SA 3584. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3585. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 4872, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3556. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. 1306. REDUCING HEALTH CARE COSTS BY ELIMINATING PAYMENTS FOR FRAUDULENT CLAIMS AND PROHIBITING COVERAGE FOR ABORTION DRUGS AND ERECTILE DYSFUNCTION DRUGS FOR RAPISTS AND CHILD MOLESTERS.

(a) ELIMINATING FRAUDULENT PAYMENTS FOR PRESCRIPTION DRUGS.—The Secretary shall establish a fraud prevention system and issue guidance to—

(1) prevent the processing of claims of prescribing providers and dispensing pharmacies debarred from Federal contracts or excluded from the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) or the Medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.);

(2) ensure that drug utilization reviews and restricted recipient program requirements adequately identify and prevent doctor shopping and other abuses of controlled substances;

(3) develop a claims processing system to identify duplicate enrollments and deaths of Medicaid beneficiaries and prevent the approval of fraudulent claims; and

(4) develop a claims processing systems to identify deaths of Medicaid providers and prevent the approval of fraudulent claims filed using the identity of such providers.

(b) PROHIBITING COVERAGE OF CERTAIN PRESCRIPTION DRUGS.—

(1) IN GENERAL.—Health programs administered by the Federal Government and American Health Benefit Exchanges (as described in section 1311 of the Patient Protection and Affordable Care Act) shall not provide coverage or reimbursement for—

(A) prescription drugs to treat erectile dysfunction for individuals convicted of child molestation, rape, or other forms of sexual assault; or

(B) drugs prescribed with the intent of inducing an abortion for reasons other than as described in paragraph (2).

(2) EXCEPTIONS.—The limitation under paragraph (1)(B) shall not apply to an abortion—

(A) in the case where a woman suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the woman in danger of death unless an abortion is performed, including a life-endangering physical condition caused by or arising from the pregnancy itself; or

(B) if the pregnancy is the result of an act of forcible rape or incest.

SA 3557. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 2304. BUREAUCRAT LIMITATION.

For each new bureaucrat added to any department or agency of the Federal Government for the purpose of implementing the provisions of the Patient Protection and Affordable Care Act (or any amendment made by such Act), the head of such department or agency shall ensure that the addition of such new bureaucrat is offset by a reduction of 1 existing bureaucrat at such department or agency.

SA 3558. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SECTION 2304. LIMITATION OF POWERS OF THE SECRETARY.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall have no power or authority other than such power and authority granted by statute and in effect before January 1, 2010.

SA 3559. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

Strike subsection (a) of section 2301.

SA 3560. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of title I, add the following:

Subtitle G—Additional Provisions Eliminating Waste, Fraud, and Abuse

SEC. 1601. SITE INSPECTIONS; BACKGROUND CHECKS; DENIAL AND SUSPENSION OF BILLING PRIVILEGES.

(a) SITE INSPECTIONS FOR DME SUPPLIERS, COMMUNITY MENTAL HEALTH CENTERS, AND OTHER PROVIDER GROUPS.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), as amended by sections 3022 and 3403 of the Patient Protection and Affordable Care Act, is amended by adding at the end the following:

''SITE INSPECTIONS FOR DME SUPPLIERS, COMMUNITY MENTAL HEALTH CENTERS, AND OTHER PROVIDER GROUPS

''SEC. 1899B. (a) SITE INSPECTIONS.—

''(1) IN GENERAL.—The Secretary shall conduct a site inspection for each applicable provider (as defined in paragraph (2)) that applies to enroll under this title in order to provide items or services under this title. Such site inspection shall be in addition to any other site inspection that the Secretary would otherwise conduct with regard to an applicable provider.

''(2) APPLICABLE PROVIDER DEFINED.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), in this section the term 'applicable provider' means—

''(i) a supplier of durable medical equipment (including items described in section 1834(a)(13));

''(ii) a supplier of prosthetics, orthotics, or supplies (including items described in paragraphs (8) and (9) of section 1861(s));

''(iii) a community mental health center; or

''(iv) any other provider group, as determined by the Secretary (including suppliers, both participating suppliers and non-participating suppliers, as such terms are defined for purposes of section 1842).

''(B) EXCEPTION.—In this section, the term 'applicable provider' does not include—

''(i) a physician that provides durable medical equipment (as described in subparagraph (A)(i)) or prosthetics, orthotics, or supplies (as described in subparagraph (A)(ii)) to an individual as incident to an office visit by such individual; or

''(ii) a hospital that provides durable medical equipment (as described in subparagraph (A)(i)) or prosthetics, orthotics, or supplies (as described in subparagraph (A)(ii)) to an individual as incident to an emergency room visit by such individual.

