(Mr. KAUFMAN) was added as a cosponsor of S. Res. 182, a resolution recognizing the democratic accomplishments of the people of Albania and expressing the hope that the parliamentary elections on June 28, 2009, maintain and improve the transparency and fairness of democracy in Albania.

AMENDMENT NO. 1330

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of amendment No. 1330 intended to be proposed to S. 1023, a bill to establish a non-profit corporation to communicate United States entry policies and otherwise promote leisure, business, and scholarly travel to the United States.

At the request of Mr. SANDERS, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of amendment No. 1330 intended to be proposed to S. 1023, supra.

AMENDMENT NO. 1337

At the request of Ms. SNOWE, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of amendment No. 1337 intended to be proposed to S. 1023, a bill to establish a non-profit corporation to communicate United States entry policies and otherwise promote leisure, business, and scholarly travel to the United States.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROCKEFELLER:

S. 1286. A bill to amend part E of title IV of the Social Security Act to allow children in foster care to be placed with their parents in residential family treatment centers that provide safe environments for treating addiction and promoting healthy parenting; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Keeping Families Safe Act of 2009 which seeks to keep families together when a parent is in a comprehensive residential family treatment program. Comprehensive residential family treatment is a unique program that serves parents and children together in a safe residential environment as the parent undergoes treatment for substance abuse.

Such programs tend to be small, but their results are impressive. One study found that 60 percent of mothers who participated in the Pregnant and Postpartum Women and Their Infants program were completely clean and sober six months after their discharge. This same study found that 88 percent of these children were still with their mothers six months after the mother was discharged. However, only 5 percent of all substance abuse treatment facilities are able to accommodate children. The goal of this legislation is to offer support and flexibility to such promising programs by allowing children who are in foster care be placed with their parent in the comprehensive residential family treatment center, and bring their foster care payment with them as their placement is transferred. By allowing these funds to follow the child to the residential facility, the chances for that family's success are much greater.

Family based substance abuse treatment centers have proven to be an effective means of treating substance abuse and reuniting families, but most facilities are struggling to make ends meet. Many of the parents in treatment are motivated by the hope of overcoming their addiction and reuniting with their children. This bill is designed to give them that chance, and it will hopefully inspire them by allowing their children to be part of the recovery, in a completely safe environment. I urge my colleagues to support this important legislation to help keep families together and provide another funding source for these promising programs for children and parents.

By Mr. MCCAIN (for himself, Mr. COBURN, and Mr. GRASSLEY):

S. 1287. A bill to provide for the audit of financial statements of the Department of Defense for fiscal year 2017 and fiscal years thereafter, and for other purposes; to the Committee on Armed Services.

Mr. MCCAIN. Mr. President, today Senators COBURN, GRASSLEY, and I are introducing the Department of Defense Financial Accountability Act of 2009, which imposes hard legislative deadlines on the Department of Defense to finally fix its broken bookkeeping system. This legislation is not only necessary, it is long overdue.

The bill establishes a series of deadlines, beginning next year and running through 2017, for DoD and the Services to become audit ready. In particular, it compels the Services to account for military equipment, real property, inventory, operating materials and supplies, environmental liabilities, and fund balances with Treasury. Thereafter, DOD must undergo a full, independent audit of its financial statements. If DoD fails to meet any deadline set forth in the bill, it must timely document and explain its failure to Congress.

The Department of Defense is the most massive and complex of any organization, public or private. It is entrusted with more taxpayer dollars than any other federal department or agency. For fiscal year 2009 alone, Congress appropriated over $513 billion for DoD's base budget. It added an additional $7.4 billion for DoD in this year's so-called stimulus bill.

To support its business functions, DoD has thousands of separate business systems that it has layered upon one another for decades. They are archaic, overly complex, and error-prone. They are sometimes redundant and often lack standardization. It is no wonder that since 1995, GAO has classified the Pentagon's financial management as high-risk, which makes it vulnerable to fraud and waste. Indeed, according to GAO, DoD's accounting problems cost the American taxpayer $13 billion in 2005—that's $35 million a day.

This has been a problem for decades. In 1975, the Army disclosed that it had spent $225 million over its budget because of a serious breakdown in its accounting and financial management reporting system. For fiscal year 1986, the Navy failed to disclose $58 million in real property, $1.7 billion in guaranteed loans, and data on operating leases on ships. According to the Government Accountability Office, between 1970 and 1980, the Air Force incurred numerous over obligations in amounts up to $210 million of its industrial funds. This would never be tolerated in the private sector.

This is not only about numbers and audits—this is also about the security of our troops and our nation. These broken systems affect operations and endanger our troops. Over the years, the GAO has reported that the Pentagon's poor financial management has caused pay problems for National Guard and reservists; impeded delivery of food and other essential supplies to U.S. troops; and had the Pentagon scrambling to identify and locate 250,000 defective chem-bio suits, some of which were being sold over the Internet.

Let me read into the record one account of how this impacted ongoing operations in Iraq. According to a February 5, 2006 Star Tribune news article: ''When Perry Jeffries was serving in Iraq, the computers showed that his 4th Infantry Division troops had access to drinking water, a place to shower and working wheels on their vehicles. As the first sergeant came to understand when scrounging for water, towing immobilized tanks and driving to other posts or to Kuwait to pick up needed parts, the Pentagon's bookkeeping doesn't always match reality. Jefferies saw the real-life results of what has been a visible 'accounting' problem in Washington—the Pentagon's inability to keep accurate track of transactions and assets.''

Congress has already enacted several laws mandating financial management reform and the Office of Management and Budget has issued circulars on internal controls over financial reporting and financial management systems. Notably, none contain hard deadlines for an audit.

Meanwhile, DoD has repeatedly promised Congress that it would fix the problem. In 1999 and 2000, then-DoD Comptroller William Lynn testified before Congress that financial management reform was his highest priority. In fact, Mr. Lynn's successor, Dov Zakheim, set a deadline to have the Department of Defense audit ready by 2007. Under DoD's latest Financial Improvement and Audit Readiness Plan, that deadline is now 2017.

I want to recognize that the Department has tried, with varying degrees of effort, to improve financial management, but DoD auditors and GAO continue to report significant weaknesses.

I appreciate that our military is engaged in ongoing operations in Iraq and Afghanistan. That is why Senators COBURN, GRASSLEY and I have sought to be reasonable and realistic with the deadlines. They are the same deadlines in DoD's current Financial Improvement and Audit Readiness Plan.

It has been 19 years since the CFO Act was passed requiring DoD and other departments to have an audit. It will be 2019—nearly 30 years after the passage of the CFO Act—before the Department of Defense is able to get an audit opinion, if we hold them to their current timeline. If we do not, this may never happen.

The ultimate outcome of this legislation will be the implementation of effective financial management processes, efficient business systems and strong internal controls that are essential to producing timely, reliable and useful financial information. Quality information will allow DoD to make informed business decisions and ensure accountability on an ongoing basis.

Every dollar we save through improved financial management is another dollar for our troops—for body armor, for medical supplies, for veterans care. Improved financial systems will ensure that troops in the future do not find themselves in the same straits as the 4th Infantry Division, searching for supplies that a computer says they already have.

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. 1287

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 ''Department of Defense Financial Accountability Act of 2009''.

SEC. 2. AUDIT OF FINANCIAL STATEMENTS OF THE DEPARTMENT OF DEFENSE.

(a) FINANCIAL STATEMENTS OF DEPARTMENT OF DEFENSE.—

(1) VALIDATION AS READY FOR AUDIT.—The financial statements of the Department of Defense for a fiscal year shall be validated as ready for audit by not later than September 30, 2017.

(2) AUDIT.—The financial statements of the Department of Defense for a fiscal year shall be audited, and an opinion shall be rendered pursuant to such audit, for the first fiscal year for which the financial statements are ready for audit, but not later than fiscal year 2017, and for each fiscal year thereafter.

(3) DEADLINE FOR AUDIT.—The audit of the financial statements of the Department of Defense shall be completed as follows:

(A) In the event the financial statements for a fiscal year before fiscal year 2017 are ready for audit, by not later than two years after the last day of such fiscal year.

(B) In the case of the financial statement fiscal year 2017, by not later than September 30, 2019.

(C) In the case of the financial statement for any fiscal year after fiscal year 2017, by not later than one year after the last day of such fiscal year.

(b) FINANCIAL STATEMENTS OF THE MILITARY DEPARTMENTS AND DLA.—In furtherance of compliance with the requirements in subsection (a), the following requirements shall apply:

(1) DEPARTMENT OF THE ARMY.—

(A) VALIDATION AS READY FOR AUDIT.—The financial statements of the Department of the Army for a fiscal year shall be validated as ready for audit by not later than March 31, 2017.

(B) AUDIT.—The financial statements of the Department of the Army for a fiscal year shall be audited, and an opinion shall be rendered pursuant to such audit, for the first fiscal year for which the financial statements are ready for audit, but not later than fiscal year 2017, and for each fiscal year thereafter.

