of the Oceans and Human Health Reauthorization Act of 2009'';

(B) by striking ''each year an annual'' and inserting ''alternate years a biennial''; and

(C) by striking ''year,'' and inserting ''years,'';

(3) in paragraph (1), by striking ''year;'' and inserting ''years;'';

(4) in paragraph (4), by striking ''that preceding fiscal year;'' and inserting ''the preceding two fiscal years;'' and

(5) in paragraph (5), by inserting '', funding needs,'' after ''action''.

SEC. 3. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OCEANS AND HUMAN HEALTH INITIATIVE.

(a) ESTABLISHMENT.—Subsection (a) of section 903 of the Oceans and Human Health Act (33 U.S.C. 3102) is amended—

(1) in the matter preceding paragraph (1), by striking the second sentence, and inserting ''In carrying out this section, the Secretary shall consult with other Federal agencies and departments conducting integrated oceans and human health research and disease surveillance activities and research in related areas, including the National Science Foundation, the National Institutes of Health, the Centers for Disease Control and

Prevention, the National Institute of Environmental Health Sciences, and other agencies and departments.''; and

(2) in paragraph (2), by inserting ''external'' after ''an''.

(b) ADVISORY PANEL.—Subsection (b) of section 903 of the Oceans and Human Health Act (33 U.S.C. 3102) is amended—

(1) by striking ''is authorized to'' and inserting ''shall''; and

(2) by striking ''sciences.'' and inserting ''sciences, including public health practitioners.''.

(c) NATIONAL CENTERS.—Subsection (c) of section 903 of the Oceans and Human Health Act (33 U.S.C. 3102) is amended—

(1) in paragraph (1), by striking ''for''; and

(2) by amending paragraph (2) to read as follows:

''(2) The centers shall focus on—

''(A) areas related to agency missions, including use of marine organisms and habitats as indicators for marine environmental health, impacts of climate change on ocean health threats, ocean pollutants, marine toxins and pathogens, harmful algal blooms, hypoxia, seafood safety and quality, identification of potential marine products, and biology and pathobiology of marine mammals, corals, and other marine organisms; and

''(B) supporting disciplines including marine genomics, marine environmental microbiology, ecological chemistry, and conservation medicine.''.

(d) EXTRAMURAL RESEARCH GRANTS.—Subsection (d) of section 903 of the Oceans and Human Health Act (33 U.S.C. 3102) is amended by adding at the end the following:

''(3) Grants under this subsection shall support research to improve understanding of processes within the ocean that may affect human and marine animal health and to explore the potential contribution of marine organisms to medicine and research, including—

''(A) vector-, water-, and food-borne diseases of humans and marine organisms, including marine mammals, corals, and fish;

''(B) health effects for humans and marine organisms associated with climate change impacts in ocean, coastal, and Great Lakes waters;

''(C) marine-derived pharmaceuticals and other natural products;

''(D) marine organisms and habitats as models for biomedical research and as indicators of human health and well being and marine environmental health;

''(E) marine environmental microbiology;

''(F) legacy and emerging chemicals of concern, including bioaccumulative and endocrine-disrupting chemical contaminants;

''(G) predictive models based on indicators of marine environmental health or public health threats;

''(H) cataloging and interpreting microbes and understanding microbial functions in ecosystems and impacts on human and marine health; and

''(I) social, economic, and behavioral studies of relationships between the condition of oceans, coasts, and Great Lakes, and human health and well-being.''.

(e) DISTINGUISHED SCHOLARS; COOPERATIVE AGREEMENTS.—Section 903 of the Oceans and Human Health Act (33 U.S.C. 3102) is amended by adding at the end the following:

''(f) DISTINGUISHED SCHOLARS.—The Secretary of Commerce is authorized to establish a competitive program to recognize highly distinguished external scientists in any area of oceans and human health research and to involve those scientists in collaborative work with the Oceans and Human Health Initiative of the National Oceanic and Atmospheric Administration.

''(g) COOPERATIVE AGREEMENTS.—The Secretary of Commerce may execute and perform such contracts, leases, grants, or cooperative agreements as may be necessary to carry out this section.''.

SEC. 4. PUBLIC INFORMATION AND OUTREACH.

(a) IN GENERAL.—Subsection (a) of section 904 of the Oceans and Human Health Act (33 U.S.C. 3103) is amended by striking ''program,'' and inserting ''and institutions of higher education,''.

(b) REPORT.—Subsection (b) of section 904 of the Oceans and Human Health Act (33 U.S.C. 3103) is amended to read as follows:

''(b) REPORT.—

''(1) REQUIREMENT.—The Secretary of Commerce shall submit to Congress a biennial report reviewing the results of the research, assessments, and findings developed under the Oceans and Human Health Initiative of the National Oceanic and Atmospheric Administration. Each such report shall—

''(A) describe the projects, products, and programs funded under the Initiative;

''(B) describe the work of the Advisory Committee and the manner in which the program is meeting development and implementation recommendations for the program; and

''(C) include recommendations for improving or expanding the program.

''(2) COMBINED REPORTS.—Each report required by paragraph (1) may be combined with the National Ocean and Atmospheric Administration's input to the biennial interagency report required by section 902(d).''.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Subsection (a) of section 905 of the Oceans and Human Health Act (33 U.S.C. 3104) is amended—

(1) by striking ''2005 through 2008'' and inserting ''2010 through 2014''; and

(2) by inserting '', distinguished scholar,'' after ''grant''.

By Mr. CORKER (for himself, Mr. NELSON of Florida, Mrs. SHAHEEN, Ms. SNOWE, Mr. ISAKSON, and Mr. WICKER):

S. 1253. A bill to address reimbursement of certain costs to automobile dealers; to the Committee on the Judiciary.

Mr. CORKER. 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. 1253

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 ''Automobile Dealers Assistance Act of 2009''.

SEC. 2. REIMBURSEMENT OF AUTOMOBILE DISTRIBUTORS.

(a) IN GENERAL.—Notwithstanding any other provision of law, any funds provided by the United States Government, or any agency, department, or subdivision thereof, to an automobile manufacturer or a distributor thereof as credit, loans, financing, advances, or by any other agreement in connection with such automobile manufacturer's or distributor's proceeding as a debtor under title 11, United States Code, shall be conditioned upon use of such funds to fully reimburse all dealers of such automobile manufacturer or manufacturer's distributor for—

(1) the cost incurred by such dealers during the 9-month period preceding the date on which the proceeding under title 11, United States Code, by or against the automobile manufacturer or manufacturer's distributor is commenced, in acquisition of all parts and inventory in the dealer's possession on on the same basis as if the dealers were terminating pursuant to existing franchise agreements or dealer agreements; and

(2) all other obligations owed by such automobile manufacturer or manufacturer's distributor under any other agreement between the dealers and the automobile manufacturer or manufacturer's distributor arising during that 9-month period, including, without limitation, franchise agreement or dealer agreements.

(b) INCLUSION IN TERMS.—Any note, security agreement, loan agreement, or other agreement between an automobile manufacturer or manufacturer's distributor and the Government (or any agency, department, or subdivision thereof) shall expressly provide for the use of such funds as required by this section. A bankruptcy court may not authorize the automobile manufacturer or manufacturer's distributor to obtain credit under section 364 of title 11, United States Code, unless the credit agreement or agreements expressly provided for the use of funds as required by this section.

(c) EFFECTIVENESS OF REJECTION.—Notwithstanding any other provision of law, any rejection by an automobile manufacturer or manufacturer's distributor that is a debtor in a proceeding under title 11, United States Code, of a franchise agreement or dealer agreement pursuant to section 365 of that title, shall not be effective until at least 180 days after the date on which such rejection is otherwise approved by a bankruptcy court.

By Ms. CANTWELL (for herself and Mr. KOHL):

S. 1256. A bill to amend title XIX of the Social Security Act to establish financial incentives for States to expand the provision of long-term services and supports to Medicaid beneficiaries who do not reside in an institution, and for other purposes; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I rise today to introduce the Home and Community Balanced Incentives Act of 2009, together with my colleague from Wisconsin, Senator KOHL. As we in the Senate embark on reforming America's health care system, we cannot forget those who are dependent on daily care in order to survive: those in long-term care. Long-term care provides health care and daily living services to the elderly and disabled population, providing them with the ability to live happy, productive lives that age, illness and disability would otherwise prevent.

In 2007, the U.S. spent close to $109 billion on long term institutional care services under the Medicaid program; in my state of Washington it was approximately $2 billion. This amount represents more than 30 percent of all Medicaid payments, and is a number we can easily reduce. This legislation seeks to rebalance how states handle long term care by providing the tools they need to shift people out of expensive institutional care facilities and into home and community based care, where they can remain vibrant, active members of their community.

As Dorothy from the Wizard of Oz once said: There is no place like home. I could not agree more, which is why I believe in providing individuals and

families with the option to remain in their home, where studies have shown the overall quality of life is far superior to that in an institutional facility. Additionally, home and community based care is far more cost efficient than institutional care; by diverting just 5 percent of the long term care community away from institutional care and into home and community based services, we would see a net savings of more than $10 billion dollars over five years. In a time when rising health care spending plays such a pivotal role in the health of the overall economy, these savings represent a giant step towards reining in unnecessary health care spending.

