

S. 1864

At the request of Mr. DURBIN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1864, a bill to expand the use of open textbooks in order to achieve savings for students.

S. 1865

At the request of Mr. RUBIO, the name of the Senator from Louisiana (Mr. CASSIDY) was added as a cosponsor of S. 1865, a bill to provide temporary direct hire authority for certain emergency response positions.

S. RES. 61

At the request of Mr. MCCAIN, the name of the Senator from Arkansas (Mr. COTTON) was added as a cosponsor of S. Res. 61, a resolution calling on the Department of Defense, other elements of the Federal Government, and foreign governments to intensify efforts to investigate, recover, and identify all missing and unaccounted-for personnel of the United States.

S. RES. 250

At the request of Mr. DURBIN, the name of the Senator from Michigan (Mr. PETERS) was added as a cosponsor of S. Res. 250, a resolution condemning horrific acts of violence against Burma's Rohingya population and calling on Aung San Suu Kyi to play an active role in ending this humanitarian tragedy.

S. RES. 264

At the request of Mr. DAINES, his name was added as a cosponsor of S. Res. 264, a resolution designating September 2017 as "National Kinship Care Month".

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CARDIN (for himself, Mr. BLUNT, and Mr. NELSON):

S. 1890. A bill to improve the understanding of, and promote access to treatment for, chronic kidney disease, and for other purposes; to the Committee on Finance.

Mr. CARDIN. Mr. President, I rise in support of the bipartisan Chronic Kidney Disease Improvement in Research and Treatment Act of 2017, which I am introducing with Senators BLUNT and NELSON today. This legislation seeks to make a real difference in the lives of Americans suffering from kidney disease and end-stage renal disease.

Kidney disease is the 9th leading cause of death in the United States, and unfortunately, more than 1 in 10 Americans today suffer from some form of kidney disease. More than 661,000 Americans are living with kidney failure or end-stage renal disease, which is an irreversible condition that can be fatal without a kidney transplant or life-sustaining dialysis. Of these, 468,000 patients in our Country rely on life-sustaining dialysis care to survive and roughly 193,000 live with a functioning kidney transplant.

This legislation seeks to promote research, expand patient choice, and im-

prove care coordination for these hundreds of thousands of patients. Specifically, it would identify payment disincentives that create barriers to kidney transplants. The bill would require the Government Accountability Office (GAO) to submit a comprehensive report on how and to what extent palliative care is utilized in treating individuals with advanced kidney disease and the effect of palliative care on the quality of life and treatment outcomes of individuals with ESRD. It would also direct the Department of Health and Human Services (HHS) to evaluate and report on the biological, social, and behavioral factors related to kidney disease and efforts to slow the progression of disease in minority populations disproportionately affected by this disease.

This legislation would improve access to pre-dialysis kidney education programs to better manage patients' kidney disease and even prevent kidney failure in some cases. Nephrologists and other health professionals would be incentivized to work in underserved rural and urban areas, and current payment policies would be modified to encourage home dialysis, which is not incentivized under the current Medicare payment structure. Patients with acute kidney injury would also be allowed to receive treatments through dialysis providers, therefore reducing costs associated with care provided in the more expensive hospital outpatient setting. Perhaps most importantly, our legislation would guarantee access to Medigap policies to all ESRD Medicare beneficiaries, regardless of age. Currently, Medicare patients under 65, whether disabled or ESRD beneficiaries do not have access to Medigap plans, even though Medicare is their primary insurance.

Lastly, the bill would expand the options for patients by allowing individuals diagnosed with kidney failure to enroll in the Medicare Advantage program starting in plan year 2020 and reauthorizing on a permanent basis the Medicare Advantage Special Needs Plan for patients with kidney failure.

I urge my colleagues to join me, Senator BLUNT and Senator NELSON in supporting the Chronic Kidney Disease Improvement in Research and Treatment Act of 2017, which will improve the care of patients who suffer from kidney disease and end-stage renal disease.

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. 1890

*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 "Chronic Kidney Disease Improvement in Research and Treatment Act of 2017".

#### SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

#### TITLE I—IMPROVING PATIENT LIVES AND QUALITY OF CARE THROUGH RESEARCH AND INNOVATION

Sec. 101. Improving patient lives and quality of care through research and innovation.

Sec. 102. Enhancing care through new technologies.

Sec. 103. Understanding current utilization of palliative care services.

Sec. 104. Understanding the progression of kidney disease and treatment of kidney failure in minority populations.

#### TITLE II—EMPOWER PATIENT DECISION MAKING AND CHOICE

Sec. 201. Providing individuals with kidney failure access to managed care.

Sec. 202. Medigap coverage for beneficiaries with end-stage renal disease.

Sec. 203. Promoting access to home dialysis treatments.

#### TITLE III—IMPROVING PATIENT CARE AND ENSURING QUALITY OUTCOMES

Sec. 301. Maintain an economically stable dialysis infrastructure.

Sec. 302. Improve patient decision making and transparency by consolidating and modernizing quality programs.

Sec. 303. Increasing access to Medicare kidney disease education benefit.

Sec. 304. Certification of new facilities.