(C) DEADLINE FOR AUDIT.—The audit of the financial statements of the Department of Army shall be completed as follows:

(i) In the event the financial statements for a fiscal year before fiscal year 2017 are ready for audit, by not later than two years after the last day of such fiscal year.

(ii) In the case of the financial statement fiscal year 2017, by not later than September 30, 2019.

(iii) In the case of the financial statement for any fiscal year after fiscal year 2017, by not later than one year after the last day of such fiscal year.

(2) DEPARTMENT OF THE NAVY.—

(A) VALIDATION AS READY FOR AUDIT.—The financial statements of the Department of the Navy for a fiscal year shall be validated as ready for audit by not later than March 31, 2016.

(B) AUDIT.—The financial statements of the Department of the Navy for a fiscal year shall be audited, and an opinion shall be rendered pursuant to such audit, for the first fiscal year for which the financial statements are ready for audit, but not later than fiscal year 2016, and for each fiscal year thereafter.

(C) DEADLINE FOR AUDIT.—The audit of the financial statements of the Department of Navy shall be completed as follows:

(i) In the event the financial statements for a fiscal year before fiscal year 2016 are ready for audit, by not later than two years after the last day of such fiscal year.

(ii) In the case of the financial statement fiscal year 2016, by not later than September 30, 2018.

(iii) In the case of the financial statement for any fiscal year after fiscal year 2016, by not later than one year after the last day of such fiscal year.

(3) DEPARTMENT OF THE AIR FORCE.—

(A) VALIDATION AS READY FOR AUDIT.—The financial statements of the Department of the Air Force for a fiscal year shall be validated as ready for audit by not later than September 30, 2016.

(B) AUDIT.—The financial statements of the Department of the Air Force for a fiscal year shall be audited, and an opinion shall be rendered pursuant to such audit, for the first fiscal year for which the financial statements are ready for audit, but not later than fiscal year 2016, and for each fiscal year thereafter.

(C) DEADLINE FOR AUDIT.—The audit of the financial statements of the Department of the Air Force shall be completed as follows:

(i) In the event the financial statements for a fiscal year before fiscal year 2016 are ready for audit, by not later than two years after the last day of such fiscal year.

(ii) In the case of the financial statement fiscal year 2016, by not later than September 30, 2018.

(iii) In the case of the financial statement for any fiscal year after fiscal year 2016, by not later than one year after the last day of such fiscal year.

(4) DEFENSE LOGISTICS AGENCY.—

(A) VALIDATION AS READY FOR AUDIT.—The financial statements of the Defense Logistics Agency for a fiscal year shall be validated as ready for audit by not later than September 30, 2017.

(B) AUDIT.—The financial statements of the Defense Logistics Agency for a fiscal year shall be audited, and an opinion shall be rendered pursuant to such audit, for the first fiscal year for which the financial statements are ready for audit, but not later than fiscal year 2017, and for each fiscal year thereafter.

(C) DEADLINE FOR AUDIT.—The audit of the financial statements of the Defense Logistics Agency shall be completed as follows:

(i) In the event the financial statements for a fiscal year before fiscal year 2017 are ready for audit, by not later than two years after the last day of such fiscal year.

(ii) In the case of the financial statement fiscal year 2017, by not later than September 30, 2019.

(iii) In the case of the financial statement for any fiscal year after fiscal year 2017, by not later than one year after the last day of such fiscal year.

(c) VALIDATION AS READY FOR AUDIT OF FINANCIAL STATEMENTS REGARDING PARTICULAR MATTERS.—In furtherance of compliance with the requirements in subsections (a) and (b), the following requirements shall apply:

(1) MILITARY EQUIPMENT.—

(A) DEPARTMENT OF THE ARMY.—The financial statements of the Department of the Army with respect to military equipment shall be validated as ready for audit by not later than December 31, 2013.

(B) DEPARTMENT OF THE NAVY.—The financial statements of the Department of the Navy with respect to military equipment shall be validated as ready for audit by not later than September 30, 2014.

(C) DEPARTMENT OF THE AIR FORCE.—The financial statements of the Department of the Air Force with respect to military equipment shall be validated as ready for audit by not later than March 31, 2016.

(2) REAL PROPERTY.—

(A) DEPARTMENT OF THE ARMY.—The financial statements of the Department of the Army with respect to real property shall be validated as ready for audit by not later than December 31, 2013.

(B) DEPARTMENT OF THE NAVY.—The financial statements of the Department of the Navy with respect to real property shall be validated as ready for audit by not later than March 31, 2014.

(C) DEPARTMENT OF THE AIR FORCE.—The financial statements of the Department of the Air Force with respect to real property shall be validated as ready for audit by not later than September 30, 2014.

(D) DEFENSE LOGISTICS AGENCY.—The financial statements of the Defense Logistics Agency with respect to real property shall be validated as ready for audit by not later than March 31, 2015.

(3) INVENTORY.—

(A) DEPARTMENT OF THE ARMY.—The financial statements of the Department of the Army with respect to inventory shall be validated as ready for audit by not later than March 31, 2017.

(B) DEPARTMENT OF THE NAVY.—The financial statements of the Department of the Navy with respect to inventory shall be validated as ready for audit by not later than December 31, 2013.

(C) DEPARTMENT OF THE AIR FORCE.—The financial statements of the Department of the Air Force with respect to inventory shall be validated as ready for audit by not later than September 30, 2016.

(D) DEFENSE LOGISTICS AGENCY.—The financial statements of the Defense Logistics Agency with respect to inventory shall be validated as ready for audit by not later than September 30, 2015.

(4) OPERATING MATERIAL AND SUPPLIES.—

(A) DEPARTMENT OF THE ARMY.—The financial statements of the Department of the Army with respect to operating material and supplies shall be validated as ready for audit by not later than March 31, 2017.

(B) DEPARTMENT OF THE NAVY.—The financial statements of the Department of the Navy with respect to operating material and supplies shall be validated as ready for audit by not later than March 31, 2016.

(C) DEPARTMENT OF THE AIR FORCE.—The financial statements of the Department of the Air Force with respect to operating materials and supplies shall be validated as ready for audit by not later than September 30, 2016.

(5) ENVIRONMENTAL LIABILITIES.—

(A) DEPARTMENT OF THE ARMY.—The financial statements of the Department of the Army with respect to environmental liabilities shall be validated as ready for audit by not later than December 31, 2013.

(B) DEPARTMENT OF THE NAVY.—The financial statements of the Department of the Navy with respect to environmental liabilities shall be validated as ready for audit by not later than March 31, 2010.

(C) DEPARTMENT OF THE AIR FORCE.—The financial statements of the Department of the Air Force with respect to environmental liabilities shall be validated as ready for audit by not later than December 31, 2011.

(D) DEFENSE LOGISTICS AGENCY.—The financial statements of the Defense Logistics Agency with respect to environmental liabilities shall be validated as ready for audit by not later than September 30, 2017.

(6) FUND BALANCE WITH THE TREASURY.—

(A) DEPARTMENT OF THE ARMY.—The financial statements of the Department of the Army with respect to the fund balance with the Treasury shall be validated as ready for audit by not later than September 30, 2010.

(B) DEPARTMENT OF THE NAVY.—The financial statements of the Department of the Navy with respect to the fund balance with the Treasury shall be validated as ready for audit by not later than December 31, 2010.

(C) DEPARTMENT OF THE AIR FORCE.—The financial statements of the Department of the Air Force with respect to the fund balance with the Treasury shall be validated as ready for audit by not later than December 31, 2011.

(D) DEFENSE LOGISTICS AGENCY.—The financial statements of the Defense Logistics Agency with respect to the fund balance with the Treasury shall be validated as ready for audit by not later than September 30, 2011.

(d) PERFORMANCE OF AUDITS AND VALIDATIONS.—Any audit or validation as ready for audit of a financial statement required under subsections (a) through (c) may be performed by an independent auditor qualified for the performance of such audit or validation, as the case may be.

(e) ACTION IF COMPLIANCE NOT ACHIEVED.—

(1) IN GENERAL.—In the event the Department of Defense or a component of the Department of Defense is unable to achieve compliance with a requirement in subsection (a), (b), or (c) by the completion date for such requirement otherwise specified in the applicable provision of such subsection, the Secretary of Defense or the head of the component, as applicable, shall submit to the appropriate committees of Congress, not later than 30 days after the completion date otherwise so specified, a report setting forth the following:

(A) A statement of the reasons why compliance with the requirement was not achieved by the completion date for the requirement.

(B) A description of the actions to be taken to achieve compliance with the requirement.

(C) A proposed completion date for achievement of compliance with the requirement.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed to waive any deadline for the completion of a requirement under subsections (a) through (c).

(f) SEMIANNUAL REPORTS ON FINANCIAL IMPROVEMENT AUDIT READINESS PLAN.—

(1) IN GENERAL.—Not later than May 15 and November 15 each year, the Under Secretary of Defense (Comptroller) shall submit to the appropriate committees of Congress a report on progress under the financial improvement audit readiness (FIAR) plan during two calendar year quarters ending March 31 and September 30, respectively, of such year.