The Home and Community Balanced Incentives Act would achieve the goal of transitioning to home and community based services by offering states modest increases to their federal medical assistance payment, FMAP, for home and community based services. States would have to use these increases to develop the programs needed to provide effective home and community based services. These services will reduce barriers that currently prohibit people from accessing home and community based services.

This bill succeeds in not only saving the Medicaid program a significant amount of money, but it will empower families to make informed decisions about their long term care needs.

Specifically, this bill would: improve case management to help people remain in their homes and communities and out of nursing homes; provide consumer empowerment helping to put individuals in charge of their care; provide a coordinated transition structure for those wishing to leave institutional care and return to their homes and communities; create a clear and well coordinated system for providing long term care information and support; improve methodology for determining eligibility and tracking provider data on services and quality outcomes.

Senator KOHL and I are excited to introduce this important legislation and to begin working with our colleagues on improving the long term care system in America.

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. 1256

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 ''Home and Community Balanced Incentives Act of 2009''.

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

TITLE I—BALANCING INCENTIVES

SEC. 101. ENHANCED FMAP FOR EXPANDING THE PROVISION OF NON-INSTITUTIONALLY-BASED LONG-TERM SERVICES AND SUPPORTS.

(a) ENHANCED FMAP TO ENCOURAGE EXPANSION.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in the first sentence of subsection (b)—

(A) by striking '', and (4)'' and inserting '', (4)''; and

(B) by inserting before the period the following: '', and (5) in the case of a balancing incentive payment State, as defined in subsection (y)(1), that meets the conditions described in subsection (y)(2), the Federal medical assistance percentage shall be increased by the applicable number of percentage points determined under subsection (y)(3) for the State with respect to medical assistance described in subsection (y)(4)''; and

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

''(y) STATE BALANCING INCENTIVE PAYMENTS PROGRAM.—For purposes of clause (5) of the first sentence of subsection (b):

''(1) BALANCING INCENTIVE PAYMENT STATE.—A balancing incentive payment State is a State—

''(A) in which less than 50 percent of the total expenditures for medical assistance for fiscal year 2009 for long-term services and supports (as defined by the Secretary, subject to paragraph (5)) are for non-institutionally-based long-term services and supports described in paragraph (5)(B);

''(B) that submits an application and meets the conditions described in paragraph (2); and

''(C) that is selected by the Secretary to participate in the State balancing incentive payment program established under this subsection.

''(2) CONDITIONS.—The conditions described in this paragraph are the following:

''(A) APPLICATION.—The State submits an application to the Secretary that includes the following:

''(i) A description of the availability of non-institutionally-based long-term services and supports described in paragraph (5)(B) available (for fiscal years beginning with fiscal year 2009).

''(ii) A description of eligibility requirements for receipt of such services.

''(iii) A projection of the number of additional individuals that the State expects to provide with such services to during the 5-fiscal year period that begins with fiscal year 2011.

''(iv) An assurance of the State's commitment to a consumer-directed long-term services and supports system that values quality of life in addition to quality of care and in which beneficiaries are empowered to choose providers and direct their own care as much as possible.

''(v) A proposed budget that details the State's plan to expand and diversify medical assistance for non-institutionally-based long-term services and supports described in paragraph (5)(B) during such 5-fiscal year period, and that includes—

''(I) a description of the new or expanded offerings of such services that the State will provide; and

''(II) the projected costs of the services identified in subclause (I).

''(vi) A description of how the State intends to achieve the target spending percentage applicable to the State under subparagraph (B).

''(vii) An assurance that the State will not use Federal funds, revenues described in section 1903(w)(1), or revenues obtained through the imposition of beneficiary cost-sharing for medical assistance for non-institutionally-based long-term services and supports described in paragraph (5)(B) for the non-federal share of expenditures for medical assistance described in paragraph (4).

''(B) TARGET SPENDING PERCENTAGES.—

''(i) In the case of a balancing incentive payment State in which less than 25 percent of the total expenditures for home and community-based services under the State plan and the various waiver authorities for fiscal year 2009 are for such services, the target spending percentage for the State to achieve by not later than October 1, 2015, is that 25 percent of the total expenditures for home and community-based services under the State plan and the various waiver authorities are for such services.

''(ii) In the case of any other balancing incentive payment State, the target spending percentage for the State to achieve by not later than October 1, 2015, is that 50 percent of the total expenditures for home and community-based services under the State plan and the various waiver authorities are for such services.

''(C) MAINTENANCE OF ELIGIBILITY REQUIREMENTS.—The State does not apply eligibility standards, methodologies, or procedures for determining eligibility for medical assistance for non-institutionally-based long-term services and supports described in paragraph (5)(B)) that are more restrictive than the eligibility standards, methodologies, or procedures in effect for such purposes on December 31, 2010.

''(D) USE OF ADDITIONAL FUNDS.—The State agrees to use the additional Federal funds paid to the State as a result of this subsection only for purposes of providing new or expanded offerings of non-institutionally-based long-term services and supports described in paragraph (5)(B) (including expansion through offering such services to increased numbers of beneficiaries of medical assistance under this title).

''(E) STRUCTURAL CHANGES.—The State agrees to make, not later than the end of the 6-month period that begins on the date the State submits and application under this paragraph, such changes to the administration of the State plan (and, if applicable, to waivers approved for the State that involve the provision of long-term care services and supports) as the Secretary determines, by regulation or otherwise, are essential to achieving an improved balance between the provision of non-institutionally-based long-term services and supports described in paragraph (5)(B) and other long-term services and supports, and which shall include the following:

''(i) 'NO WRONG DOOR'—SINGLE ENTRY POINT SYSTEM.—Development of a statewide system to enable consumers to access all long-term

services and supports through an agency, organization, coordinated network, or portal, in accordance with such standards as the State shall establish and that—

''(I) shall require such agency, organization, network, or portal to provide—

''(aa) consumers with information regarding the availability of such services, how to apply for such services, and other referral services; and

''(bb) information regarding, and make recommendations for, providers of such services; and

''(II) may, at State option, permit such agency, organization, network, or portal to—

''(aa) determine financial and functional eligibility for such services and supports; and

''(bb) provide or refer eligible individuals to services and supports otherwise available in the community (under programs other than the State program under this title), such as housing, job training, and transportation.

''(ii) PRESUMPTIVE ELIGIBILITY.—At the option of the State, provision of a 60-day period of presumptive eligibility for medical assistance for non-institutionally-based long-term services and supports described in paragraph (5)(B) for any individual whom the State has reason to believe will qualify for such medical assistance (provided that any expenditures for such medical assistance during such period are disregarded for purposes of determining the rate of erroneous excess payments for medical assistance under section 1903(u)(1)(D)).

''(iii) CASE MANAGEMENT.—Development, in accordance with guidance from the Secretary, of conflict-free case management services to—

''(I) address transitioning from receipt of institutionally-based long-term services and supports described in paragraph (5)(A) to receipt of non-institutionally-based long-term services and supports described in paragraph (5)(B); and

''(II) in conjunction with the beneficiary, assess the beneficiary's needs and , if appropriate, the needs of family caregivers for the beneficiary, and develop a service plan, arrange for services and supports, support the beneficiary (and, if appropriate, the caregivers) in directing the provision of services and supports, for the beneficiary, and conduct ongoing monitoring to assure that services and supports are delivered to meet the beneficiary's needs and achieve intended outcomes.

''(iv) CORE STANDARDIZED ASSESSMENT INSTRUMENTS.—Development of core standardized assessment instruments for determining eligibility for non-institutionally-based long-term services and supports described in paragraph (5)(B), which shall be used in a uniform manner throughout the State, to—

''(I) assess a beneficiary's eligibility and functional level in terms of relevant areas that may include medical, cognitive, and behavioral status, as well as daily living skills, and vocational and communication skills;

''(II) based on the assessment conducted under subclause (I), determine a beneficiary's needs for training, support services, medical care, transportation, and other services, and develop an individual service plan to address such needs;

''(III) conduct ongoing monitoring based on the service plan; and

''(IV) require reporting of collect data for purposes of comparison among different service models.

''(F) DATA COLLECTION.—Collecting from providers of services and through such other means as the State determines appropriate the following data:

''(i) SERVICES DATA.—Services data from providers of non-institutionally-based long-term services and supports described in paragraph (5)(B) on a per-beneficiary basis and in accordance with such standardized coding procedures as the State shall establish in consultation with the Secretary.

''(ii) QUALITY DATA.—Quality data on a selected set of core quality measures agreed upon by the Secretary and the State that are linked to population-specific outcomes measures and accessible to providers.

''(iii) OUTCOMES MEASURES.—Outcomes measures data on a selected set of core population-specific outcomes measures agreed upon by the Secretary and the State that are accessible to providers and include—

''(I) measures of beneficiary and family caregiver experience with providers;

''(II) measures of beneficiary and family caregiver satisfaction with services; and

''(III) measures for achieving desired outcomes appropriate to a specific beneficiary, including employment, participation in community life, health stability, and prevention of loss in function.