Sec. 305. Improving access in under served areas.

#### TITLE I—IMPROVING PATIENT LIVES AND QUALITY OF CARE THROUGH RESEARCH AND INNOVATION

##### SEC. 101. IMPROVING PATIENT LIVES AND QUALITY OF CARE THROUGH RESEARCH AND INNOVATION.

(a) STUDY.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct a study on increasing kidney transplantation rates. Such study shall include an analysis of each of the following:

(1) Any disincentives in the payment systems under the Medicare program under title XVIII of the Social Security Act that create barriers to kidney transplants and post-transplant care for beneficiaries with end-stage renal disease.

(2) The practices used by States with higher than average donation rates and whether those practices and policies could be successfully utilized in other States.

(3) Practices and policies that could increase deceased donation rates of minority populations.

(4) Whether cultural and policy barriers exist to increasing living donation rates, including an examination of how to better facilitate chained donations.

(5) Other areas determined appropriate by the Secretary.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under subsection (a), together with such recommendations as the Secretary determines to be appropriate.

##### SEC. 102. ENHANCING CARE THROUGH NEW TECHNOLOGIES.

(a) AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES.—The Secretary of Health and Human Services shall seek to enter into an agreement with the National Academy of Sciences within six months of the date of the enactment of this Act under which the National Academy of Sciences will conduct a study on the design of payments for renal dialysis services under the Medicare program

under title XVIII of the Social Security Act, including an analysis of whether adjustments to such payments are needed to allow for the incorporation of new technologies and therapies.

(b) **CONTENTS.**—In conducting the study under subsection (a), the National Academy of Sciences shall evaluate the current payment system for renal dialysis services under the Medicare program, identify barriers to adopting innovative items, services, and therapies, and make recommendations as to how to eliminate such barriers.

#### SEC. 103. UNDERSTANDING CURRENT UTILIZATION OF PALLIATIVE CARE SERVICES.

(a) **STUDY.**—

(1) **IN GENERAL.**—The Comptroller General of the United States (in this section referred to as the “Comptroller General”) shall conduct a study on the utilization of palliative care in treating individuals with advanced kidney disease, from stage 4 through stage 5, including individuals with kidney failure on dialysis through any progression of the disease. Such study shall include an analysis of—

(A) how palliative care can be utilized to improve the quality of life of those with kidney disease and facilitate care tailored to their individual goals and values;

(B) the successful use of palliative care in the care of patients with other chronic diseases and serious illnesses;

(C) the utilization of palliative care at any point in an illness, including when used at the same time as curative treatment; and

(D) other areas determined appropriate by the Comptroller General.

(2) **DEFINITION OF PALLIATIVE CARE.**—In this section, the term “palliative care” means patient and family centered care that optimizes quality of life by anticipating, preventing, and treating suffering. Such term includes care that is furnished throughout the continuum of the illness that addresses physical, intellectual, emotional, social, and spiritual needs and that facilitates patient autonomy, access to information and choice.

(b) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Congress a report on the study conducted under subsection (a), together with such recommendations as the Comptroller General determines to be appropriate.

#### SEC. 104. UNDERSTANDING THE PROGRESSION OF KIDNEY DISEASE AND TREATMENT OF KIDNEY FAILURE IN MINORITY POPULATIONS.

(a) **STUDY.**—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall conduct a study on—

(1) the social, behavioral, and biological factors leading to kidney disease;

(2) efforts to slow the progression of kidney disease in minority populations that are disproportionately affected by such disease; and

(3) treatment patterns associated with providing care, under the Medicare program under title XVIII of the Social Security Act, the Medicaid program under title XIX of such Act, and through private health insurance, to minority populations that are disproportionately affected by kidney failure.

(b) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under subsection (a), together with such recommendations as the Secretary determines to be appropriate.

#### TITLE II—EMPOWER PATIENT DECISION MAKING AND CHOICE

##### SEC. 201. PROVIDING INDIVIDUALS WITH KIDNEY FAILURE ACCESS TO MANAGED CARE.

(a) **PERMANENT EXTENSION OF MEDICARE ADVANTAGE ESRD SPECIAL NEEDS PLANS AU-**

**THORITY.**—Section 1859(f)(1) of the Social Security Act (42 U.S.C. 1395w–28(f)(1)) is amended by inserting “, in the case of a specialized MA plan for special needs individuals who have not been determined to have end stage renal disease,” before “for periods before January 1, 2019”.

(b) **ACCELERATED ACCESS TO MEDICARE ADVANTAGE.**—Section 17006(a)(3) of the 21st Century Cures Act (Public Law 114–255) is amended by striking “2021” and inserting “2020.”

(c) **ACCELERATED MEDPAC RISK ADJUSTMENT REPORT.**—Section 17006(f)(2)(A)(i)(II) of the 21st Century Cures Act (Public Law 114–255) is amended by striking “2020” and inserting “2019.”