(2) ELEMENTS.—Each report under paragraph (1) shall include, for the two calendar year quarters covered by such report, the following with respect to the portion of such report relating to priority segments:

(A) A detailed description of any deficiencies identified during discovery.

(B) A description of the actions to be taken to remedy any deficiency so identified.

(C) A deadline for the completion of any actions set forth under subparagraph (B).

(g) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Armed Services and the Committee on Oversight and Government Reform of the House of Representatives.

(2) VALIDATION.—The term ''validation'', with respect to the auditability of financial statements, means a determination following an examination engagement that the financial statements comply with generally accepted accounting principles and applicable laws and regulations and reflect reliable internal controls.

By Mr. WHITEHOUSE (for himself, Mr. SESSIONS, and Mr. LEAHY):

S. 1289. A bill to improve title 18 of the United States Code; to the Committee on the Judiciary.

Mr. WHITEHOUSE. Mr. President, I rise to urge my colleagues to support the Foreign Evidence Request Efficiency Act, which I have introduced on behalf of myself and the Chairman and Ranking Members of the Judiciary Committee, Senators LEAHY and SESSIONS. It has been a pleasure to work with them on this truly bipartisan effort, and I am grateful for their support.

Chairman LEAHY, Ranking Member SESSIONS, and I have all served as prosecutors. I can say with no exaggeration that few responsibilities are more important to the rule of law, to the security of our communities, and to the rights and freedoms that we enjoy as Americans. I served as the U.S. Attorney for Rhode Island—Senator SESSIONS served in that capacity in Alabama—and I know we both will always remember the feeling of standing up in court to say: ''Your Honor, may it please the Court, I represent the United States of America.'' It was the honor of a lifetime.

As my colleagues know, the United States routinely helps foreign law enforcement agencies as they pursue criminal conduct involving activity outside their borders, including inside the United States, and they do the same for us. This is exactly as it should be. As the world grows more interconnected and crime becomes increasingly global, it becomes all the more important for law enforcement agencies in the United States and around the world to work together to bring criminals to justice. Otherwise, it would be very hard to build cases against international organized crime organizations, drug cartels, purveyors of child pornography on the internet, and other criminal threats from outside our borders.

One way that a law enforcement agency provides assistance to another is by gathering evidence from within its borders that a foreign law enforcement agency needs to prosecute a case. The United States routinely completes requests submitted to it by foreign law enforcement agencies just as it receives comparable assistance when it makes evidence requests in foreign countries. For example, let's assume that Spanish authorities are investigating a complicated financial fraud that is being conducted over the internet, apparently from a base in the United States. After conducting their investigation in Spain, the Spanish authorities submit a request to the United States for financial records, internet records, and various other kinds of evidence. U.S. Attorneys review the requests and then seek warrants for the evidence as appropriate. When the evidence is collected, the United States transmits it to Spanish authorities, leading to prosecution in Spanish courts.

This process sounds quite simple, but unfortunately in practice it is extremely cumbersome. This is because under the existing rules, any foreign evidence request must be split up and sent to each district where the evidence exists. So take the Spanish example I just gave, and imagine that the financial records sought are in banks in six different federal judicial districts, that the internet records are in another five federal judicial districts, and that other documentary evidence is spread over another five districts. Under existing law, sixteen different U.S. Attorneys' Offices would have to work on the evidence request. This is incredibly inefficient and burdensome for U.S. Attorneys across the country.

The Foreign Evidence Request Efficiency Act would end this problem by allowing such foreign evidence requests to be handled centrally, by a single or more limited number of U.S. Attorneys offices as appropriate. Why, as in my example, should sixteen U.S. Attorneys' Offices have to deal with an evidence request that one office can coordinate? Simply put, this reform would make life easier for our U.S. Attorneys. We owe them no less.

Of course, respect for civil liberties demands that we not suddenly change the types of evidence that foreign governments may receive from the United States or reduce the role of courts as gatekeepers for searches. The Foreign Evidence Request Efficiency Act would leave those important protections in place, while simultaneously reducing the paperwork that the cumbersome existing process imposes on our U.S. Attorneys.

Two points merit emphasis. First, by making it easier for U.S. Attorneys to collect evidence, the United States can respond more quickly to foreign requests for evidence. Setting a high standard of responsiveness will allow the United States to urge that foreign authorities respond to our requests for evidence with comparable speed. The United States will benefit if foreign governments cannot use our own delay to justify responding slowly to our requests. Second, the Foreign Evidence Request Efficiency Act would not change the United States' obligations to foreign nations. It would only make it easier for the United States to respond to these requests by allowing them to be centralized and by putting the process for handling them within a clear statutory system.

I urge my colleagues to act promptly on this bipartisan legislation. I would like to thank the excellent attorneys in the Department of Justice who have worked with me on this legislation, and would like to request unanimous consent to insert their letter of support into the CONGRESSIONAL RECORD. I again thank Chairman LEAHY and Ranking Member SESSIONS for their support.

Mr. President, I ask unanimous consent that a letter of support be printed in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., March 27, 2009.

Hon. SHELDON WHITEHOUSE,
U.S. Senate,
Washington, DC.

DEAR SENATOR WHITEHOUSE: Per your request, the Department of Justice (the Department) has examined the draft bill entitled ''To improve Title 18 of the United States Code''. The Department strongly supports early introduction and consideration of the proposed legislation ''[t]o improve title 18 of the United States Code'' which clarifies procedures for executing and fulfilling foreign requests for evidence. We firmly believe this legislation will facilitate the ability of the United States to assist foreign investigations, prosecutions and related proceedings involving organized crime, trafficking in child pornography, intellectual property violations, identity theft, and all other serious crimes. The ability of the United States to assist foreign authorities to obtain evidence and other assistance in an effective and timely manner will improve reciprocal treatment when we seek assistance in foreign countries in all types of U.S. criminal investigations. Thus, facilitating our ability to provide assistance to foreign investigators has a direct impact on the safety and security of Americans.

The proposed legislation will complement the existing authority in current statutes and self-executing Mutual Legal Assistance Treaties and multilateral conventions. It will greatly facilitate the ability of the U.S. government to meet its obligations under these valuable international instruments and will ensure that we can provide, at our discretion, similar assistance to our non-treaty foreign law enforcement partners. In addition, the filing provision of the new section 3512 will permit the U.S. government to execute foreign assistance requests with greater efficiency than at present, thereby contributing to the effective administration of the federal courts and the Offices of the United States Attorneys.

The statutes that currently govern the obtaining of electronic and other evidence based upon a foreign request for evidence have two limitations. First, existing law does not make it clear which district court can participate in fulfilling legitimate foreign requests for assistance in criminal and terrorism investigations. The sole statute regarding international requests for evidence is 28 U.S.C. §1782, which was designed essentially to accommodate the execution of letters rogatory in civil cases via the issuance of subpoenas. Under the statute, the Department is largely relegated to civil practice rules that require prosecutors to file in every district in which evidence or a witness may be found. In complex cases, this inefficiency means involving several U.S. Attorneys' Offices and District Courts in a single case. Even in less complex cases, referring the requests out to the field wastes scarce attorney resources and creates delays.

Second, in 2001, Congress changed the wording of 18 U.S.C. §2703 in a way that inadvertently introduced confusion in routine mutual legal assistance cases. For example, section 2703(a) requires that the court issuing a search warrant for stored electronic evidence have ''jurisdiction over the offense''. As a U.S. court often has no jurisdiction to try a foreign offender, the wording of 2703(a) needlessly complicates the use of this sort of court process.

The proposed legislation addresses both of these difficulties by clarifying which courts have jurisdiction and can respond to appropriate foreign requests for evidence in criminal investigations. Under this proposal, a legitimate request for assistance can be filed in the District of Columbia, in any of the districts in which any of several records or witnesses are located, or in any district in which there is a related federal criminal case. The proposal would clarify the ambiguity in section 2703 by re-articulating the bases for courts to act without changing any of the procedural safeguards present in U.S. law.

We note that the proposed legislation would not in any way change the existing standards that the government must meet in order to obtain evidence, nor would it alter any existing safeguards on the proper exercise of such authority. Moreover, it would not expand the nature or kind of assistance the Department provides to foreign law enforcement agencies. Indeed, the proposed legislation would not alter U.S. obligations or authorities under existing bilateral and multilateral law enforcement treaties. Instead, by streamlining procedures, the amendment would eliminate needless confusion and wasted time in the government's response to those requests.

The proposed legislation references ''provider of electronic communication service''. The current reference, however, fails to address the presence of wire services, though 18 U.S.C. 3124(a), (b) references ''provider of wire or electronic service''. To provide consistency throughout Title 18, United States Code, and to cover more fully the providers involved, the Department recommends adding ''wire or'' before ''electronic communication service'' each place it appears.

Thank you for the opportunity to comment on this proposed legislation. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this letter.