''(3) APPLICABLE NUMBER OF PERCENTAGE POINTS INCREASE IN FMAP.—The applicable number of percentage points are—

''(A) in the case of a balancing incentive payment State subject to the target spending percentage described in paragraph (2)(B)(i), 5 percentage points; and

''(B) in the case of any other balancing incentive payment State, 2 percentage points.

''(4) ELIGIBLE MEDICAL ASSISTANCE EXPENDITURES.—

''(A) IN GENERAL.—Subject to subparagraph (B), medical assistance described in this paragraph is medical assistance for non-institutionally-based long-term services and supports described in paragraph (5)(B) that is provided during the period that begins on October 1, 2011, and ends on September 30, 2015.

''(B) LIMITATION ON PAYMENTS.—In no case may the aggregate amount of payments made by the Secretary to balancing incentive payment States under this subsection during the period described in subparagraph (A), or to a State to which paragraph (6) of the first sentence of subsection (b) applies, exceed $3,000,000,000.

''(5) LONG-TERM SERVICES AND SUPPORTS DEFINED.—In this subsection, the term 'long-term services and supports' has the meaning given that term by Secretary and shall include the following:

''(A) INSTITUTIONALLY-BASED LONG-TERM SERVICES AND SUPPORTS.—Services provided in an institution, including the following:

''(i) Nursing facility services.

''(ii) Services in an intermediate care facility for the mentally retarded described in subsection (a)(15).

''(B) NON-INSTITUTIONALLY-BASED LONG-TERM SERVICES AND SUPPORTS.—Services not provided in an institution, including the following:

''(i) Home and community-based services provided under subsection (c), (d), or (i), of section 1915 or under a waiver under section 1115.

''(ii) Home health care services.

''(iii) Personal care services.

''(iv) Services described in subsection (a)(26) (relating to PACE program services).

''(v) Self-directed personal assistance services described in section 1915(j)''.

(b) ENHANCED FMAP FOR CERTAIN STATES TO MAINTAIN THE PROVISION OF HOME AND COMMUNITY-BASED SERVICES.—The first sentence of section 1905(b) of such Act (42 U.S.C. 1396d (b)), as amended by subsection (a), is amended—

(1) by striking '', and (5)'' and inserting '', (5)''; and

(2) by inserting before the period the following: '', and (6) in the case of a State in which at least 50 percent of the total expenditures for medical assistance for fiscal year 2009 for long-term services and supports (as defined by the Secretary for purposes of subsection (y)) are for non-institutionally-based long-term services and supports described in subsection (y)(5)(B), and which satisfies the requirements of subparagraphs (A) (other than clauses (iii), (v), and (vi)), (C), and (F) of subsection (y)(2), and has implemented the structural changes described in each clause of subparagraph (E) of that subsection, the Federal medical assistance percentage shall be increased by 1 percentage point with respect to medical assistance described in subparagraph (A) of subsection (y)(4) (but subject to the limitation described in subparagraph (B) of that subsection)''.

(c) GRANTS TO SUPPORT STRUCTURAL CHANGES.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall award grants to States for the following purposes:

(A) To support the development of common national set of coding methodologies and databases related to the provision of non-institutionally-based long-term services and supports described in paragraph (5)(B) of section 1905(y) of the Social Security Act (as added by subsection (a)).

(B) To make structural changes described in paragraph (2)(E) of section 1905(y) to the State Medicaid program.

(2) PRIORITY.—In awarding grants for the purpose described in paragraph (1)(A), the Secretary of Health and Human Services shall give priority to States in which at least 50 percent of the total expenditures for medical assistance under the State Medicaid program for fiscal year 2009 for long-term services and supports, as defined by the Secretary for purposes of section 1905(y) of the Social Security Act, are for non-institutionally-based long-term services and supports described in paragraph (5)(B) of such section.

(3) COLLABORATION.—States awarded a grant for the purpose described in paragraph (1)(A) shall collaborate with other States, the National Governor's Association, the National Conference of State Legislatures, the National Association of State Medicaid Directors, the National Association of State Directors of Developmental Disabilities, and other appropriate organizations in developing specifications for a common national set of coding methodologies and databases.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for each of fiscal years 2010 through 2012.

(d) AUTHORITY FOR INDIVIDUALIZED BUDGETS UNDER WAIVERS TO PROVIDE HOME AND COMMUNITY-BASED SERVICES.—In the case of any waiver to provide home and community-based services under subsection (c) or (d) of section 1915 of the Social Security Act (42 U.S.C. 1396n) or section 1115 of such Act (42 U.S.C. 1315), that is approved or renewed after the date of enactment of this Act, the Secretary of Health and Human Services shall permit a State to establish individualized budgets that identify the dollar value of the services and supports to be provided to an individual under the waiver.

(e) OVERSIGHT AND ASSESSMENT.—

(1) DEVELOPMENT OF STANDARDIZED REPORTING REQUIREMENTS.—

(A) STANDARDIZATION OF DATA AND OUTCOME MEASURES.—The Secretary of Health and Human Services shall consult with States and the National Governor's Association, the National Conference of State Legislatures, the National Association of State Medicaid Directors, the National Association of State Directors of Developmental Disabilities, and other appropriate organizations to develop specifications for standardization of—

(i) reporting of assessment data for long-term services and supports (as defined by the

Secretary for purposes of section 1905(y)(5) of the Social Security Act) for each population served, including information standardized for purposes of certified EHR technology (as defined in section 1903(t)(3)(A) of the Social Security Act (42 U.S.C. 1396b(t)(3)(A)) and under other electronic medical records initiatives; and

(ii) outcomes measures that track assessment processes for long-term services and supports (as so defined) for each such population that maintain and enhance individual function, independence, and stability.

(2) ADMINISTRATION OF HOME AND COMMUNITY SERVICES.—The Secretary of Health and Human Services shall promulgate regulations to ensure that all States develop service systems that are designed to—

(A) allocate resources for services in a manner that is responsive to the changing needs and choices of beneficiaries receiving non-institutionally-based long-term services and supports described in paragraph (5)(B) of section 1905(y) of the Social Security Act (as added by subsection (a)) (including such services and supports that are provided under programs other the State Medicaid program), and that provides strategies for beneficiaries receiving such services to maximize their independence;

(B) provide the support and coordination needed for a beneficiary in need of such services (and their family caregivers or representative, if applicable) to design an individualized, self-directed, community-supported life; and

(C) improve coordination among all providers of such services under federally and State-funded programs in order to—

(i) achieve a more consistent administration of policies and procedures across programs in relation to the provision of such services; and

(ii) oversee and monitor all service system functions to assure—

(I) coordination of, and effectiveness of, eligibility determinations and individual assessments; and

(II) development and service monitoring of a complaint system, a management system, a system to qualify and monitor providers, and systems for role-setting and individual budget determinations.

(3) MONITORING.—The Secretary of Health and Human Services shall assess on an ongoing basis and based on measures specified by the Agency for Healthcare Research and Quality, the safety and quality of non-institutionally-based long-term services and supports described in paragraph (5)(B) of section 1905(y) of that Act provided to beneficiaries of such services and supports and the outcomes with regard to such beneficiaries' experiences with such services. Such oversight shall include examination of—

(A) the consistency, or lack thereof, of such services in care plans as compared to those services that were actually delivered; and

(B) the length of time between when a beneficiary was assessed for such services, when the care plan was completed, and when the beneficiary started receiving such services.

(4) GAO STUDY AND REPORT.—The Comptroller General of the United States shall study the longitudinal costs of Medicaid beneficiaries receiving long-term services and supports (as defined by the Secretary for purposes of section 1905(y)(5) of the Social Security Act) over 5-year periods across various programs, including the non-institutionally-based long-term services and supports described in paragraph (5)(B) of such section, PACE program services under section 1894 of the Social Security Act (42 U.S.C. 1395eee, 1396u–4), and services provided under specialized MA plans for special needs individuals under part C of title XVIII of the Social Security Act.

TITLE II—STRENGTHENING THE MEDICAID HOME AND COMMUNITY-BASED STATE PLAN AMENDMENT OPTION

SEC. 201. REMOVAL OF BARRIERS TO PROVIDING HOME AND COMMUNITY-BASED SERVICES UNDER STATE PLAN AMENDMENT OPTION FOR INDIVIDUALS IN NEED.

(a) PARITY WITH INCOME ELIGIBILITY STANDARD FOR INSTITUTIONALIZED INDIVIDUALS.—Paragraph (1) of section 1915(i) of the Social Security Act (42 U.S.C. 1396n(i)) is amended by striking ''150 percent of the poverty line (as defined in section 2110(c)(5))'' and inserting ''300 percent of the supplemental security income benefit rate established by section 1611(b)(1)''.