#### SEC. 202. MEDIGAP COVERAGE FOR BENEFICIARIES WITH END-STAGE RENAL DISEASE.

(a) **GUARANTEED AVAILABILITY OF MEDIGAP POLICIES TO ALL ESRD MEDICARE BENEFICIARIES.**—

(1) **IN GENERAL.**—Section 1882(s) of the Social Security Act (42 U.S.C. 1395ss(s)) is amended—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking “is 65” and inserting the following: “is—

“(i) 65 years of age or older and is enrolled for benefits under part B; or

“(ii) is entitled to benefits under 226A(b) and is enrolled for benefits under part B.”; and

(ii) in subparagraph (D), in the matter preceding clause (i), by inserting “(or is entitled to benefits under 226A(b))” after “is 65 years of age or older”; and

(B) in paragraph (3)(B)—

(i) in clause (ii), by inserting “(or is entitled to benefits under 226A(b))” after “is 65 years of age or older”; and

(ii) in clause (vi), by inserting “(or under 226A(b))” after “at age 65”.

(2) **EFFECTIVE DATE.**—The amendments made by paragraph (1) shall apply to medicare supplemental policies effective on or after January 1, 2020.

(b) **ADDITIONAL ENROLLMENT PERIOD FOR CERTAIN INDIVIDUALS.**—

(1) **ONE-TIME ENROLLMENT PERIOD.**—

(A) **IN GENERAL.**—In the case of an individual described in subparagraph (B), the Secretary of Health and Human Services shall establish a one-time enrollment period during which such an individual may enroll in any medicare supplemental policy under section 1882 of the Social Security Act (42 U.S.C. 1395ss) of the individual’s choosing.

(B) **ENROLLMENT PERIOD.**—The enrollment period established under subparagraph (A) shall begin on January 1, 2020, and shall end June 30, 2020.

(2) **INDIVIDUAL DESCRIBED.**—An individual described in this paragraph is an individual who—

(A) is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act under section 226A(b) of such Act (42 U.S.C. 426–1);

(B) is enrolled for benefits under part B of such title XVIII; and

(C) would not, but for the provisions of, and amendments made by, subsection (a) be eligible for the guaranteed issue of a medicare supplemental policy under paragraph (2) or (3) of section 1882(s) of such Act (42 U.S.C. 1395ss(s)).

#### SEC. 203. PROMOTING ACCESS TO HOME DIALYSIS TREATMENTS.

(a) **IN GENERAL.**—Section 1881(b)(3) of the Social Security Act (42 U.S.C. 1395rr(b)(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) in clause (ii), as redesignated by subparagraph (A), strike “on a comprehensive” and insert “subject to subparagraph (B), on a comprehensive”;

(3) by striking “With respect to” and inserting “(A) With respect to”; and

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

“(B) For purposes of subparagraph (A)(ii), an individual determined to have end-stage renal disease receiving home dialysis may choose to receive the monthly end-stage renal disease-related visits furnished on or after January 1, 2018, via telehealth if the individual receives a face-to-face visit, without the use of telehealth, at least once every three consecutive months.”.

(b) **ORIGINATING SITE REQUIREMENTS.**—

(1) **IN GENERAL.**—Section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)) is amended—

(A) in paragraph (4)(C)(ii), by adding at the end the following new subclauses:

“(IX) A renal dialysis facility, but only for purposes of section 1881(b)(3)(B).

“(X) The home of an individual, but only for purposes of section 1881(b)(3)(B).”; and

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

“(5) **TREATMENT OF HOME DIALYSIS MONTHLY ESRD-RELATED VISIT.**—The geographic requirements described in paragraph (4)(C)(i) shall not apply with respect to telehealth services furnished on or after January 1, 2018, for purposes of section 1881(b)(3)(B), at an originating site described in subclause (VI), (IX), or (X) of paragraph (4)(C)(ii).”.

(2) **NO FACILITY FEE IF ORIGINATING SITE FOR HOME DIALYSIS THERAPY IS THE HOME.**—Section 1834(m)(2)(B) of the Social Security Act (42 U.S.C. 1395m(m)(2)(B)) is amended—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), and indenting appropriately;

(B) in subclause (II), as redesignated by subparagraph (A), by striking “clause (i) or this clause” and inserting “subclause (I) or this subclause”; and

(C) by striking “SITE.—With respect to” and inserting “SITE.—

“(i) **IN GENERAL.**—Subject to clause (ii), with respect to”; and

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

“(ii) **NO FACILITY FEE IF ORIGINATING SITE FOR HOME DIALYSIS THERAPY IS THE HOME.**—No facility fee shall be paid under this subparagraph to an originating site described in paragraph (4)(C)(ii)(X).”.

(c) **CONFORMING AMENDMENT.**—Section 1881(b)(1) of the Social Security Act (42 U.S.C. 1395rr(b)(1)) is amended by striking “paragraph (3)(A)” and inserting “paragraph (3)(A)(i).”.

(d) **EXCLUSION FROM REMUNERATION FOR PURPOSES OF APPLYING CIVIL MONETARY PENALTIES.**—

(1) **IN GENERAL.**—Section 1128A(i)(6) of the Social Security Act (42 U.S.C. 1320a–7a(i)(6)) is amended—

(A) in subparagraph (H)(iv), by striking “; or” at the end;

(B) in subparagraph (I), by striking the period at the end and inserting “; or”; and

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

“(J) the provision of telehealth or remote patient monitoring technologies to individuals under title XVIII by a health care provider for the purpose of furnishing telehealth or remote patient monitoring services.”.