Sincerely,

M. FAITH BURTON,
Acting Assistant Attorney General.

By Ms. KLOBUCHAR (for herself, Mr. GRASSLEY, and Mrs. FEINSTEIN):

S. 1292. A bill to amend the Controlled Substances Act to provide for take-back disposal of controlled substances in certain instances, and for other purposes; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I am pleased to join my colleagues, Senator KLOBUCHAR, and Senator FEINSTEIN, in introducing the Secure and Responsible Drug Disposal Act of 2009. The abuse of prescription narcotics such as pain relievers, tranquilizers, stimulants, and sedatives is currently the fastest growing drug abuse trend in the country. According to the most recent National Survey of Drug Use and Health, NSDUH, nearly 7 million people have admitted to using controlled substances without a doctor's prescription. People between the ages of 12 and 25 are the most common group to abuse these drugs. However, more and more people are dying because of this abuse. The Centers for Disease Control and Prevention report that the unintentional deaths involving prescription narcotics increased 117 percent from the years 2001 to 2005. These are statistics that can no longer be ignored.

Millions of Americans are prescribed controlled substances every year to treat a variety of symptoms due to injury, depression, insomnia, and other conditions. Many legitimate users of these drugs often do not finish their prescriptions. As a result, these drugs remain in the family medicine cabinet for months or years because people forget about them or do not know how to properly dispose of them. However, these drugs, when not properly used or administered, are just as addictive and deadly as street drugs like methamphetamine or cocaine.

According to the NSDUH, more than half of the people who abuse prescription narcotics reported that they obtained controlled substances from a friend or relative or from the family medicine cabinet. As a result, most community anti-drug coalitions, public health officials, and law enforcement officials have been encouraging people within their communities to dispose of old or unused medications in an effort to combat this growing trend.

Despite these ongoing efforts across the country to eliminate a primary source of prescription narcotics from within their communities, many people are finding the Controlled Substances

Act, CSA, is making these efforts difficult. When the CSA was passed in the early 1970's many people did not anticipate the large amount of prescription narcotics that would be used today or the high potential for these drugs to be diverted and abused. Under the CSA, most people who legally possess controlled substances cannot legally transfer them to anyone for any purpose, including for the purpose of disposal. Because the legal method for disposal is unclear, communities interested in providing citizens with an easy process of disposal hesitate to do so or risk violation of the CSA to offer the service. We need to change the CSA so that unused controlled substances do not get diverted in to the stream of illicit drug use and to prevent potential environmental harms, as many people dispose of controlled substances by flushing them down the toilet or dumping them in unlined landfills.

Accordingly, Senator KLOBUCHAR, Senator FEINSTEIN and I are introducing the Secure and Responsible Drug Disposal Act of 2009 to fix the CSA so these efforts to eradicate abuse are not impeded by federal law. This legislation will amend the CSA to allow a user to transfer unused controlled substances to a DEA sanctioned entity for disposal without mandating any specific method of disposal upon communities. This will enable communities to develop methods of disposal best suited for their areas while minimizing the pollution of water supplies or increasing the chances that these drugs will be diverted for abuse. Since most long-term care facilities store large amounts of prescription narcotics for their tenants but are unable to legally dispose of them the bill also enables these facilities to dispose of old medication on behalf of their past and current patients.

This legislation will not cost the government any money to implement and would not place any financial burden on states or industries. It simp ives local communities the option to safely dispose of unused controlled substances. I am pleased that the Department of Justice has endorsed this legislation. They and many others out there know how serious the abuse of prescription narcotics has become in this country. Now is the time to act, and I urge my colleagues to join us in supporting the Safe and Responsible Drug Disposal Act of 2009.

By Mr. BENNET (for himself, Mr. BROWN, and Mr. CASEY):

S. 1293. A bill to amend the Richard B. Russell National School Lunch Act to improve automatic enrollment procedures for the national school lunch and school breakfast programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. BENNET. Mr. President, I rise today to introduce a bill with Senators BROWN of Ohio and CASEY of Pennsylvania called the Enhancing Child Health with Automatic Enrollment for School Meals Act. We wrote this legislation because too many kids across this country are not getting the free school meals their families are qualified to receive. As members of the Agriculture Committee's subcommittee on Nutrition, Senators BROWN, CASEY and I share an interest in eradicating childhood hunger and increasing the efficiency of the National School Lunch and Breakfast programs.

Our bill builds on the foundation laid during the 2004 child nutrition reauthorization which included a mandatory phase-in of an automatic enrollment process called 'direct certification.' Our bill stipulates that schools, districts, and states must directly certify at least 95 percent of children who can be enrolled in the national school lunch and breakfast programs using this method. The intent of this provision is to modernize the enrollment process by reducing reliance on paper applications and to improve access to school meal programs by ensuring kids who should be receiving free school meals actually receive them.

Because we want to reward achievement and encourage improvements to the school meal enrollment process, our bill includes performance awards for the five states which make the best use of direct certification and for the five states which show the most improvement from one school year to the next. Additionally, our bill requires states which are unable to meet the 95 percent standard to submit a report to Congress and the U.S. Department of Agriculture that identifies the challenges prohibiting effective use of direct certification and maps out a plan for improvement.

As former Superintendent of Denver Public Schools I cannot stress enough the importance of reducing red tape and administrative costs in schools. We cannot expect our children to focus on fractions when their stomachs are growling nor can we expect teachers, principals and school administrators to prepare our children to be tomorrow's leaders if they are spending their time filling out paperwork. That's why modernizing the National School Lunch and Breakfast programs is one of my top priorities for the child nutrition reauthorization this Fall and that is why I am introducing this bill today.

Two additional provisions in the bill would eliminate paperwork and improve the existing system of determining whether or not kids qualify for free meals. The first is a clarification that sending a letter in the mail to a child's household letting them know they are eligible for free school meals is not an acceptable means of direct certification. A child who can be enrolled for free school meals automatically should be enrolled without any action on behalf of the child's household. We make this clarification because a vast number of paper notifications sent to families are not returned and, therefore, kids miss out on meals they should receive.

The second is a request for a study from the U.S. Department of Education that would help determine how data the Department of Education is currently collecting is being used currently and could be used in the future to ensure all kids who should receive free school meals are provided those meals.

Initially, Senators BROWN, CASEY and I were working on ways to expand access to free school meals independently, but now we are working collaboratively. Meeting President Obama's goal of ending childhood hunger by 2015 will require all hands on deck. Last week Senator CASEY, along with Senator SPECTER and myself, introduced the Paperless Enrollment for School Meals Act to make it easier for schools and districts to serve free meals to all children. The bill we are introducing today is yet another installment in the ongoing dialog with Chairman HARKIN, members of the Agriculture Committee and the USDA in preparation for reauthorizing child nutrition and WIC programs in the coming months.

In Colorado and around the nation there is a renewed call for common sense measures to improve existing programs and provide assistance to those who need them most during these tough economic times. I encourage all Senators to do right by our children and support this legislation and the principles of the National School Lunch and Breakfast Programs Senators BROWN, CASEY and I have outlined.

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. 1293

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 ''Enhancing Child Health with Automatic School Meal Enrollment Act of 2009''.

SEC. 2. IMPROVING DIRECT CERTIFICATION.

(a) PERFORMANCE AWARDS.—Section 9(b)(4) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(4)) is amended—

(1) in the paragraph heading, by striking ''FOOD STAMP'' and inserting ''SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM''; and

(2) by adding at the end the following:

''(E) PERFORMANCE AWARDS.—

''(i) IN GENERAL.—Effective for each of the schools years beginning July 1, 2010, July 1, 2011, and July 1, 2012, the Secretary shall offer performance awards to States to encourage the States to ensure that all children eligible for direct certification under this paragraph are certified in accordance with this paragraph.

''(ii) REQUIREMENTS.—For each school year described in clause (i), the Secretary shall—

''(I) consider State data from the prior school year, including estimates contained in the report required under section 4301 of the Food, Conservation, and Energy Act of 2008 (42 U.S.C. 1758a); and

''(II) make performance awards to, as determined by the Secretary—

''(aa) 5 States that demonstrate outstanding performance; and

''(bb) 5 States that demonstrate substantial improvement.

''(iii) FUNDING.—

''(I) IN GENERAL.—On October 1, 2009, and on each October 1 thereafter through October 1, 2011, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary, to remain available until expended—

''(aa) $2,000,000 to carry out clause (ii)(I); and

''(bb) $2,000,000 to carry out clause (ii)(II).

''(II) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this clause the funds transferred under subclause (I), without further appropriation.''.

(b) CORRECTIVE ACTION PLANS.—Section 9(b)(4) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(4)) (as amended by subsection (a)) is amended by adding at the end the following:

''(F) CORRECTIVE ACTION PLANS.—

''(i) IN GENERAL.—Each school year, the Secretary shall—

''(I) identify, using estimates contained in the report required under section 4301 of the Food, Conservation, and Energy Act of 2008 (42 U.S.C. 1758a), States that directly certify less than 95 percent of the total number of children in the State who are eligible for direct certification under this paragraph; and

''(II) require the States identified under subclause (I) to implement a corrective action plan to fully meet the requirements of this paragraph.