(b) ADDITIONAL STATE OPTIONS.—Section 1915(i) of the Social Security Act (42 U.S.C. 1396n(i)) is amended by adding at the end the following new paragraphs:

''(6) STATE OPTION TO PROVIDE HOME AND COMMUNITY-BASED SERVICES TO INDIVIDUALS ELIGIBLE FOR SERVICES UNDER A WAIVER.—

''(A) IN GENERAL.—A State that provides home and community-based services in accordance with this subsection to individuals who satisfy the needs-based criteria for the receipt of such services established under paragraph (1)(A) may, in addition to continuing to provide such services to such individuals, elect to provide home and community-based services in accordance with the requirements of this paragraph to individuals who are eligible for home and community-based services under a waiver approved for the State under subsection (c), (d), or (e) or under section 1115 to provide such services, but only for those individuals whose income does not exceed 300 percent of the supplemental security income benefit rate established by section 1611(b)(1).

''(B) APPLICATION OF SAME REQUIREMENTS FOR INDIVIDUALS SATISFYING NEEDS-BASED CRITERIA.—Subject to subparagraph (C), a State shall provide home and community-based services to individuals under this paragraph in the same manner and subject to the same requirements as apply under the other paragraphs of this subsection to the provision of home and community-based services to individuals who satisfy the needs-based criteria established under paragraph (1)(A).

''(C) AUTHORITY TO OFFER DIFFERENT TYPE, AMOUNT, DURATION, OR SCOPE OF HOME AND COMMUNITY-BASED SERVICES.—A State may offer home and community-based services to individuals under this paragraph that differ in type, amount, duration, or scope from the home and community-based services offered for individuals who satisfy the needs-based criteria established under paragraph (1)(A), so long as such services are within the scope of services described in paragraph (4)(B) of subsection (c) for which the Secretary has the authority to approve a waiver and do not include room or board.

''(7) STATE OPTION TO OFFER HOME AND COMMUNITY-BASED SERVICES TO SPECIFIC, TARGETED POPULATIONS.—

''(A) IN GENERAL.—A State may elect in a State plan amendment under this subsection to target the provision of home and community-based services under this subsection to specific populations and to differ the type, amount, duration, or scope of such services to such specific populations.

''(B) 5-YEAR TERM.—

''(i) IN GENERAL.—An election by a State under this paragraph shall be for a period of 5 years.

''(ii) PHASE-IN OF SERVICES AND ELIGIBILITY PERMITTED DURING INITIAL 5-YEAR PERIOD.—A State making an election under this paragraph may, during the first 5-year period for which the election is made, phase-in the enrollment of eligible individuals, or the provision of services to such individuals, or both, so long as all eligible individuals in the State for such services are enrolled, and all such services are provided, before the end of the initial 5-year period.

''(C) RENEWAL.—An election by a State under this paragraph may be renewed for additional 5-year terms if the Secretary determines, prior to beginning of each such renewal period, that the State has—

''(i) adhered to the requirements of this subsection and paragraph in providing services under such an election; and

''(ii) met the State's objectives with respect to quality improvement and beneficiary outcomes.''.

(c) REMOVAL OF LIMITATION ON SCOPE OF SERVICES.—Paragraph (1) of section 1915(i) of the Social Security Act (42 U.S.C. 1396n(i)), as amended by subsection (a), is amended by striking ''or such other services requested by the State as the Secretary may approve''.

(d) OPTIONAL ELIGIBILITY CATEGORY TO PROVIDE FULL MEDICAID BENEFITS TO INDIVIDUALS RECEIVING HOME AND COMMUNITY-BASED SERVICES UNDER A STATE PLAN AMENDMENT.—

(1) IN GENERAL.—Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(A) in subclause (XVIII), by striking ''or'' at the end;

(B) in subclause (XIX), by adding ''or'' at the end; and

(C) by inserting after subclause (XIX), the following new subclause:

''(XX) who are eligible for home and community-based services under needs-based criteria established under paragraph (1)(A) of section 1915(i), or who are eligible for home and community-based services under paragraph (6) of such section, and who will receive home and community-based services pursuant to a State plan amendment under such subsection;''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1903(f)(4) of the Social Security Act (42 U.S.C. 1396b(f)(4)) is amended in the matter preceding subparagraph (A), by inserting ''1902(a)(10)(A)(ii)(XX),'' after ''1902(a)(10)(A)(ii)(XIX),''.

(B) Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended in the matter preceding paragraph (1)—

(i) in clause (xii), by striking ''or'' at the end;

(ii) in clause (xiii), by adding ''or'' at the end; and

(iii) by inserting after clause (xiii) the following new clause:

''(xiv) individuals who are eligible for home and community-based services under needs-based criteria established under paragraph (1)(A) of section 1915(i), or who are eligible for home and community-based services under paragraph (6) of such section, and who will receive home and community-based services pursuant to a State plan amendment under such subsection,''.

(e) ELIMINATION OF OPTION TO LIMIT NUMBER OF ELIGIBLE INDIVIDUALS OR LENGTH OF PERIOD FOR GRANDFATHERED INDIVIDUALS IF ELIGIBILITY CRITERIA IS MODIFIED.—Paragraph (1) of section 1915(i) of such Act (42 U.S.C. 1396n(i)) is amended—

(1) by striking subparagraph (C) and inserting the following:

''(C) PROJECTION OF NUMBER OF INDIVIDUALS TO BE PROVIDED HOME AND COMMUNITY-BASED SERVICES.—The State submits to the Secretary, in such form and manner, and upon such frequency as the Secretary shall specify, the projected number of individuals to be provided home and community-based services.''; and

(2) in subclause (II) of subparagraph (D)(ii), by striking ''to be eligible for such services

for a period of at least 12 months beginning on the date the individual first received medical assistance for such services'' and inserting ''to continue to be eligible for such services after the effective date of the modification and until such time as the individual no longer meets the standard for receipt of such services under such pre-modified criteria''.

(f) ELIMINATION OF OPTION TO WAIVE STATEWIDENESS; ADDITION OF OPTION TO WAIVE COMPARABILITY.—Paragraph (3) of section 1915(i) of such Act (42 U.S.C. 1396n(3)) is amended by striking ''1902(a)(1) (relating to statewideness)'' and inserting ''1902(a)(10)(B) (relating to comparability''.

(g) EFFECTIVE DATE.—The amendments made by this section take effect on the first day of the first fiscal year quarter that begins after the date of enactment of this Act.

SEC. 202. MANDATORY APPLICATION OF SPOUSAL IMPOVERISHMENT PROTECTIONS TO RECIPIENTS OF HOME AND COMMUNITY-BASED SERVICES.

(a) IN GENERAL.—Section 1924(h)(1)(A) of the Social Security Act (42 U.S.C. 1396r–5(h)(1)(A)) is amended by striking ''(at the option of the State) is described in section 1902(a)(10)(A)(ii)(VI)'' and inserting ''is eligible for medical assistance for home and community-based services under subsection (c), (d), (e), or (i) of section 1915''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2009.

SEC. 203. STATE AUTHORITY TO ELECT TO EXCLUDE UP TO 6 MONTHS OF AVERAGE COST OF NURSING FACILITY SERVICES FROM ASSETS OR RESOURCES FOR PURPOSES OF ELIGIBILITY FOR HOME AND COMMUNITY-BASED SERVICES.

(a) IN GENERAL.—Section 1917 of the Social Security Act (42 U.S.C. 1396p) is amended by adding at the end the following new subsection:

''(i) STATE AUTHORITY TO EXCLUDE UP TO 6 MONTHS OF AVERAGE COST OF NURSING FACILITY SERVICES FROM HOME AND COMMUNITY-BASED SERVICES ELIGIBILITY DETERMINATIONS.—Nothing in this section or any other provision of this title, shall be construed as prohibiting a State from excluding from any determination of an individual's assets or resources for purposes of determining the eligibility of the individual for medical assistance for home and community-based services under subsection (c), (d), (e), or (i) of section 1915 (if a State imposes an limitation on assets or resources for purposes of eligibility for such services), an amount equal to the product of the amount applicable under subsection (c)(1)(E)(ii)(II) (at the time such determination is made) and such number, not to exceed 6, as the State may elect.''.

(b) RULE OF CONSTRUCTION.—Nothing in the amendment made by subsection (a) shall be construed as affecting a State's option to apply less restrictive methodologies under section 1902(r)(2) for purposes of determining income and resource eligibility for individuals specified in that section.

TITLE III—COORDINATION OF HOME AND COMMUNITY-BASED WAIVERS

SEC. 301. STREAMLINED PROCESS FOR COMBINED WAIVERS UNDER SUBSECTIONS (B) AND (C) OF SECTION 1915.

Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services shall create a template to streamline the process of approving, monitoring, evaluating, and renewing State proposals to conduct a program that combines the waiver authority provided under subsections (b) and (c) of section 1915 of the Social Security Act (42 U.S.C. 1396n) into a single program under which the State provides home and community-based services to individuals based on individualized assessments and care plans (in this section referred to as the ''combined waivers program''). The template required under this section shall provide for the following:

(1) A standard 5-year term for conducting a combined waivers program.

(2) Harmonization of any requirements under subsections (b) and (c) of such section that overlap.

(3) An option for States to elect, during the first 5-year term for which the combined waivers program is approved to phase-in the enrollment of eligible individuals, or the provision of services to such individuals, or both, so long as all eligible individuals in the State for such services are enrolled, and all such services are provided, before the end of the initial 5-year period.