(2) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to services furnished on or after the date of the enactment of this Act.

#### TITLE III—IMPROVING PATIENT CARE AND ENSURING QUALITY OUTCOMES

##### SEC. 301. MAINTAIN AN ECONOMICALLY STABLE DIALYSIS INFRASTRUCTURE.

(a) **IN GENERAL.**—Section 1881(b)(14) of the Social Security Act (42 U.S.C. 1395rr(b)(14)) is amended—

(1) in subparagraph (D), in the matter preceding clause (i), by striking “Such system” and inserting “Subject to subparagraph (J), such system”; and

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

“(J) For payment for renal dialysis services furnished on or after January 1, 2018, under the system under this paragraph—

“(i) the payment adjustment described in clause (i) of subparagraph (D)—

“(I) shall not take into account comorbidities; and

“(II) shall only take into account age for purposes of distinguishing between individuals who are under 18 years of age and those who are 18 years of age and older but shall not include any other adjustment for age;

“(ii) the Secretary shall reassess any adjustments related to patient weight under such clause;

“(iii) the payment adjustment described in clause (ii) of such subparagraph shall not be included;

“(iv) the standardization factor described in the final rule published in the Federal Register on November 8, 2012 (77 Fed. Reg. 67470), shall be established using the most currently available data (and not historical data) and adjusted on an annual basis, based on such available data, to account for any change in utilization of drugs and any modification in adjusters applied under this paragraph; and

“(v) take into account reasonable costs for determining the payment rate consistent with paragraph (2)(B).”

(b) INCLUSION OF NETWORK FEE AS AN ALLOWABLE COST.—Section 1881(b)(14) of the Social Security Act (42 U.S.C. 1395rr(b)(14)), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

“(K) Not later than January 1, 2018, the Secretary shall amend the ESRD facility cost report to include the per treatment network fee (as described in paragraph (7)) as an allowable cost or offset to revenue.”

#### SEC. 302. IMPROVE PATIENT DECISION MAKING AND TRANSPARENCY BY CONSOLIDATING AND MODERNIZING QUALITY PROGRAMS.

(a) MEASURES.—Section 1881(h)(2) of the Social Security Act (42 U.S.C. 1395rr(h)(2)) is amended by adding at the end the following new subparagraphs:

“(F) WEIGHTING LIMITATION.—No single measure specified by the Secretary or individual measure within a composite measure so specified may be weighted less than 10 percent of the total performance score.

“(G) STATISTICALLY VALID AND RELIABLE.—In specifying measures under subparagraph (A), the Secretary shall only specify measures that have been shown to be statistically valid and reliable through testing.”

(b) ENDORSEMENT.—Section 1881(h)(2)(B) of the Social Security Act (42 U.S.C. 1395rr(h)(2)(B)) is amended—

(1) in clause (ii), by adding at the end the following new sentence: “The exception under the preceding sentence shall not apply to a measure that the entity with a contract under section 1890(a) (or a similar entity) considered but failed to endorse.”; and

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

“(iii) COMPOSITE MEASURES.—Clauses (i) and (ii) shall apply to composite measures in the same manner as such clauses apply to individual measures.”

(c) REQUIREMENTS FOR DIALYSIS FACILITY COMPARE STAR RATING PROGRAM.—Section 1881(h)(6) of the Social Security Act (42 U.S.C. 1395rr(h)(6)) is amended by adding at the end the following new subparagraph:

“(E) REQUIREMENTS FOR ANY DIALYSIS FACILITY COMPARE STAR RATING PROGRAM.—To

the extent that the Secretary maintains a dialysis facility compare star rating program, under such a program the Secretary—

“(i) shall assign stars using the same methodology and total performance score results from the quality incentive program under this subsection;

“(ii) shall determine the stars using the same methodology used under such quality incentive program; and

“(iii) shall not use a forced bell curve when determining the stars or rebaselining the stars.”

(d) HOSPITALS REQUIRED TO PROVIDE INFORMATION.—Section 1881 of the Social Security Act (42 U.S.C. 1395rr) is amended by adding at the end the following new subsection:

“(i) HOSPITALS REQUIRED TO PROVIDE INFORMATION.—

“(1) IN GENERAL.—The Secretary shall establish a process under which a hospital or a critical access hospital shall provide a renal dialysis facility with health and treatment information with respect to an individual who is discharged from the hospital or critical access hospital and who subsequently receives treatment at facility.

“(2) ELEMENTS.—Under the process established under paragraph (1)—

“(A) the request for the health information may be initiated by the individual prior to discharge or upon request by the renal dialysis facility after the patient is discharged; and

“(B) the information must be provided to the facility within 7 days of the request being made.”