''(ii) IMPROVING PERFORMANCE.—A State may include in a corrective action plan under clause (i)(II) methods to improve direct certification required under this paragraph or paragraph (15) and discretionary certification under paragraph (5).

''(iii) FAILURE TO MEET PERFORMANCE STANDARD.—

''(I) IN GENERAL.—A State that is required to implement a corrective action plan under clause (i)(II) shall be required to submit to the Secretary, for the approval of the Secretary, a direct certification improvement plan for the following school year.

''(II) REQUIREMENTS.—A direct certification improvement plan under subclause (I) shall include—

''(aa) specific measures that the State will use to identify more children who are eligible for direct certification;

''(bb) a timeline for the State to implement those measures; and

''(cc) goals for the State to improve direct certification results.''.

(c) WITHOUT FURTHER APPLICATION.—Section 9(b)(4) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(4)) (as amended by subsection (b)) is amended by adding at the end the following:

''(G) WITHOUT FURTHER APPLICATION.—

''(i) IN GENERAL.—In this paragraph, the term 'without further application' means that no action is required by the household of the child.

''(ii) CLARIFICATION.—A requirement that a household return a letter notifying the household of eligibility for direct certification or eligibility for free school meals does not meet the requirements of clause (i).''.

SEC. 3. REPORT ON USING STATEWIDE EDUCATION DATABASES FOR DIRECT CERTIFICATION.

(a) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Education shall prepare and submit to Congress a report regarding how statewide databases developed by States to track compliance with the requirements of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) can be used for purposes of direct certification under section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)).

(b) CONTENTS.—The report described in subsection (a) shall—

(1) identify the States that have, as of the time of the report, developed statewide databases to track compliance with the requirements of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.);

(2) describe best practices regarding how such statewide databases can be used for purposes of direct certification under section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b));

(3) include case studies of States that have expanded such statewide databases so that such statewide databases can be used for direct certification purposes; and

(4) identify States with such statewide databases that would be appropriate for expansion for direct certification purposes.

(c) FUNDING.—

(1) IN GENERAL.—On October 1, 2009, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $500,000, to remain available through September 30, 2012.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

By Mrs. SHAHEEN (for herself, Ms. COLLINS, and Mrs. LINCOLN):

S. 1295. A bill to amend title XVIII of the Social Security Act to cover transitional care services to improve the quality and cost effectiveness of care under the Medicare program; to the Committee on Finance.

Mrs. SHAHEEN. Mr. President, I rise today to introduce the Medicare Transitional Care Act of 2009. Time and again, we have heard that our health care system is not working. Costs are too high, outcomes too poor and access too limited. I agree with so many of my colleagues that we need to work together to ensure that all Americans have access to quality and affordable health care.

Everyone deserves stable health care coverage that they can count on, regardless of the job they hold or the curveballs life may throw. All Americans should be able to count on insurance premiums and deductibles that will not continue to rise and eat away more and more of our paychecks. Finally, all Americans deserve stable care that lets you keep your doctor, and your health care plan, that you trust and with whom you have built a relationship.

Let me be clear: health care costs are too high. Every day in New Hampshire and across our country, families are struggling with the crushing cost of health care that threatens their financial stability, leaving them exposed to higher premiums and deductibles, and putting them at risk for a possible loss of health insurance coverage and even bankruptcy. In 2007 our Nation spent $2.2 trillion—or 16.2 percent of the GDP on health care. This is twice the average of other developed nations. As a Nation, our health outcomes are no better. We still lag behind other countries when it comes to efficiency, access, patient safety and adoption of information technology.

It is essential that we cut our Nation's health care costs and improve the quality of care our patients receive.

I rise today to offer a solution that can help address this crisis. I rise to introduce the Medicare Transitional Care Act of 2009—legislation that will reduce costly hospital readmissions, improve Medicare patients' care and cut Medicare costs. I thank Representative BLUMENAUER and Representative BOUSTANY for their leadership on this issue in the House and I am pleased to be joined by colleagues, Senator COLLINS, and Senator LINCOLN, in introducing this legislation.

This bill is about reducing costs and offering better support and coordination of care to Medicare patients. It will help keep seniors who are discharged from the hospital from going back. Simply put, it will improve the health care we offer our seniors while saving money.

According to a report from the New England Journal of Medicine, almost one third of Medicare beneficiaries discharged from the hospital were re-hospitalized within 90 days. One half of the individuals re-hospitalized had not visited a physician since their discharge, indicating a lack of follow-up care. The study also estimated that in 2004 Medicare spent $17.4 billion on unplanned re-hospitalizations. This problem is costly for our government and troublesome for our seniors. But the good news is that this problem is avoidable.

Research shows that the transition from the hospital to the patient's next place of care—be it home, or a nursing facility or rehabilitation center—can be complicated and risky. This is especially true for older individuals with multiple chronic illnesses. These patients talk about the difficulty remembering instructions, confusion over correct use of medications, and general uncertainty about their own conditions.

For example, take Michael, a 71-year-old patient who lives with his 73-year-old wife, and has diabetes. Michael had a knee replacement that required two surgical revisions. He uses a walker and has been hospitalized four times. He says ''they would discharge me and the same day I'd be back in the ER. The wound would burst apart.'' Under this legislation, a transitional care clinician could be there to help make sure that Michael and his wife do not need to go back to the hospital.

Let me also tell you about Bill. Over time, Bill has endured a heart attack that required open heart surgery, angioplasty with stent placement, stroke, kidney disease, HIV and depression. He has been hospitalized three times, underwent rehabilitation therapy in an inpatient facility once and lives alone. He says ''there was no help at home [after surgery]. My mother

came and took care of household stuff. I was flat on my back for two weeks. The hospital called to make sure I was okay—'Hey how are you doing?'—but what could they do?'' Bill also notes the difficulty he had with discharge instructions: ''By the time I'm home,'' he says, ''I don't remember what the doctor said. Sometimes they write it down, but I have comprehension problems.''

Stories like Bill's and Michael's demonstrate that patients need support and assistance to manage their health needs along with their caregivers. This legislation provides that opportunity.

Under the Medicare Transitional Care Act, a transitional care clinician would help ensure that appropriate follow-up care is provided to patients during the vulnerable time after discharge from a hospital—and help ensure that they are not re-hospitalized unnecessarily.

The benefit would be phased-in and provided first for the most at-risk individuals. It will be tailored to their needs. It may be as simple as making sure each patient understands how and when to take their medication; or helping to make sure they schedule and are able to get to follow-up appointments with the doctors, or it may be helping patients and caregivers coordinate support services, such as medical equipment, meal delivery, transportation or assistance with other daily activities.

I am pleased that the legislation has the strong support of the AARP.

Proper transitional care is important not only to reduce hospital readmissions, but also to improve patient outcomes and satisfaction. Experts estimate that this legislation could save as much as $5,000 per Medicare beneficiary.

I look forward to working with my colleagues in the Senate to pass comprehensive health care reform to fix our broken system. I urge them to join me in supporting a transitional care benefit that will support patients during the very vulnerable time after discharge from the hospital. The evidence is clear. We can implement a transitional care option that will save money by reducing hospital re-admisssions while improving the quality of care we deliver to patients in New Hampshire and all across this country.

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. 1295

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Transitional Care Act of 2009''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) More than 20 percent of older Americans suffer from five or more chronic conditions and these older adults typically require health care services from numerous providers across several care settings each year.

(2) Insufficient communication among older adults, family caregivers, and health care providers contributes to poor continuity of care, inadequate management of complex health care needs, and preventable hospital admissions.

(3) Research suggests that family caregivers often lack the knowledge, skills, and resources to effectively address the complex needs of older adults coping with multiple coexisting conditions.

(4) In 2005, health care services for Medicare beneficiaries with five or more chronic conditions accounted for 75 percent of total Medicare spending. The vast majority of these costs were due to high rates of hospital admission and readmission.

(5) According to Medicare claims data from 2003–2004, almost one fifth (19.6 percent) of the 11,855,702 Medicare beneficiaries who had been discharged from a hospital were re-hospitalized within 30 days, and 34.0 percent were rehospitalized within 90 days.

(6) A New England Journal of Medicine study estimates that the cost to Medicare of unplanned rehospitalizations in 2004 was $17.4 billion.

(7) The MetLife Caregiving Cost Study demonstrates that American businesses lose an estimated $34 billion each year due to employees' need to care for loved ones.

(8) The Transitional Care Model, developed by the University of Pennsylvania, is a care management strategy that identifies patients' health goals, coordinates care throughout acute episodes of illness, develops a streamlined plan of care to prevent future hospitalizations, and prepares the beneficiary and family caregivers to implement this care plan.

(9) The major goal of the Transitional Care Model is to interrupt cycles of avoidable hospitalizations and promote longer-term positive health outcomes.

(10) The Transitional Care Model has shown through multiple randomized clinical trials to produce significant health outcome improvements, reductions in health care costs among at-risk and chronically ill older adults, and increased patient satisfaction.