(4) Examination by the Secretary, prior to each renewal of a combined waivers program, of how well the State has—

(A) adhered to the combined waivers program requirements; and

(B) performed in meeting the State's objectives for the combined waivers program, including with respect to quality improvement and beneficiary outcomes.

By Ms. CANTWELL (for herself and Ms. STABENOW):

S. 1257. A bill to amend the Social Security Act to build on the aging network to establish long-term services and supports through single-entry point systems, evidence based disease prevention and health promotion programs, and enhanced nursing home diversion programs; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I rise today to introduce Project 2020: Building on the Promise of Home and Community-Based Services Act with my colleague from Michigan, Senator STABENOW. By the year 2020, almost 1 in 6 Americans will be over the age of 65 and the population of people over the age of 85, the fastest growing segment of the population, will double. Our current long term care financing structure is unsustainable as the population in need of such services rapidly increases. As such, we must turn our focus to reforming the long term care system to provide the best care available to this vulnerable population.

The average cost of a nursing home in this country is $70,000 a year, making this an unrealistic option for most Americans. In fact, most people who end up in a nursing home last just six months before they have spent so much they become poor enough to qualify for Medicaid. This situation is expensive for consumers, for states, and for the federal government. Fortunately, there is a clear answer. It costs Medicaid one third as much to provide someone with home and community based care as it would cost to care for them in a nursing home. In addition, most people want to stay in their own home or community whenever possible. An independent analysis conducted by the Lewin Group shows that Project 2020 would reach over 40 million Americans, while simultaneously reducing Medicare and Medicaid costs by more than $2.8 billion over 5 years.

Project 2020 addresses the urgent need to shift away from institutional care and towards home and community based services in three distinct ways: through enhanced nursing home diversion; by increasing the use of person-centered access to information; and by utilizing evidence-based disease and injury prevention. As I previously mentioned, increased nursing home diversion will not only provide significant savings to the Medicaid program, it will also allow families to stay together and let people be active members of their communities. Through the creation of a person-center access point to information, consumers, family members, and caregivers will be given the tools necessary to make well informed decisions about long term care. Finally, this bill will provide for programs that help consumers get proven education about avoiding preventable diseased and injuries, such as falls and malnutrition, which result in thousands of unnecessary hospitalizations every year.

As you can see, these three programs constitute a common-sense, multi-faceted approach to improving the quality of life of individuals and their families, while providing a substantial amount of savings to the health care system.

I am pleased to introduce this important legislation along with my colleague Senator STABENOW and I look forward to working with the rest of my Senate colleagues to provide families with the long term care services and support they need.

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. 1257

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 ''Project 2020: Building on the Promise of Home and Community-Based Services Act of 2009''.

SEC. 2. LONG-TERM SERVICES AND SUPPORTS.

The Social Security Act (42 U.S.C. 301 et seq.) is amended by adding at the end the following:

''TITLE XXII—LONG-TERM SERVICES AND SUPPORTS

''SEC. 2201. DEFINITIONS.

''Except as otherwise provided, the terms used in this title have the meanings given the terms in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002).

''Subtitle A—Single-Entry Point System Program

''SEC. 2211. STATE SINGLE-ENTRY POINT SYSTEMS.

''(a) DEFINITIONS.—In this title:

''(1) LONG-TERM SERVICES AND SUPPORTS.—The term 'long-term services and supports' means any service (including a disease prevention and health promotion service, an in-home service, or a case management service), care, or item (including an assistive device) that is—

''(A) intended to assist individuals in coping with, and, to the extent practicable, compensating for, functional impairment in carrying out activities of daily living;

''(B) furnished at home, in a community care setting, including a small community care setting (as defined in section 1929(g)(1)) and a large community care setting (as defined in section 1929(h)(1)), or in a long-term care facility; and

''(C) not furnished to diagnose, treat, or cure a medical disease or condition.

''(2) SINGLE-ENTRY POINT SYSTEM.—The term 'single-entry point system' means any coordinated system for providing—

''(A) comprehensive information to consumers and caregivers on the full range of available public and private long-term services and supports, options, service providers, and resources, including information on the availability of integrated long-term care, including consumer directed care options;

''(B) personal counseling to assist individuals in assessing their existing or anticipated long-term care needs, and developing and implementing a plan for long-term care designed to meet their specific needs and circumstances; and

''(C) consumers and caregivers access to the range of publicly supported and privately supported long-term services and supports that are available.

''(b) PROGRAM.—The Secretary shall establish and carry out a single-entry point system program. In carrying out the program, the Secretary shall make grants to States, from allotments described in subsection (c), to pay for the Federal share of the cost of establishing State single-entry point systems.

''(c) ALLOTMENTS.—

''(1) ALLOTMENTS TO INDIAN TRIBES AND TERRITORIES.—

''(A) RESERVATION.—The Secretary shall reserve from the funds made available under subsection (g)—

''(i) for fiscal year 2010, $1,962,456; and

''(ii) for each subsequent fiscal year, $1,962,456, increased by the percentage increase in the Consumer Price Index for All Urban Consumers, between October of the fiscal year preceding the subsequent fiscal year and October, 2007.

''(B) ALLOTMENTS.—The Secretary shall use the funds reserved under subparagraph (A) to make allotments to—

''(i) Indian tribes; and

''(ii) Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

''(2) ALLOTMENTS TO STATES.—

''(A) IN GENERAL.—

''(i) AMOUNT.—The Secretary shall allot to each eligible State for a fiscal year the sum of the fixed amount determined under subparagraph (B), and the allocation determined under subparagraph (C), for the State.

''(ii) SUBGRANTS TO AREA AGENCIES ON AGING.—

''(I) IN GENERAL.—Each State agency receiving an allotment under clause (i) shall use such allotment to make subgrants to area agencies on aging that can demonstrate performance capacity to carry out activities described in this section whether such area agency on aging carries out the activities directly or through contract with an aging network or disability entity. An area agency on agency desiring a subgrant shall establish or designate a collaborative board to ensure meaningful involvement of stakeholders in the development, planning, implementation, and evaluation of a single-entry point system consistent with the following:

''(aa) The collaborative board shall be composed of—

''(AA) individuals representing all populations served by the agency's single-entry point system, including older adults and individuals from diverse backgrounds who have a disability or a chronic condition requiring long-term support;

''(BB) a representative from the local center for independent living (as defined in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a)), and representatives from other organizations that provide services to the individuals served by the system and those who advocate on behalf of such individuals; and

''(CC) representatives of the government and non-governmental agencies that are affected by the system.

''(bb) The agency shall work in conjunction with the collaborative board on—

''(AA) the design and operations of the single-entry point system;

''(BB) stakeholder input; and

''(CC) other program and policy development issues related to the single-entry point system.

''(cc) An advisory board established under the Real Choice Systems Change Program or for an existing single-entry point system may be used to carry out the activities of a collaborative board under this subclause if such advisory board meets the requirements under item (aa).

''(II) SUBGRANTS TO OTHER ENTITIES.—A State agency may make subgrants described in subclause (I) to other qualified aging network or disability entities only if the area agency on aging chooses not to apply for a subgrant or is not able to demonstrate performance capacity to carry out the activities described in this section.

''(III) SUBGRANTEE RECIPIENT SUBGRANTS.—An administrator of a single-entry point system established by a State receiving an allotment under clause (i) shall make any necessary subgrants to key partners involved in developing, planning, or implementing the single-entry point system. Such partners may include centers for independent living (as defined in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a)).

''(B) FIXED AMOUNTS FOR STATES.—

''(i) RESERVATION.—The Secretary shall reserve from the funds made available under subsection (g)—

''(I) for fiscal year 2010, $15,759,000; and

''(II) for each subsequent fiscal year, $15,759,000, increased by the percentage increase in the Consumer Price Index for All Urban Consumers, between October of the fiscal year preceding the subsequent fiscal year and October, 2007.

''(ii) FIXED AMOUNTS.—The Secretary shall use the funds reserved under clause (i) to provide equal fixed amounts to the States.

''(C) ALLOCATION FOR STATES.—The Secretary shall allocate to each eligible State for a fiscal year an amount that bears the same relationship to the funds made available under subsection (g) (and not reserved under paragraph (1) or subparagraph (B)) for that fiscal year as the number of persons who are either older individuals or individuals with disabilities in that State bears to the number of such persons or individuals in all the States.

''(D) DETERMINATION OF NUMBER OF PERSONS.—

''(i) OLDER INDIVIDUALS.—The number of older individuals in any State and in all States shall be determined by the Secretary on the basis of the most recent data available from the Bureau of the Census, and other reliable demographic data satisfactory to the Secretary.

''(ii) INDIVIDUALS WITH DISABILITIES.—The number of individuals with disabilities in any State and in all States shall be determined by the Secretary on the basis of the most recent data available from the American Community Survey, and other reliable demographic data satisfactory to the Secretary, on individuals who have a sensory disability, physical disability, mental disability, self-care disability, go-outside-home disability, or employment disability.

''(3) ELIGIBILITY.—In addition to the States determined by the Secretary to be eligible for a grant under this section, a State that receives a Federal grant for an aging and disability resource center is eligible for a grant under this section.