(e) INCENTIVE PAYMENTS.—Section 1881(h)(1) of the Social Security Act (42 U.S.C. 1395rr(h)(1)) is amended by adding at the end the following new subparagraph:

“(D) INCENTIVE PAYMENTS.—

“(i) IN GENERAL.—In the case of a provider of services or a renal dialysis facility that the Secretary determines exceeds the attainment performance standards under paragraph (4) with respect to a year, the Secretary may make a bonus payment to the provider or facility (pursuant to a process established by the Secretary).

“(ii) FUNDING.—The total amount of bonus payments under clause (i) in a year shall be equal to the total amount of reduced payments in a year under subparagraph (A).

“(iii) NO EFFECT IN SUBSEQUENT YEARS.—The provisions of subparagraph (C) shall apply to a bonus payment under this subparagraph in the same manner subparagraph (C) applies to a reduction under such subparagraph.”

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2019.

#### SEC. 303. INCREASING ACCESS TO MEDICARE KIDNEY DISEASE EDUCATION BENEFIT.

(a) IN GENERAL.—Section 1861(ggg) of the Social Security Act (42 U.S.C. 1395x(ggg)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting “or stage V” after “stage IV”; and

(B) in subparagraph (B), by inserting “or of a physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa)(5)) assisting in the treatment of the individual’s kidney condition” after “kidney condition”; and

(2) in paragraph (2)—

(A) by striking subparagraph (B); and

(B) in subparagraph (A)—

(i) by striking “(A)” after “(2)”; and

(ii) by striking “and” at the end of clause (i);

(iii) by striking the period at the end of clause (ii) and inserting “; and”; and

(iv) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(v) by adding at the end the following:

“(C) a renal dialysis facility subject to the requirements of section 1881(b)(1) with personnel who—

“(i) provide the services described in paragraph (1); and

“(ii) is a physician (as defined in subsection (r)(1)) or a physician assistant, nurse practitioner, or clinical nurse specialist (as defined in subsection (aa)(5)).”

(b) PAYMENT TO RENAL DIALYSIS FACILITIES.—Section 1881(b) of the Social Security Act (42 U.S.C. 1395rr(b)) is amended by adding at the end the following new paragraph:

“(15) For purposes of paragraph (14), the single payment for renal dialysis services under such paragraph shall not take into account the amount of payment for kidney disease education services (as defined in section 1861(ggg)). Instead, payment for such services shall be made to the renal dialysis facility on an assignment-related basis under section 1848.”

(c) EFFECTIVE DATE.—The amendments made by this section apply to kidney disease education services furnished on or after January 1, 2018.

#### SEC. 304. CERTIFICATION OF NEW FACILITIES.

(a) CERTIFICATION.—

(1) IN GENERAL.—Section 1865(a)(1) of the Social Security Act (42 U.S.C. 1395bb(a)(1)) is amended by striking “or the conditions and requirements under section 1881(b)”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act and apply to a finding made on or after such date.

(b) TIMING FOR ACCEPTANCE OF REQUESTS FROM ACCREDITATION ORGANIZATIONS.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall accept a completed application from any national accreditation body for providers and facilities that provide services under 1881(b), in accordance with section 1865(3)(A). Any application received pursuant to the preceding sentence shall be deemed approved unless the Secretary, within 90 days after the date of the submission of the application to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information that is needed in order to make a final determination with respect to the application. If the Secretary requests additional information pursuant to the preceding sentence and the applicant submits such information, the application shall be deemed approved unless the Secretary, within 90 days of date of receiving such information, denies such request.

#### SEC. 305. IMPROVING ACCESS IN UNDER SERVED AREAS.

(a) DEFINITION OF PRIMARY CARE SERVICES.—Section 331(a)(3)(D) of the Public Health Service Act (42 U.S.C. 254d(a)(3)(D)) is amended by inserting “and includes renal dialysis services” before the period at the end.

(b) NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM.—Section 338A(a)(2) of the Public Health Service Act (42 U.S.C. 2541(a)(2)) is amended by inserting “, including nephrology health professionals” before the period at the end.

(c) NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM.—Section 338B(a)(2) of the Public Health Service Act (42 U.S.C. 2541-1(a)(2)) is amended by inserting “, including nephrology health professionals” before the period at the end.

By Mr. MCCAIN (for himself, Mr. LEE, Mr. LANKFORD, and Mr. FLAKE):

S. 1894. A bill to exempt Puerto Rico from the coastwise laws of the United

States (commonly known as the "Jones Act"); read the first time.

S. 1894

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

**SECTION 1. EXCEPTIONS TO APPLICATION OF COASTWISE LAWS FOR PUERTO RICO.**

Section 55101(b) of title 46, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively; and

(2) by inserting before paragraph (2), as redesignated, the following:

"(1) the Commonwealth of Puerto Rico;"

By Mr. DAINES:

S. 1898. A bill to amend the Internal Revenue Code of 1986 to retroactively repeal the individual mandate for health insurance; to the Committee on Finance.

Mr. DAINES. 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. 1898

*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 "Repeal and Refund Act".

**SEC. 2. REPEAL OF INDIVIDUAL MANDATE.**

(a) REPEAL OF REQUIREMENT TO MAINTAIN MINIMUM ESSENTIAL COVERAGE.—

(1) IN GENERAL.—The Internal Revenue Code of 1986 is amended by striking chapter 48.