(11) Preliminary results from a clinical trial of the Guided Care Model (based on a Medical Home which includes transitional care) demonstrated reductions in hospital days, skilled nursing facility days, and home health episodes, as well as preliminary findings of net savings.

(12) A clinical trial of the Care Transitions Intervention demonstrated lower re-hospitalization rates and lower hospital costs per patient.

SEC. 3. MEDICARE COVERAGE OF TRANSITIONAL CARE.

Title XVIII of the Social Security Act is amended by adding at the end the following new section:

''COVERAGE OF TRANSITIONAL CARE SERVICES FOR QUALIFIED INDIVIDUALS

''SEC. 1899. (a) COVERAGE UNDER PART B.—

''(1) IN GENERAL.—In the case of a qualified individual (as defined in subsection (b)), the Secretary shall provide under part B for benefits for transitional care services (as defined in subsection (c)) furnished by a transitional care clinician (as defined in subsection (d)) acting as an employee of (or pursuant to a contract with) a qualified transitional care entity (as defined in paragraph (3)(A)) in accordance with this section during the transitional care period (as defined in paragraph (3)(B)) for the qualified individual.

''(2) INITIAL IMPLEMENTATION.—The Secretary shall first implement this section for services furnished on or after January 1, 2010.

''(3) GENERAL DEFINITIONS.—In this section:

''(A) QUALIFIED TRANSITIONAL CARE ENTITY.—The term 'qualified transitional care entity' means—

''(i) a hospital or a critical care hospital;

''(ii) a home health agency;

''(iii) a primary care practice;

''(iv) a Federally qualified health center; or

''(v) another entity approved by the Secretary for purposes of this section.

''(B) TRANSITIONAL CARE PERIOD.—The term 'transitional care period' means, with respect to a qualified individual, the period—

''(i) beginning on the date the individual is admitted to a subsection (d) hospital (as defined for purposes of section 1886) for inpatient hospital services, or is admitted to a critical care hospital for inpatient critical access hospital services, for which payment may be made under this title; and

''(ii) ending on the last day of the 90-day period beginning on the date of the individual's discharge from such hospital or critical care hospital.

''(b) QUALIFIED INDIVIDUALS.—

''(1) LIMITING FIRST PHASE OF IMPLEMENTATION TO HIGH-RISK INDIVIDUALS.—Except as provided in this subsection, qualified individuals are limited to individuals who—

''(A) have been admitted to a subsection (d) hospital (as defined for purposes of section 1886) for inpatient hospital services or to a critical care hospital for inpatient critical access hospital services; and

''(B) are identified by the Secretary as being at highest risk for readmission or for a poor transition from such a hospital to a post-hospital site of care.

The identification under subparagraph (B) shall be based on achieving a minimum hierarchical condition category score (specified by the Secretary) in order to target eligibility for benefits under this section to individuals with multiple chronic conditions and other risk factors, such as cognitive impairment, depression, or a history of multiple hospitalizations.

''(2) SECOND PHASE OF IMPLEMENTATION.—After submitting to Congress the evaluation under subsection (i)(2) and considering any cost-savings and quality improvements from the prior implementation of this section, the Secretary may expand eligibility of qualified individuals to include moderate-risk and lower-risk individuals, as determined in accordance with eligibility criteria specified by the Secretary. In expanding eligibility, the Secretary may modify or scale transitional care services to meet the specific needs of moderate- and lower-risk individuals.

''(3) AVOIDING DUPLICATION OF SERVICES.—The Secretary shall ensure that qualified individuals receiving transitional care services are not receiving duplicative services under this title.

''(c) TRANSITIONAL CARE SERVICES DEFINED.—In this section, the term 'transitional care services' means services that support a qualified individual during the transitional care period and includes the following:

''(1) A comprehensive assessment prior to discharge including an assessment of the individual's physical and mental condition, cognitive and functional capacities, medication regimen and adherence, social and environmental needs, and primary caregiver needs and resources.

''(2) Development of a comprehensive, evidenced-based plan of transitional care for the individual developed with the individual and the individual's primary caregiver and other health team members, identifying potential health risks, treatment goals, current therapies, and future services for both the individual and any primary caregiver.

''(3) A visit at the care setting within 24 hours after discharge from the hospital or critical access hospital.

''(4) Home visits to implement the plan of care.

''(5) Implementation of the plan of care, including—

''(A) addressing symptoms;

''(B) teaching and promoting self-management skills for the individual and any primary caregiver;

''(C) teaching and counseling the individual and the individual's primary caregiver (as appropriate) to assure adherence to medications and other therapies and avoid adverse events;

''(D) promoting individual access to primary care and community-based services;

''(E) coordinating services provided by other health team members and community caregivers; and

''(F) facilitating transitions to palliative or hospice care, where appropriate.

''(6) Accompanying the individual to follow-up physician visits, as appropriate.

''(7) Providing information and resources about conditions and care.

''(8) Educating and assisting the individual and the individual's primary caregiver to arrange and coordinate clinician visits and health care services.

''(9) Informing providers of services and suppliers of those items and services that have been ordered for and received by the individual from other providers.

''(10) Working with providers of services and suppliers to assure appropriate referrals to specialists, tests, and other services.

''(11) Educating and assisting the individual and the individual's primary caregiver with arranging and coordinating community resources and support services (such as medical equipment, meals, homemaker services, assistance with daily activities, shopping, and transportation).

''(12) Providing to the qualified individual, primary caregiver, and appropriate clinicians and qualified transitional care entity providing ongoing care at the conclusion of the transitional care period a written summary that includes the goals established in the plan of care described in paragraph (2), progress in achieving such goals, and remaining treatment needs.

''(13) Other services that the Secretary determines are appropriate.

The Secretary shall determine and update the services to be included in transitional care services as appropriate, based on the evidence of their effectiveness in reducing hospital readmissions and improving health outcomes.

''(d) TRANSITIONAL CARE CLINICIANS.—

''(1) IN GENERAL.—In this section, the term 'transitional care clinician' means, with respect to a qualified individual, a nurse or other health professional who—

''(A) has received specialized training in the clinical care of people with multiple chronic conditions (including medication management) and communication and coordination with multiple providers of services, suppliers, patients, and their primary caregivers;

''(B) is supported by an interdisciplinary team in a manner that assures continuity of care throughout a transitional care period and across care settings (including the residences of qualified individuals);

''(C) is employed by (or has a contract with) with a qualified transitional care entity for the furnishing of transitional care services; and

''(D) meets such participation criteria as the Secretary may specify consistent with this subsection.

''(2) PARTICIPATION CRITERIA.—In establishing participation criteria under paragraph (1)(C), the Secretary shall assure that transitional care clinicians meet relevant experience and training requirements and have the ability to meet the individual needs of qualified individuals.

''(3) ENCOURAGEMENT OF HIT.—The Secretary may provide for an additional payment to encourage transitional care clinicians and qualified transitional care entities to use health information technology in the provision of transitional care services.

''(e) PAYMENT.—

''(1) IN GENERAL.—The Secretary shall determine the method of payment for transitional care services under this section, including appropriate risk adjustment that reflects the differences in resources needed to provide transitional care services to individuals with differing characteristics and circumstances and, when applicable, the performance measures under subsection (f). The payment amount shall be sufficient to ensure the provision of necessary transitional care services throughout the transitional care period. The payment shall be structured in a manner to explicitly recognize transitional care as an episode of services that crosses multiple care settings, providers of services, and suppliers. The payment with respect to transitional care services furnished by a transitional care clinician shall be made, notwithstanding any other provision of this title, to the qualified transitional care entity which employs, or has a contract with, the clinician for the furnishing of such services.

''(2) NO COST-SHARING.—Notwithstanding section 1833, there shall be no deductible or cost-sharing applicable to payment under this section for transitional care services.

''(f) PERFORMANCE MEASURES.—

''(1) ACCOUNTABILITY.—

''(A) IN GENERAL.—The Secretary shall establish a method whereby qualified transitional care entities responsible for furnishing transitional care services would be held accountable for process and outcome performance measures specified by the Secretary from those that have been endorsed by the National Quality Forum.

''(B) DEVELOPMENT AND ENDORSEMENT OF PERFORMANCE MEASURE SET.—For purposes of carrying out subparagraph (A), the Secretary shall enter into an arrangement—

''(i) with the National Quality Forum for the evaluation, endorsement, and recommendation of an appropriate set of performance measures for transitional care services and for the identification of gaps in available measures; and

''(ii) with the Agency for Healthcare Research and Quality to support measure development, to fill gaps in available measures, and to provide for the ongoing maintenance of the set of performance measures for transitional care services.

''(2) PAY FOR PERFORMANCE.—As soon as practicable after reliable process and outcome performance measures have been endorsed and specified under subparagraph (A), the Secretary shall provide that the payment amounts under subsection (e) for transitional care services shall be linked to performance on such measures.

''(3) PUBLIC REPORTING.—The Secretary shall establish a mechanism to publicly report on a qualifying entity's transitional care performance on such measures, including providing benchmarks to identify high performers and those practices that contribute to lower hospital readmission rates.