''(4) DEFINITION.—In this subsection, the term 'State' shall not include any jurisdiction described in paragraph (1)(B)(ii).

''(d) APPLICATIONS.—

''(1) IN GENERAL.—To be eligible to receive an initial grant under this section, a State agency shall, after consulting and coordinating with consumers, other stakeholders, centers for independent living in the State, if any, and area agencies on aging in the State, if any, submit an application to the Secretary at such time, in such manner, and containing the following information:

''(A) Evidence of substantial involvement of stakeholders and agencies in the State that are administering programs that will be the subject of referrals.

''(B) The applicant's plan for providing—

''(i) comprehensive information on the full range of available public and private long-term services and supports options, providers, and resources, including building awareness of the single-entry point system as a resource;

''(ii) objective, neutral, and personal information, counseling, and assistance to individuals and their caregivers in assessing their existing or anticipated long-term care needs, and developing and implementing a plan for long-term care to meet their needs;

''(iii) for eligibility screening and referral for services;

''(iv) for stakeholder input;

''(v) for a management information system; and

''(vi) for an evaluation of the effectiveness of the single-entry point system.

''(C) A specification of the period of the grant request, which shall include not less than 3 consecutive fiscal years in the 5-fiscal-year-period beginning with fiscal year 2010.

''(D) Such other information as the Secretary determines appropriate.

''(2) APPLICATION FOR CONTINUATION.—

''(A) IN GENERAL.—A State that receives an initial grant under this section shall apply, after consulting and coordinating with the area agencies on aging, for a continuation of the initial grant, which includes a description of any significant changes to the information provided in the initial application and such data concerning performance measures related to the requirements in the initial application as the Secretary shall require.

''(B) EFFECT.—The requirement under subparagraph (A) shall be in effect through fiscal year 2020.

''(e) USE OF FUNDS.—

''(1) IN GENERAL.—A State that receives a grant under this section shall use the funds made available through the grant to—

''(A) establish a State single-entry point system, to enable older individuals and individuals with disabilities and their caregivers to obtain resources concerning long-term services and supports options; and

''(B) provide information on, access to, and assistance regarding long-term services and supports.

''(2) SERVICES.—In particular, the State single-entry point system shall be the referral source to—

''(A) provide information about long-term care planning and available long-term services and supports through a variety of media (such as websites, seminars, and pamphlets);

''(B) provide assistance with making decisions about long-term services and supports

and determining the most appropriate services through options counseling, future financial planning, and case management;

''(C) provide streamlined access to and assistance with applying for federally funded long-term care benefits (including medical assistance under title XIX, Medicare skilled nursing facility services, services under title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.), the services of Aging and Disability Resource Centers), and State-funded and privately funded long-term care benefits, through efforts to shorten and simplify the eligibility processes for older individuals and individuals with disabilities;

''(D) provide referrals to the State evidence-based disease prevention and health promotion programs under subtitle B;

''(E) allocate the State funds available under subtitle C and carry out the State enhanced nursing home diversion program under subtitle C; and

''(F) and provide information about, other services available in the State that may assist an individual to remain in the community, including the Medicare and Medicaid programs, the State health insurance assistance program, the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), and the Low-Income Home Energy Assistance Program under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.), and such other services, as the State shall include.

''(3) COLLABORATIVE ARRANGEMENTS.—

''(A) CENTER FOR INDEPENDENT LIVING.—Each entity receiving an allotment under subsection (c) shall involve in the planning and implementation of the single-entry point system the local center for independent living (as defined in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a)), which provides information, referral, assistance, or services to individuals with disabilities.

''(B) OTHER ENTITIES.—To the extent practicable, the State single-entry point system shall enter into collaborative arrangements with aging and disability programs, service providers, agencies, the direct care work force, and other entities in order to ensure that information about such services may be made available to individuals accessing the State single-entry point system.

''(f) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share of the cost described in subsection (b) shall be 75 percent.

''(2) NON-FEDERAL SHARE.—The State may provide the non-Federal share of the cost in cash or in-kind, fairly evaluated, including plant, equipment, or services. The State may provide the non-Federal share from State, local, or private sources.

''(g) FUNDING.—

''(1) IN GENERAL.—The Secretary shall use amounts made available under paragraph (2) to make the grants described in subsection (b).

''(2) FUNDING.—There are authorized to be appropriated to carry out this section—

''(A) $30,900,000 for fiscal year 2010;
''(B) $38,264,000 for fiscal year 2011;
''(C) $48,410,000 for fiscal year 2012;
''(D) $53,560,000 for fiscal year 2013;
''(E) $63,860,000 for fiscal year 2014;
''(F) $69,010,000 for fiscal year 2015;
''(G) $74,160,000 for fiscal year 2016;
''(H) $79,310,000 for fiscal year 2017;
''(I) $84,460,000 for fiscal year 2018;
''(J) $89,610,000 for fiscal year 2019; and
''(K) $95,790,000 for fiscal year 2020.

''(3) AVAILABILITY.—Funds appropriated under paragraph (2) shall remain available until expended.

''Subtitle B—Healthy Living Program

''SEC. 2221. EVIDENCE-BASED DISEASE PREVENTION AND HEALTH PROMOTION PROGRAMS.

''(a) PROGRAM.—The Secretary shall establish and carry out a healthy living program. In carrying out the program, the Secretary shall make grants to State agencies, from allotments described in subsection (b), to pay for the Federal share of the cost of carrying out evidence-based disease prevention and health promotion programs.

''(b) ALLOTMENTS.—

''(1) ALLOTMENTS TO INDIAN TRIBES AND TERRITORIES.—

''(A) RESERVATION.—The Secretary shall reserve from the funds made available under subsection (g)—

''(i) for fiscal year 2010, $1,500,952; and

''(ii) for each subsequent fiscal year, $1,500,952, increased by the percentage increase in the Consumer Price Index for All Urban Consumers, between October of the fiscal year preceding the subsequent fiscal year and October, 2007.

''(B) ALLOTMENTS.—The Secretary shall use the reserved funds under subparagraph (A) to make allotments to—

''(i) Indian tribes; and

''(ii) Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

''(2) IN GENERAL.—

''(A) AMOUNTS.—

''(i) IN GENERAL.—Except as provided in paragraph (3), the Secretary shall allot to each eligible State for a fiscal year an amount that bears the same relationship to the funds made available under this section and not reserved under paragraph (1) for that fiscal year as the number of older individuals in the State bears to the number of older individuals in all the States.

''(ii) OLDER INDIVIDUALS.—The number of older individuals in any State and in all States shall be determined by the Secretary on the basis of the most recent data available from the Bureau of the Census, and other reliable demographic data satisfactory to the Secretary.

''(B) SUBGRANTS.—

''(i) IN GENERAL.—Each State agency that receives an amount under subparagraph (A) shall award subgrants to area agencies on aging that can demonstrate performance capacity to carry out activities under this section whether such area agency on aging carries out the activities directly or through contract with an aging network entity.

''(ii) SUBGRANTS TO OTHER ENTITIES.—A State agency may make subgrants described in clause (i) to other qualified aging network entities only if the area agency on aging chooses not to apply for a subgrant or is not able to demonstrate performance capacity to carry out the activities described in this section.

''(3) MINIMUM ALLOTMENT.—No State shall receive an allotment under this section for a fiscal year that is less than 0.5 percent of the funds made available to carry out this section for that fiscal year and not reserved under paragraph (1).

''(4) ELIGIBILITY.—In addition to the States determined by the Secretary to be eligible for a grant under this section, a State that receives a Federal grant for evidence-based disease prevention is eligible for a grant under this section.

''(c) APPLICATIONS.—To be eligible to receive a grant under this section, a State agency shall, after consulting and coordinating with consumers, other stakeholders, and area agencies on aging in the State, if any, submit an application to the Secretary at such time, in such manner, and containing the following information:

''(1) A description of the evidence-based disease prevention and health promotion program.

''(2) Sufficient information to demonstrate that the infrastructure exists to support the program.

''(3) A specification of the period of the grant request, which shall include not less than 3 consecutive fiscal years in the 5 fiscal year period beginning with fiscal year 2010.

''(4) Such other information as the Secretary determines appropriate.

''(d) APPLICATION FOR CONTINUATION.—

''(1) IN GENERAL.—A State that receives an initial grant under this section shall apply, after consulting and coordinating with the area agencies on aging, for a continuation of the initial grant, which application shall include—

''(A) a description of any significant changes to the information provided in the initial application; and

''(B) such data concerning performance measures related to the requirements in the initial application as the Secretary shall require.

''(2) EFFECT.—The requirement under paragraph (1) shall be in effect through fiscal year 2020.

''(e) USE OF FUNDS.—A State that receives a grant under this section shall use the funds made available through the grant to carry out—

''(1) an evidence-based chronic disease self-management program;

''(2) an evidence-based falls prevention program; or

''(3) another evidence-based disease prevention and health promotion program.

''(f) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share of the cost described in subsection (a) shall be 85 percent.

''(2) NON-FEDERAL SHARE.—The State may provide the non-Federal share of the cost in cash or in-kind, fairly evaluated, including plant, equipment, or services. The State may provide the non-Federal share from State, local, or private sources.