(2) CONFORMING AMENDMENTS.—

(A) AMENDMENTS RELATED TO THE INTERNAL REVENUE CODE OF 1986.—

(i) Section 36B of the Internal Revenue Code of 1986 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (g) the following new subsection:

"(g) MINIMUM ESSENTIAL COVERAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'minimum essential coverage' means any of the following:

"(A) GOVERNMENT SPONSORED PROGRAMS.—Coverage under—

"(i) the Medicare program under part A of title XVIII of the Social Security Act,

"(ii) the Medicaid program under title XIX of the Social Security Act,

"(iii) the CHIP program under title XXI of the Social Security Act,

"(iv) medical coverage under chapter 55 of title 10, United States Code, including coverage under the TRICARE program,

"(v) a health care program under chapter 17 or 18 of title 38, United States Code, as determined by the Secretary of Veterans Affairs, in coordination with the Secretary of Health and Human Services and the Secretary,

"(vi) a health plan under section 2504(e) of title 22, United States Code (relating to Peace Corps volunteers), or

"(vii) the Nonappropriated Fund Health Benefits Program of the Department of Defense, established under section 349 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 10 U.S.C. 1587 note).

"(B) EMPLOYER-SPONSORED PLAN.—Coverage under an eligible employer-sponsored plan.

"(C) PLANS IN THE INDIVIDUAL MARKET.—Coverage under a health plan offered in the individual market within a State.

"(D) GRANDFATHERED HEALTH PLAN.—Coverage under a grandfathered health plan.

"(E) OTHER COVERAGE.—Such other health benefits coverage, such as a State health benefits risk pool, as the Secretary of Health and Human Services, in coordination with the Secretary, recognizes for purposes of this subsection.

"(2) ELIGIBLE EMPLOYER-SPONSORED PLAN.—The term 'eligible employer-sponsored plan' means, with respect to any employee, a group health plan or group health insurance coverage offered by an employer to the employee which is—

"(A) a governmental plan (within the meaning of section 2791(d)(8) of the Public Health Service Act), or

"(B) any other plan or coverage offered in the small or large group market within a State.

Such term shall include a grandfathered health plan described in paragraph (1)(D) offered in a group market.

"(3) EXCEPTED BENEFITS NOT TREATED AS MINIMUM ESSENTIAL COVERAGE.—The term 'minimum essential coverage' shall not include health insurance coverage which consists of coverage of excepted benefits—

"(A) described in paragraph (1) of subsection (c) of section 2791 of the Public Health Service Act; or

"(B) described in paragraph (2), (3), or (4) of such subsection if the benefits are provided under a separate policy, certificate, or contract of insurance.

"(4) INDIVIDUALS RESIDING OUTSIDE UNITED STATES OR RESIDENTS OF TERRITORIES.—Any applicable individual shall be treated as having minimum essential coverage for any month—

"(A) if such month occurs during any period described in subparagraph (A) or (B) of section 911(d)(1) which is applicable to the individual, or

"(B) if such individual is a bona fide resident of any possession of the United States (as determined under section 937(a)) for such month.

"(5) INSURANCE-RELATED TERMS.—Any term used in this section which is also used in title I of the Patient Protection and Affordable Care Act shall have the same meaning as when used in such title."

(ii) Section 36B(c)(2)(B) of such Code is amended to read as follows:

"(B) EXCEPTION FOR MINIMUM ESSENTIAL COVERAGE.—The term 'coverage month' shall not include any month with respect to an individual if for such month the individual is eligible for minimum essential coverage other than eligibility for coverage described in subsection (g)(1)(C) (relating to coverage in the individual market)."

(iii) Clauses (i)(I) and (ii) of section 36B(c)(2)(C) of such Code are each amended by striking "section 5000A(f)(2)" and inserting "subsection (g)(2)".

(iv)(I) Subclause (II) of section 36B(c)(2)(C)(i) of such Code is amended by striking "(within the meaning of section 5000A(e)(1)(B))".

(II) Paragraph (2) of section 36B(c) of such Code is amended by adding at the end the following new subparagraph:

"(D) REQUIRED CONTRIBUTION.—For purposes of subparagraph (C)(i)(II), the term 'required contribution' means—

"(i) in the case of an individual eligible to purchase minimum essential coverage consisting of coverage through an eligible employer-sponsored plan, the portion of the annual premium which would be paid by the individual (without regard to whether paid through salary reduction or otherwise) for self-only coverage, or

"(ii) in the case of an individual eligible only to purchase minimum essential coverage described in subsection (g)(1)(C), the annual premium for the lowest cost bronze plan available in the individual market through the Exchange in the State in the rating area in which the individual resides (without regard to whether the individual purchased a qualified health plan through the Exchange), reduced by the amount of the credit allowable under subsection (a) for the taxable year (determined as if the individual was covered by a qualified health plan offered through the Exchange for the entire taxable year)."

(v) Section 162(m)(6)(C)(i) of such Code is amended by striking "section 5000A(f)" and inserting "section 36B(g)".