''(4) DISSEMINATION OF INFORMATION ON BEST PRACTICES.—The Secretary shall disseminate information on best practices used by transitional care clinicians and qualifying transitional care entities in furnishing transitional care services for purposes of application in other settings, such as in conditions of participation under this title, under the Quality Improvement Organization (QIO) Program under part B of title XI, and public-private quality alliances, such as the Hospital Quality Alliance.

''(g) NOTIFICATION OF ELIGIBILITY AND COORDINATION WITH HOSPITAL DISCHARGE PLANNING.—In establishing standards for discharge planning under section 1861(ee)(1), the Secretary shall require each subsection (d) hospital and each critical care hospital—

''(1) to identify, as soon as practicable after admission, those patients who are qualified individuals under this section; and

''(2) to provide to such patients and their primary caregivers a list of qualified transitional care entities available to arrange for the provision of transitional care services, a list of transitional services provided under this section, and a notice that the transitional care service benefit is provided to qualified individuals with no deductible or cost-sharing.

Nothing in this section shall be construed as preventing such a hospital from entering into an agreement with a qualified transitional care entity or a transitional care clinician for the furnishing of transitional care services to the hospital's patients.

''(h) PREVENTION OF INAPPROPRIATE STEERING.—The Secretary shall promulgate such regulations as the Secretary deems necessary to address any protections needed, beyond those otherwise provided under law and regulations, to prevent inappropriate steering of qualified individuals to providers of services, suppliers, qualified transitional care entities, or transitional care clinicians, under this section or inappropriate limitations on access to needed transitional care services under this section.

''(i) EVALUATION OF BENEFIT.—

''(1) IN GENERAL.—The Secretary shall evaluate the performance of the transitional care benefit under this section by measuring the following (for those receiving transitional care services and those not receiving such services):

''(A) Admission rates to health care facilities.

''(B) Hospital readmission rates.

''(C) Cost of transitional care and all other health care services.

''(D) Quality of transitional care experiences.

''(E) Measures of quality and efficiency.

''(F) Beneficiary, primary caregiver, and provider experience.

''(G) Health outcomes.

''(H) Reductions in expenditures under this title over time.

''(2) REPORT.—The Secretary shall submit a report to Congress no later than April 1, 2013, on the performance measures achieved by the transitional care benefit in the first 2 years of implementation. After submitting such report, the Secretary may expand the benefit to moderate-risk and lower-risk individuals in accordance with subsection (b)(2).''.

By Mr. CONRAD (for himself and Mr. ROBERTS):

S. 1297. A bill to amend the Internal Revenue Code of 1986 to encourage guaranteed lifetime income payments from annuities and similar payments of life insurance proceeds at dates later than death by excluding from income a portion of such payments; to the Committee on Finance.

Mr. CONRAD. Mr. President, I am pleased to be joined by my friend and Finance Committee colleague, Senator PAT ROBERTS from Kansas, in introducing legislation that can help Americans enjoy a more secure retirement. In these economically challenging

times, financial security—especially during retirement—can be a frustrating and elusive goal. In retirement, the chief anxiety for most people is protecting the savings they have accumulated while working and deciding how best to manage those assets.

In 21st century America, there is another crucial challenge for retirees. The good news is that Americans are living longer, but it also means that people have to plan for a longer period of retirement. A successful long-term retirement income plan is difficult even in a bullish market. How much more difficult is this task in today's market—particularly for the millions of Americans with limited investment experience?

We believe in encouraging people to save for retirement. Through the tax code, we encourage asset-building through home ownership. We provide significant tax incentives for employer-based pension plans and for retirement savings programs by individuals, such as IRAs and 401(k) plans.

One of the biggest threats to retirement income security for baby boomers is their own longevity. It will not be easy to manage their accumulated assets so that they will last a lifetime. Unprecedented numbers of Americans are now living into their 90s and even past 100. Consequently, people are going to spend more time in retirement than previous generations.

Now our society is witnessing the beginning of the retirement wave we knew was already building. Before it recedes, 77 million baby boomers will have entered their retirement years. Many of them will not have the guaranteed monthly retirement checks that many of their parents enjoyed as a result of employer-based pension plans. Traditional defined benefit pension plans have given way to defined contribution plans, which have shifted the retirement income security risk from the employer to the individual.

Of course, there are still many Americans who have no access at all to employer-provided pension plans. Some have never been in the traditional workforce; others work in seasonal jobs or part time. In my state of North Dakota, as well as in rural and farming communities across America, there is an acute need for retirement vehicles that will provide a secure lifetime payout. Others who could face difficulty in securing retirement income are widowed individuals—both men and women—who suddenly find themselves having to make a life insurance benefit or proceeds from the sale of a business or family home last a lifetime.

The proposal we are introducing today will provide a valuable tool for helping people avoid the risk of outliving their assets. Specifically, we are proposing a tax incentive to encourage Americans to annuitize a portion of their assets available for retirement. If they annuitize—in other words, elect to receive their money from an annuity in a series of payments for the rest of their lives, no matter how long that may be—they would be able to exclude from income 50 percent of the annuity benefit that represents the accumulation in the annuity above and beyond the original investment. The exclusion would be capped at $20,000, indexed, to ensure that tax sheltering activity is not encouraged and that the incentive will be effective for people who would benefit most from securing a lifetime income stream.

This proposal we offer today would apply only to life-contingent, nonqualified annuities. A life-contingent annuity that is subsequently modified to a fixed-term payout would be subject to a recapture tax.

Baby boomers represent an unprecedented challenge to our retirement security policies. They should have a wide range of options available for responsible retirement planning. Our proposal focuses on non-qualified annuities because it is important to have this option considered as part of the larger retirement income security debate that Congress should have before baby boomers begin retiring in large numbers. Options for making qualified plans more secure should be part of that debate as well.

I hope that Congress will tackle this matter promptly because over the last few years too many people have seen their retirement savings severely eroded. This legislation will provide an important incentive to help them preserve what they have.

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. 1297

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 ''Retirement Security for Life Act of 2009''.

SEC. 2. EXCLUSION FOR LIFETIME ANNUITY PAYMENTS.

(a) LIFETIME ANNUITY PAYMENTS UNDER ANNUITY CONTRACTS.—Section 72(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(5) EXCLUSION FOR LIFETIME ANNUITY PAYMENTS.—

''(A) IN GENERAL.—In the case of lifetime annuity payments received under one or more annuity contracts in any taxable year, gross income shall not include 50 percent of the portion of lifetime annuity payments otherwise includible (without regard to this paragraph) in gross income under this section. For purposes of the preceding sentence, the amount excludible from gross income in any taxable year shall not exceed $20,000.

''(B) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning after December 31, 2010, the $20,000 amount in subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2009' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as increased under the preceding sentence is not a multiple of $500, such amount shall be rounded to the next lower multiple of $500.

''(C) APPLICATION OF PARAGRAPH.—Subparagraph (A) shall not apply to—

''(i) any amount received under an eligible deferred compensation plan (as defined in section 457(b)) or under a qualified retirement plan (as defined in section 4974(c)),

''(ii) any amount paid under an annuity contract that is received by the beneficiary under the contract—

''(I) after the death of the annuitant in the case of payments described in subsection (c)(5)(A)(ii)(III), unless the beneficiary is the surviving spouse of the annuitant, or

''(II) after the death of the annuitant and joint annuitant in the case of payments described in subsection (c)(5)(A)(ii)(IV), unless the beneficiary is the surviving spouse of the last to die of the annuitant and the joint annuitant, or

''(iii) any annuity contract that is a qualified funding asset (as defined in section 130(d)), but without regard to whether there is a qualified assignment.

''(D) INVESTMENT IN THE CONTRACT.—For purposes of this section, the investment in the contract shall be determined without regard to this paragraph.''.

(b) DEFINITIONS.—Subsection (c) of section 72 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(5) LIFETIME ANNUITY PAYMENT.—

''(A) IN GENERAL.—For purposes of subsection (b)(5), the term 'lifetime annuity payment' means any amount received as an annuity under any portion of an annuity contract, but only if—

''(i) the only person (or persons in the case of payments described in subclause (II) or (IV) of clause (ii)) legally entitled (by operation of the contract, a trust, or other legally enforceable means) to receive such amount during the life of the annuitant or joint annuitant is such annuitant or joint annuitant, and

''(ii) such amount is part of a series of substantially equal periodic payments made not less frequently than annually over—

''(I) the life of the annuitant,

''(II) the lives of the annuitant and a joint annuitant, but only if the annuitant is the spouse of the joint annuitant as of the annuity starting date or the difference in age between the annuitant and joint annuitant is 15 years or less,

''(III) the life of the annuitant with a minimum period of payments or with a minimum amount that must be paid in any event, or

''(IV) the lives of the annuitant and a joint annuitant with a minimum period of payments or with a minimum amount that must be paid in any event, but only if the annuitant is the spouse of the joint annuitant as of the annuity starting date or the difference in age between the annuitant and joint annuitant is 15 years or less.