''(g) FUNDING.—

''(1) IN GENERAL.—The Secretary shall use amounts made available under paragraph (2) to make the grants described in subsection (a).

''(2) FUNDING.—There are authorized to be appropriated to carry out this section—

''(A) $36,050,000 for fiscal year 2010;
''(B) $41,200,000 for fiscal year 2011;
''(C) $56,650,000 for fiscal year 2012;
''(D) $77,250,000 for fiscal year 2013;
''(E) $92,700,000 for fiscal year 2014;
''(F) $103,000,000 for fiscal year 2015;
''(G) $118,450,000 for fiscal year 2016;
''(H) $133,900,000 for fiscal year 2017;
''(I) $149,350,000 for fiscal year 2018;
''(J) $157,590,000 for fiscal year 2019; and
''(K) $173,040,000 for fiscal year 2020.

''(3) AVAILABILITY.—Funds appropriated under paragraph (2) shall remain available until expended.

''Subtitle C—Diversion Programs

''SEC. 2231. ENHANCED NURSING HOME DIVERSION PROGRAMS.

''(a) DEFINITION.—In this section:

''(1) LOW-INCOME SENIOR.—The term 'low-income senior' means an individual who—

''(A) is age 75 or older; and

''(B) is from a household with a household income that is not less than 150 percent, and not more than 300 percent, of the poverty line.

''(2) NURSING HOME.—The term 'nursing home' means—

''(A) a skilled nursing facility, as defined in section 1819(a); or

''(B) a nursing facility, as defined in section 1919(a).

''(b) PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish and carry out a diversion program. In carrying out the program, the Secretary shall make grants to States, from allotments described in subsection (c), to pay for the Federal share of the cost of carrying out enhanced nursing home diversion programs.

''(2) COHORTS.—The Secretary shall make the grants to—

''(A) a first year cohort consisting of one third of the States, for fiscal year 2010;

''(B) a second year cohort consisting of the cohort described in subparagraph (A) and an additional one third of the States, for fiscal year 2011; and

''(C) a third year cohort consisting of all the eligible States, for fiscal year 2012 and each subsequent fiscal year.

''(3) READINESS.—In determining whether to include an eligible State in the first year, second year, or third year and subsequent year cohort, the Secretary shall consider the readiness of the State to carry out an enhanced nursing home diversion program under this section. Readiness shall be determined based on a consideration of the following factors:

''(A) Availability of a comprehensive array of home- and community-based services.

''(B) Sufficient home- and community-based services provider capacity.

''(C) Availability of housing.

''(D) Availability of supports for consumer-directed services, including whether a fiscal intermediary is in place.

''(E) Ability to perform timely eligibility determinations and assessment for services.

''(F) Existence of a quality assessment and improvement program for home and community-based services.

''(G) Such other factors as the Secretary determines appropriate.

''(c) ALLOTMENTS.—

''(1) IN GENERAL.—

''(A) AMOUNT.—The Secretary shall allot to an eligible State (within the applicable cohort) for a fiscal year an amount that bears the same relationship to the funds made available under subsection (i) for that fiscal year as the number of low-income seniors in the State bears to the number of low-income seniors within States in the applicable cohort for that fiscal year.

''(B) LOW-INCOME SENIORS.—The number of low-income seniors in any State and in all States shall be determined by the Secretary on the basis of the most recent data available from the American Community Survey, and other reliable demographic data satisfactory to the Secretary.

''(2) ELIGIBILITY.—In addition to the States determined by the Secretary to be eligible for a grant under this section, a State that receives a Federal grant for a nursing home diversion is eligible for a grant under this section.

''(d) APPLICATIONS.—To be eligible to receive a grant under this section, a State agency shall, after consulting and coordinating with consumers, other stakeholders, and area agencies on aging in the State, if any, submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including a specification of the period of the grant request, which shall include not less than 3 consecutive fiscal years in the 5 fiscal year period beginning with the fiscal year prior to the year of application.

''(e) APPLICATION FOR CONTINUATION.—

''(1) IN GENERAL.—A State that receives an initial grant under this section shall apply, after consulting and coordinating with the area agencies on aging, for a continuation of the initial grant, which application shall include—

''(A) a description of any significant changes to the information provided in the initial application; and

''(B) such data concerning performance measures related to the requirements in the initial application as the Secretary shall require.

''(2) EFFECT.—The requirement under paragraph (1) shall be in effect through fiscal year 2020.

''(f) USE OF FUNDS.—

''(1) IN GENERAL.—A State that receives a grant under this section shall carry out the following:

''(A) Use the funds made available through the grant to carry out an enhanced nursing home diversion program that enables eligible individuals to avoid admission into nursing homes by enabling the individuals to obtain alternative long-term services and supports and remain in their communities.

''(B) Award subgrants to area agencies on aging that can demonstrate performance capacity to carry out activities under this section whether such area agency on aging carries out the activities directly or through contract with an aging network entity. A State may make subgrants to other qualified aging network entities only if the area agency on aging chooses not to apply for a subgrant or is not able to demonstrate performance capacity to carry out the activities described in this section.

''(2) CASE MANAGEMENT.—

''(A) IN GENERAL.—The State, through the State single-entry point system established under subtitle A, shall provide for case management services to the eligible individuals.

''(B) USE OF EXISTING SERVICES.—In carrying out subparagraph (A), the State agency or area agency on aging may utilize existing case management services delivery networks if—

''(i) the networks have adequate safeguards against potential conflicts of interest; and

''(ii) the State agency or area agency on aging includes a description of such safeguards in the grant application.

''(C) CARE PLAN.—The State shall provide for development of a care plan for each eligible individual served, in consultation with the eligible individual and their caregiver, as appropriate. In developing the care plan, the State shall explain the option of consumer directed care and assist an individual, who so requests, with developing a consumer-directed care plan that shall include arranging for support services and funding. Such assistance shall include providing information and outreach to individuals in the hospital, in a nursing home for post-acute care, or undergoing changes in their health status or caregiver situation.

''(g) ELIGIBLE INDIVIDUALS.—In this section, the term 'eligible individual' means an individual—

''(1) who has been determined by the State to be at high functional risk of nursing home placement, as defined by the State agency in the State agency's grant application;

''(2) who is not eligible for medical assistance under title XIX; and

''(3) who meets the income and asset eligibility requirements established by the State and included in such State's grant application for approval by the Secretary.

''(h) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share of the cost described in subsection (b) shall be, for a State and for a fiscal year, the sum of—

''(A) the Federal medical assistance percentage applicable to the State for the year under section 1905(b); and

''(B) 5 percentage points.

''(2) NON-FEDERAL SHARE.—The State may provide the non-Federal share of the cost in cash or in-kind, fairly evaluated, including plant, equipment, or services. The State may provide the non-Federal share from State, local, or private sources.

''(i) FUNDING.—

''(1) IN GENERAL.—The Secretary shall use amounts made available under paragraph (2) to make the grants described in subsection (b).

''(2) FUNDING.—There are authorized to be appropriated to carry out this section—

''(A) $111,825,137 for fiscal year 2010;

''(B) $337,525,753 for fiscal year 2011;

''(C) $650,098,349 for fiscal year 2012;

''(D) $865,801,631 for fiscal year 2013;

''(E) $988,504,887 for fiscal year 2014;

''(F) $1,124,547,250 for fiscal year 2015;

''(G) $1,276,750,865 for fiscal year 2016;

''(H) $1,364,488,901 for fiscal year 2017;

''(I) $1,466,769,052 for fiscal year 2018;

''(J) $1,712,755,702 for fiscal year 2019; and

''(K) $1,712,755,702 for fiscal year 2020.

''(3) AVAILABILITY.—Funds appropriated under paragraph (2) shall remain available until expended.

''Subtitle D—Administration, Evaluation, and Technical Assistance

''SEC. 2241. ADMINISTRATION, EVALUATION, AND TECHNICAL ASSISTANCE.

''(a) ADMINISTRATION AND EXPENSES.—For purposes of carrying out this title, there are authorized to be appropriated for administration and expenses—

''(1) of the area agencies on aging—

''(A) $16,825,895 for fiscal year 2010;

''(B) $39,246,141 for fiscal year 2011;

''(C) $50,766,948 for fiscal year 2012;

''(D) $66,999,101 for fiscal year 2013;

''(E) $76,979,152 for fiscal year 2014;

''(F) $87,163,513 for fiscal year 2015;

''(G) $98,780,562 for fiscal year 2016;

''(H) $106,063,792 for fiscal year 2017;

''(I) $114,324,642 for fiscal year 2018;

''(J) $123,312,948 for fiscal year 2019; and

''(K) $133,215,845 for fiscal year 2020;

''(2) of the State agencies—

''(A) $8,412,948 for fiscal year 2010;

''(B) $19,623,071 for fiscal year 2011;

''(C) $25,383,474 for fiscal year 2012;

''(D) $33,499,551 for fiscal year 2013;

''(E) $38,489,576 for fiscal year 2014;

''(F) $43,581,756 for fiscal year 2015;

''(G) $49,390,281 for fiscal year 2016;

''(H) $53,031,896 for fiscal year 2017;

''(I) $57,162,321 for fiscal year 2018;

''(J) $61,656,474 for fiscal year 2019; and

''(K) $66,607,923 for fiscal year 2020; and

''(3) of the Administration—

''(A) $2,103,237 for fiscal year 2010;

''(B) $4,905,768 for fiscal year 2011;

''(C) $6,345,868 for fiscal year 2012;

''(D) $8,374,888 for fiscal year 2013;

''(E) $9,622,394 for fiscal year 2014;

''(F) $10,895,439 for fiscal year 2015;

''(G) $12,347,570 for fiscal year 2016;

''(H) $13,257,974 for fiscal year 2017;

''(I) $14,290,580 for fiscal year 2018;

''(J) $15,414,118 for fiscal year 2019; and

''(K) $16,651,981 for fiscal year 2020.