(vi) Subsections (a)(1) and (b)(1) of section 4980H of such Code are each amended by striking "section 5000A(f)(2)" and inserting "section 36B(g)(2)".

(vii) Section 4980I(f)(1)(B) of such Code is amended by striking "section 5000A(f)" and inserting "section 36B(g)".

(viii) Section 6056(b)(2)(b) of such Code is amended by striking "section 5000A(f)(2)" and inserting "section 36B(g)(2)".

(ix) The table of chapters of the Internal Revenue Code of 1986 is amended by striking the item relating to chapter 48.

(B) AMENDMENTS RELATED TO THE PATIENT PROTECTION AND AFFORDABLE CARE ACT.—

(i) Section 1251(a)(4)(B)(ii) of the Patient Protection and Affordable Care Act is amended by striking "section 500A(f)(2)" and inserting "section 36B(g)(2)".

(ii) Section 1302(e)(2) of such Act is amended to read as follows:

"(2) INDIVIDUALS ELIGIBLE FOR ENROLLMENT.—An individual is described in this paragraph for any plan year if the individual has not attained the age of 30 before the beginning of the plan year."

(iii) Section 1311(d)(4) of such Act is amended by striking subparagraph (H).

(iv) Section 1312(d)(4) of such Act is amended by striking "section 5000A(f)" and inserting "section 36B(g)".

(v) Section 1363(e)(1)(C) of such Act is amended—

(I) by striking "section 5000A(f)" and inserting "section 36B(g)", and

(II) by striking "or is eligible for an employer-sponsored plan that is not affordable coverage (as determined under section 5000A(e)(2) of such Code)" and inserting "or who is eligible for an employer-sponsored plan and whose household income for the taxable year described in section 1412(b)(1)(B) is less than the amount of gross income specified in section 6012(a)(1) of the Internal Revenue Code of 1986 with respect to the taxpayer".

(vi) Section 1332(a)(2)(D) of such Act is amended by striking "36B, 4980H, and 5000A" and inserting "36B and 4980H".

(vii) Section 1401(c)(1)(A)(iii) of such Act is amended by striking "section 5000A(f)" and inserting "section 36B(g)".

(viii) Section 1411(a) of such Act is amended—

(I) by inserting "and" at the end of paragraph (2),

(II) in paragraph (3)—

(aa) by striking "and section 5000A(e)(2)", and

(bb) by striking "and" and inserting a period, and

(III) by striking paragraph (4).

(ix) Section 1411(b)(4)(C) of such Act is amended by striking "5000A(e)(1)(B)" and inserting "36B(c)(2)(D)".

(x) Section 1411(b) of such Act is amended by striking paragraph (5).

(xi) Section 1411(e)(4)(B) of such Act is amended by striking clause (iv).

(C) OTHER CONFORMING AMENDMENTS.—Section 2715(b)(3)(G)(i) of the Public Health Service Act is amended by striking “section 5000A(f)” and inserting “section 36B(g)”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2013.

(b) REPEAL OF REPORTING OF HEALTH INSURANCE COVERAGE.—

(1) IN GENERAL.—Part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by striking subpart D.

(2) CONFORMING AMENDMENTS.—

(A) Section 6056(d) of the Internal Revenue Code of 1986 is amended to read as follows:

“(d) COORDINATION WITH OTHER REQUIREMENTS.—To the maximum extent feasible, the Secretary may provide that any return or statement required to be provided under this section may be provided as part of any return or statement required under section 6051.”.

(B) Section 6724(d)(1)(B) of such Code is amended by inserting “or” at the end of clause (xxiii), by striking clause (xxiv), and by redesignating clause (xxv) as clause (xxiv).

(C) Section 6724(d)(2) of such Code is amended by inserting “or” at the end of subparagraph (FF), by striking subparagraph (GG), and by redesignating subparagraph (HH) as subparagraph (GG).

(D) Subsection (c) of section 1502 of the Patient Protection and Affordable Care Act is repealed.

(E) The table of subparts for part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by striking the item relating to subpart D.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to calendar years beginning after December 31, 2013.

(C) TAXPAYER REFUND PROGRAM.—

(1) IN GENERAL.—The Secretary of the Treasury shall implement a program under which taxpayers who have paid a penalty under section 5000A of the Internal Revenue Code of 1986 for any taxable year receive 1 payment in refund of all such penalties paid, without regard to whether or not an amended return is filed. Such payment shall be made not later than April 15, 2018.