''(iii) EXCEPTIONS.—For purposes of clause (ii), annuity payments shall not fail to be treated as part of a series of substantially equal periodic payments—

''(I) because the amount of the periodic payments may vary in accordance with investment experience, reallocations among investment options, actuarial gains or losses, cost of living indices, a constant percentage applied not less frequently than annually, or similar fluctuating criteria,

''(II) due to the existence of, or modification of the duration of, a provision in the contract permitting a lump sum withdrawal after the annuity starting date,

''(III) because the period between each such payment is lengthened or shortened, but only if at all times such period is no longer than one calendar year, or

''(IV) because, in the case of an annuity payable over the life of an annuitant and a joint annuitant, the amounts paid to the surviving annuitant after the death of the first annuitant are less than the amounts payable during the joint lives of the two annuitants.

''(B) ANNUITY CONTRACT.—For purposes of subparagraph (A) and subsections (b)(5) and (x), the term 'annuity contract' means a commercial annuity (as defined by section 3405(e)(6)), other than an endowment or life insurance contract.

''(C) MINIMUM PERIOD OF PAYMENTS.—For purposes of subparagraph (A), the term 'minimum period of payments' means a guaranteed term of payments that does not exceed the greater of 10 years or—

''(i) the life expectancy of the annuitant as of the annuity starting date, in the case of lifetime annuity payments described in subparagraph (A)(ii)(III), or

''(ii) the life expectancy of the annuitant and joint annuitant as of the annuity starting date, in the case of lifetime annuity payments described in subparagraph (A)(ii)(IV).

For purposes of this subparagraph, life expectancy shall be computed with reference to the tables prescribed by the Secretary under paragraph (3). For purposes of subsection (x)(1)(C)(ii), the permissible minimum period of payments shall be determined as of the annuity starting date and reduced by one for each subsequent year.

''(D) MINIMUM AMOUNT THAT MUST BE PAID IN ANY EVENT.—For purposes of subparagraph (A), the term 'minimum amount that must be paid in any event' means an amount payable to the designated beneficiary under an annuity contract that is in the nature of a refund and does not exceed the greater of the amount applied to produce the lifetime annuity payments under the contract or the amount, if any, available for withdrawal under the contract on the date of death.''.

(c) RECAPTURE TAX FOR LIFETIME ANNUITY PAYMENTS.—Section 72 of the Internal Revenue Code of 1986 is amended by redesignating subsection (x) as subsection (y) and by inserting after subsection (w) the following new subsection:

''(x) RECAPTURE TAX FOR MODIFICATIONS TO OR REDUCTIONS IN LIFETIME ANNUITY PAYMENTS.—

''(1) IN GENERAL.—If any amount received under an annuity contract is excluded from income by reason of subsection (b)(5), and—

''(A) the series of payments under such contract is subsequently modified so that any future payments are not lifetime annuity payments,

''(B) after the date of receipt of the first lifetime annuity payment under the contract an annuitant receives a lump sum and thereafter is to receive annuity payments in a reduced amount under the contract, or

''(C) after the date of receipt of the first lifetime annuity payment under the contract the dollar amount of any subsequent annuity payment is reduced and a lump sum is not paid in connection with the reduction, unless such reduction is—

''(i) due to an event described in subsection (c)(5)(A)(iii), or

''(ii) due to the addition of, or increase in, a minimum period of payments within the meaning of subsection (c)(5)(C) or a minimum amount that must be paid in any event (within the meaning of subsection (c)(5)(D)),

then gross income for the first taxable year in which such modification or reduction occurs shall be increased by the recapture amount.

''(2) RECAPTURE AMOUNT.—

''(A) IN GENERAL.—For purposes of this subsection, the recapture amount shall be the amount, determined under rules prescribed by the Secretary, equal to the sum of—

''(i) the excess of—

''(I) the amount that was excluded from the taxpayer's gross income under subsection (b)(5) for all taxable years prior to the modification or reduction described in paragraph (1), over

''(II) the amount that would have been excludible under such subsection for such taxable years had such modifications or reductions been in effect at all times, plus

''(ii) interest for the deferral period at the underpayment rate established by section 6621.

''(B) DEFERRAL PERIOD.—For purposes of this subsection, the term 'deferral period' means the period beginning with the taxable year in which (without regard to subsection (b)(5)) the payment would have been includible in gross income and ending with the taxable year in which the modification described in paragraph (1) occurs.

''(3) EXCEPTIONS TO RECAPTURE TAX.—Paragraph (1) shall not apply in the case of any modification or reduction that occurs because an annuitant—

''(A) dies or becomes disabled (within the meaning of subsection (m)(7)),

''(B) becomes a chronically ill individual (within the meaning of section 7702B(c)(2)), or

''(C) encounters hardship.''.

(d) LIFETIME DISTRIBUTIONS OF LIFE INSURANCE DEATH BENEFITS.—

(1) IN GENERAL.—Section 101(d) of the Internal Revenue Code of 1986 (relating to payment of life insurance proceeds at a date later than death) is amended by adding at the end the following new paragraph:

''(4) EXCLUSION FOR LIFETIME ANNUITY PAYMENTS.—

''(A) IN GENERAL.—In the case of amounts to which this subsection applies, gross income shall not include the lesser of—

''(i) 50 percent of the portion of lifetime annuity payments otherwise includible in gross income under this section (determined without regard to this paragraph), or

''(ii) the amount determined under section 72(b)(5).

''(B) RULES OF SECTION 72(b)(5) TO APPLY.—For purposes of this paragraph, rules similar to the rules of section 72(b)(5) and section 72(x) shall apply, substituting the term 'beneficiary of the life insurance contract' for the term 'annuitant' wherever it appears, and substituting the term 'life insurance contract' for the term 'annuity contract' wherever it appears.''.

(2) CONFORMING AMENDMENT.—Section 101(d)(1) of such Code is amended by inserting ''or paragraph (4)'' after ''to the extent not excluded by the preceding sentence''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to amounts received in calendar years beginning after the date of the enactment of this Act.

(2) SPECIAL RULE FOR EXISTING CONTRACTS.—In the case of a contract in force on the date of the enactment of this Act that does not satisfy the requirements of section 72(c)(5)(A) of the Internal Revenue Code of 1986 (as added by this section), or requirements similar to such section in the case of a life insurance contract, any modification to such contract (including a change in ownership) or to the payments thereunder that is made to satisfy the requirements of such section (or similar requirements) shall not result in the recognition of any gain or loss, any amount being included in gross income, or any addition to tax that otherwise might result from such modification, but only if the modification is completed prior to the date that is 2 years after the date of the enactment of this Act.

By Mr. MCCONNELL:

S. 1302. A bill to provide for the introduction of pay-for-performance compensation mechanisms into contracts of the Department of Veterans Affairs with community-based outpatient clinics for the provisions of health care services, and for other purposes; to the Committee on Veterans' Affairs.

Mr. MCCONNELL. Mr. President, I rise today to introduce the Veterans Health Care Improvement Act of 2009.

As we all know, the Department of Veterans Affairs strives to provide the best possible health care for our nation's heroes. However, it has come to my attention that the quality of care provided to our nation's veterans has been inconsistent among community-based outpatient clinics. Some of these clinics, including two in my home state of Kentucky, are operated by private health care providers under VA contracts. These VA-contracted health care providers are compensated for their work at community-based outpatient clinics on a capitated basis, which means they are essentially paid based on how many new veterans they see during a pay period. These firms are therefore rewarded for the number of veterans they sign up, not for the quality of treatment provided to our veterans. I am concerned this provides contractors with the wrong incentives. Contracted health care providers should have the incentive to provide the best possible care for veterans, not simply get as many veterans as possible through the door once.

As a result of the capitated system, it has been reported that too many of our nation's heroes have faced difficulties at these clinics in scheduling appointments, have suffered from neglect or have received substandard health care. This occurred under the last administration and I am concerned it may be continuing in the current one.

As such, I am introducing the Veterans Health Care Improvement Act of 2009, which attempts to fix the way VA-contracted health care providers are compensated at clinics. This bill would require the VA to begin to introduce a pay-for-performance compensation plan for contractors, thereby gradually incentivizing a higher quality of care for veterans seen at privately-administered community-based outpatient clinics.

This bill gives the VA the flexibility to begin to implement such a system through a pilot program and leaves the VA the discretion as to how to adopt and best implement the pay-for-performance standards. In this respect, the bill defers to the VA on how to execute these changes. It is my hope that my colleagues will support this measure.

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. 1302

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans Health Care Improvement Act of 2009''.

SEC. 2. FINDINGS.

Congress makes the following findings:

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

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

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

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

(5) Many CBOCs are administered by private contractors.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Mechanisms to collect and evaluate data on the outcomes of the services generally provided by CBOCs in order to provide for an assessment of the quality of health care provided by such clinics.

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

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

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

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

SUBMITTED RESOLUTIONS

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

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

S. RES. 189

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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