''(b) EVALUATION AND TECHNICAL ASSISTANCE.—

''(1) CONDITIONS TO RECEIPT OF GRANT.—In awarding grants under this title, the Secretary shall condition receipt of the grant for the second and subsequent grant years on a satisfactory determination that the State agency is meeting benchmarks specified in the grant agreement for each grant awarded under this title.

''(2) EVALUATIONS.—The Secretary shall measure and evaluate, either directly or through grants or contracts, the impact of the programs authorized under this title. Not later than June 1 of the year that is 6 years after the year of the date of enactment of the Project 2020: Building on the Promise of Home and Community-Based Services Act of 2009 and every 2 years thereafter, the Secretary shall—

''(A) compile the reports of the measures and evaluations of the grantees;

''(B) establish benchmarks to show progress toward savings; and

''(C) present a compilation of the information under this paragraph to Congress.

''(3) TECHNICAL ASSISTANCE GRANTS.—The Secretary shall award technical assistance grants, including State specific grants whenever practicable, to carry out the programs authorized under this title.

''(4) TRANSFER.—There are authorized to be appropriated for such evaluation and technical assistance under this subsection—

''(A) $4,206,474 for fiscal year 2010;

''(B) $9,811,535 for fiscal year 2011;

''(C) $8,461,158 for fiscal year 2012;

''(D) $11,166,517 for fiscal year 2013;

''(E) $12,829,859 for fiscal year 2014;

''(F) $14,527,252 for fiscal year 2015;

''(G) $16,463,427 for fiscal year 2016;

''(H) $17,677,299 for fiscal year 2017;

''(I) $19,054,107 for fiscal year 2018;

''(J) $20,552,158 for fiscal year 2019; and

''(K) $22,202,641 for fiscal year 2020.

''(c) AVAILABILITY.—Funds appropriated under this section shall remain available until expended.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 183—CELEBRATING THE LIFE AND ACHIEVEMENTS OF MILLARD FULLER, THE FOUNDER OF HABITAT FOR HUMANITY

Mr. SHELBY (for himself, Mr. SESSIONS, Mr. ISAKSON, and Mr. CHAMBLISS) submitted the following resolution; which was considered and agreed to:

S. RES. 183

Whereas Millard Fuller was born on January 3, 1935, in the small cotton-mill town of Lanett, in Chambers County, Alabama, and would later graduate from Auburn University and the University of Alabama School of Law;

Whereas Millard Fuller became a self-made millionaire by the age of 29 and could have lived out the rest of his life in comfort, but instead he and his wife sold all of their possessions, donated the proceeds to the poor, and began searching for a new purpose for their lives;

Whereas Millard Fuller and his wife established Habitat for Humanity in Americus, Georgia, in 1976;

Whereas Habitat for Humanity has constructed more than 300,000 homes for 1,500,000 people and has a presence in all 50 States, the District of Columbia, Guam, Puerto Rico, and more than 90 countries around the world;

Whereas Habitat for Humanity's noteworthy accomplishments include building 263 houses across the United States in 1 week and massive rebuilding efforts in New Orleans following Hurricane Katrina;

Whereas in 2005, Millard Fuller established The Fuller Center for Housing, which works with local organizations to provide support and guidance to repair and build homes for impoverished individuals and is located in 24 States and 15 countries on 5 continents;

Whereas Millard Fuller provided 3 decades of leadership and service to Habitat for Humanity and The Fuller Center for Housing, committing his life to philanthropy and service to others while raising global concern for homelessness and poverty;

Whereas Millard Fuller was honored with over 50 honorary doctorate degrees by colleges and universities throughout the United States and was awarded the Presidential Medal of Freedom, the Nation's highest civilian honor, by President William Jefferson Clinton in 1996; and

Whereas Millard Fuller passed away on February 3, 2009, leaving behind a loving wife, a proud family, and a legacy that will extend far beyond his life: Now, therefore, be it

Resolved, That the Senate—

(1) celebrates the life and achievements of Millard Fuller;

(2) acknowledges the millions of people he and his organization have served and the inspiration he has given to so many; and

(3) encourages all the people of the United States to recognize and pay tribute to Millard Fuller's life by following the example of service that he set.

SENATE RESOLUTION 184—OFFERING DEEPEST CONDOLENCES TO THE FAMILY AND FRIENDS OF OFFICER STEPHEN T. JOHNS AND CALLING ON THE LEADERS OF ALL NATIONS TO SPEAK OUT AGAINST THE MANIFESTATIONS OF ANTI-SEMITISM, BIGOTRY, AND HATRED

Mr. CARDIN (for himself, Mr. DURBIN, Mr. AKAKA, Mr. ALEXANDER, Mr. BARRASSO, Mr. BAUCUS, Mr. BAYH, Mr. BEGICH, Mr. BENNET, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BURRIS, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. DODD, Mr. DORGAN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mrs. GILLIBRAND, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mrs. HAGAN, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JOHANNS, Mr. JOHNSON, Mr. KAUFMAN, Mr. KENNEDY, Mr. KERRY, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MCCONNELL, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. PRYOR, Mr. REED, Mr. REID, Mr. RISCH, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mrs. SHAHEEN, Mr. SHELBY, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. TESTER, Mr. THUNE, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 184

Whereas the United States Holocaust Memorial Museum was established as a ''living memorial that stimulates leaders and citizens to confront hatred, prevent genocide, promote human dignity, and strengthen democracy'';

Whereas, since the dedication of the United States Holocaust Memorial Museum in 1993, the United States Holocaust Memorial Museum has welcomed nearly 30,000,000 visitors, including more than 8,000,000 school children and 85 heads of state;

Whereas, on June 10, 2009, in an assault at the entrance of the United States Holocaust Memorial Museum, Officer Stephen T. Johns of Temple Hills, Maryland, was fatally wounded and died heroically in the line of duty;

Whereas, in the wake of this heinous act of violence, the people of the United States should renew the commitment to end bigotry, intolerance, and hatred; and

Whereas there is no place in the society of the United States for individuals who seek to harm or deny rights to others, especially based on religion, race, or ethnic identity: Now, therefore, be it

Resolved, That the Senate—

(1) offers deepest condolences to the family and friends of Officer Stephen T. Johns;

(2) commends the staff members of the United States Holocaust Memorial Museum for their courage and bravery in responding to the attack on June 10, 2009;

(3) condemns anti-Semitism and all forms of religious, ethnic, and racial bigotry;

(4) condemns acts of physical violence against, and harassment of, people based on race, gender, ethnicity, or religious affiliation; and

(5) calls on the leaders of all Nations to speak out against the manifestations of anti-Semitism, bigotry, and hatred.

SENATE CONCURRENT RESOLUTION 26—APOLOGIZING FOR THE ENSLAVEMENT AND RACIAL SEGREGATION OF AFRICAN AMERICANS

Mr. HARKIN (for himself, Mr. BROWNBACK, Mr. LEVIN, Mr. DURBIN, Mr. KENNEDY, Mr. LAUTENBERG, Ms. STABENOW, Mr. BOND, and Mr. COCHRAN) submitted the following conrurrent resolution; which was ordered held at the desk:

S. CON. RES. 26

Whereas, during the history of the Nation, the United States has grown into a symbol of democracy and freedom around the world;

Whereas the legacy of African Americans is interwoven with the very fabric of the democracy and freedom of the United States;

Whereas millions of Africans and their descendants were enslaved in the United States and the 13 American colonies from 1619 through 1865;

Whereas Africans forced into slavery were brutalized, humiliated, dehumanized, and subjected to the indignity of being stripped of their names and heritage;

Whereas many enslaved families were torn apart after family members were sold separately;

Whereas the system of slavery and the visceral racism against people of African descent upon which it depended became enmeshed in the social fabric of the United States;

Whereas slavery was not officially abolished until the ratification of the 13th amendment to the Constitution of the United States in 1865, after the end of the Civil War;

Whereas after emancipation from 246 years of slavery, African Americans soon saw the fleeting political, social, and economic gains they made during Reconstruction eviscerated by virulent racism, lynchings, disenfranchisement, Black Codes, and racial segregation laws that imposed a rigid system of officially sanctioned racial segregation in virtually all areas of life;

Whereas the system of de jure racial segregation known as ''Jim Crow'', which arose in certain parts of the United States after