(2) WAIVER OF STATUTE OF LIMITATIONS.—Solely for purposes of claiming the refund under paragraph (1), the period prescribed by section 6511(a) of the Internal Revenue Code of 1986 with respect to any payment of a penalty under section 5000A shall be extended until the date prescribed by law (including extensions) for filing the return of tax for the taxable year that includes December 31, 2017.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 270—DESIGNATING SEPTEMBER 2017 AS “NATIONAL OVARIAN CANCER AWARENESS MONTH”

Ms. STABENOW (for herself, Mr. BROWN, Mr. KING, Mrs. FEINSTEIN, Mr. BLUMENTHAL, Mr. MENENDEZ, and Ms. HIRONO) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 270

Whereas ovarian cancer is the deadliest of all gynecologic cancers;

Whereas ovarian cancer is the fifth leading cause of cancer deaths among women in the United States;

Whereas, in 2017 in the United States, approximately 22,440 new cases of ovarian can-

cer will be diagnosed and 14,080 women will die of ovarian cancer;

Whereas the mortality rate for ovarian cancer has not significantly decreased since the “War on Cancer” was declared more than 40 years ago;

Whereas  $\frac{1}{4}$  of women will die within 1 year of being diagnosed with ovarian cancer and more than  $\frac{1}{2}$  will die within 5 years of that diagnosis;

Whereas, while the mammogram can detect breast cancer and the Pap smear can detect cervical cancer, there is no reliable early detection test for ovarian cancer;

Whereas the lack of an early detection test means that approximately 80 percent of cases of ovarian cancer are detected at an advanced stage;

Whereas all women are at risk for ovarian cancer, but approximately 20 percent of women who are diagnosed with ovarian cancer have a hereditary predisposition to ovarian cancer, which places them at even higher risk;

Whereas scientists and physicians have uncovered changes in the BRCA genes that some women inherit from their parents, which may make those women 30 times more likely to develop ovarian cancer;

Whereas the family history of a woman has been found to play an important role in accurately assessing the risk of that woman of developing ovarian cancer and medical experts believe that family history should be taken into consideration during the annual well-woman visit of any woman;

Whereas many experts in health prevention now recommend genetic testing for young women with a family history of breast and ovarian cancer;

Whereas women who know that they are at high risk of breast and ovarian cancer may undertake prophylactic measures to help reduce the risk of developing those diseases;

Whereas, as of 2017, the Society of Gynecologic Oncology recommends that all women who are diagnosed with ovarian cancer receive counseling and genetic testing;

Whereas many people are unaware that the symptoms of ovarian cancer often include bloating, pelvic or abdominal pain, difficulty eating or feeling full quickly, urinary symptoms, and several other symptoms that are easily confused with other diseases;

Whereas awareness of the symptoms of ovarian cancer by women and health care providers can lead to a quicker diagnosis;

Whereas, in June 2007, the first national consensus statement on ovarian cancer symptoms was developed to provide consistency in describing symptoms to make it easier for women to learn and remember those symptoms; and

Whereas, each year during the month of September, the Ovarian Cancer Research Fund Alliance and community partners hold a number of events to increase public awareness of ovarian cancer: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates September 2017 as “National Ovarian Cancer Awareness Month”; and

(2) supports the goals and ideals of National Ovarian Cancer Awareness Month.

### SENATE RESOLUTION 271—SUPPORTING THE GOALS AND IDEALS OF NATIONAL COMMUNITY GARDENING AWARENESS WEEK

Ms. DUCKWORTH submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 271

Whereas countless families in the United States live with hunger every day and do not have access to fresh produce in their neighborhoods;

Whereas community gardens conserve limited resources and promote sustainability;

Whereas community gardens provide an important and nutritious source of fresh produce donations for local food pantries and social service agencies;

Whereas community gardens enable individuals to gain control over the quality, variety, and cost of their food supply;

Whereas community gardening encourages individuals of diverse cultural and economic backgrounds to work together, foster a better sense of community, and improve the quality of their lives;

Whereas community-based youth and school gardening programs encourage personal self-esteem and healthy attitudes toward learning;

Whereas community gardening and greening projects provide a catalyst for neighborhood and community development;

Whereas community gardens reduce city heat and preserve open spaces for present and future generations;

Whereas community gardens and other green spaces—

(1) provide a more livable environment in municipalities throughout the United States; and

(2) present a positive local image to the residents of, and visitors to, a community;

Whereas community gardens help provide local food banks with fresh produce for individuals in need; and

Whereas the last week of September 2017 is an appropriate week to designate as “National Community Gardening Awareness Week”: Now, therefore, be it

*Resolved*, That the Senate supports the goals and ideals of National Community Gardening Awareness Week, including—

(1) raising awareness of the importance of community gardens and urban agriculture;

(2) improving access to public land for the development of sustainable food projects;

(3) encouraging further growth of community gardens and other opportunities that increase food self-reliance, improve fitness, contribute to a cleaner environment, and enhance community development; and

(4) supporting cooperative efforts among Federal, State, and local governments and nonprofit organizations—

(A) to promote the development and expansion of community gardens; and

(B) to increase the accessibility of community gardens to disadvantaged population groups.

### SENATE RESOLUTION 272—COMMEMORATING THE 230TH ANNIVERSARY OF THE SIGNING OF THE CONSTITUTION OF THE UNITED STATES

Mr. CRUZ (for himself and Mr. BLUMENTHAL) submitted the following resolution; which was considered and agreed to:

S. RES. 272

Whereas, on September 17, 1787, the Constitution of the United States was signed by 39 delegates from 12 States;

Whereas the Constitution of the United States was subsequently ratified by each of the original 13 States;

Whereas James Madison and the other delegates drafted the Constitution of the United States “in Order to form a more perfect Union, establish Justice, insure domestic