''(b) STANDARDS AND REQUIREMENTS.—In conducting the site inspection pursuant to subsection (a), the Secretary shall ensure that the site being inspected is in full compliance with all the conditions and standards of participation and requirements for obtaining billing privileges under this title.

''(c) TIME.—The Secretary shall conduct the site inspection for an applicable provider prior to the issuance of billing privileges under this title to such provider.

''(d) TIMELY REVIEW.—The Secretary shall provide for procedures to ensure that the site inspection required under this section does not unreasonably delay the issuance of billing privileges under this title to an applicable provider.''.

(b) BACKGROUND CHECKS.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) (as amended by subsection (a)) is amended by adding at the end the following new section:

''BACKGROUND CHECKS; DENIAL AND SUSPENSION OF BILLING PRIVILEGES

''SEC. 1899C. (a) BACKGROUND CHECK REQUIRED.—Except as provided in subsection (b), in addition to any screening conducted under section 1866(j), the Secretary shall conduct a background check on any individual or entity that enrolls under this title for the purpose of furnishing any item or service under this title, including any individual or entity that is a supplier, a person with an ownership or control interest, a managing employee (as defined in section 1126(b)), or an authorized or delegated official of the individual or entity. In performing the background check, the Secretary shall—

''(1) conduct the background check before authorizing billing privileges under this title to the individual or entity, respectively;

''(2) include a search of criminal records in the background check;

''(3) provide for procedures that ensure the background check does not unreasonably delay the authorization of billing privileges under this title to an eligible individual or entity, respectively; and

''(4) establish criteria for targeted reviews when the individual or entity renews participation under this title, with respect to the background check of the individual or entity, respectively, to detect changes in ownership, bankruptcies, or felonies by the individual or entity.

''(b) USE OF STATE LICENSING PROCEDURE.—The Secretary may use the results of a State licensing procedure as a background check under subsection (a) if the State licensing

procedure meets the requirements of such subsection.

''(c) ATTORNEY GENERAL REQUIRED TO PROVIDE INFORMATION.—

''(1) IN GENERAL.—Upon request of the Secretary, the Attorney General shall provide the criminal background check information referred to in subsection (a)(2) to the Secretary.

''(2) RESTRICTION ON USE OF DISCLOSED INFORMATION.—The Secretary may only use the information disclosed under subsection (a) for the purpose of carrying out the Secretary's responsibilities under this title.

''(d) REFUSAL TO AUTHORIZE BILLING PRIVILEGES.—

''(1) AUTHORITY.—In addition to any other remedy available to the Secretary, the Secretary may refuse to authorize billing privileges under this title to an individual or entity if the Secretary determines, after a background check conducted under this section, that such individual or entity, respectively, has a history of acts that indicate authorization of billing privileges under this title to such individual or entity, respectively, would be detrimental to the best interests of the program or program beneficiaries. Such acts may include—

''(A) any bankruptcy;

''(B) any act resulting in a civil judgment against such individual or entity; or

''(C) any felony conviction under Federal or State law.

''(2) REPORTING OF REFUSAL TO AUTHORIZE BILLING PRIVILEGES TO THE HEALTHCARE INTEGRITY AND PROTECTION DATA BANK (HIPDB).—

''(A) IN GENERAL.—Subject to subparagraph (B), a determination under paragraph (1) to refuse to authorize billing privileges under this title to an individual or entity as a result of a background check conducted under this section shall be reported to the healthcare integrity and protection data bank established under section 1128E in accordance with the procedures for reporting final adverse actions taken against a health care provider, supplier, or practitioner under that section.

''(B) EXCEPTION.—Any determination described in subparagraph (A) that the Secretary specifies is not appropriate for inclusion in the healthcare integrity and protection data bank established under section 1128E shall not be reported to such data bank.''.

(c) DENIAL AND SUSPENSION OF BILLING PRIVILEGES.—Section 1899C of the Social Security Act, as added by subsection (b), is amended by adding at the end the following new subsection:

''(e) AUTHORITY TO SUSPEND BILLING PRIVILEGES OR REFUSE TO AUTHORIZE ADDITIONAL BILLING PRIVILEGES.—

''(1) IN GENERAL.—The Secretary may suspend any billing privilege under this title authorized for an individual or entity or refuse to authorize any additional billing privilege under this title to such individual or entity if—

''(A) such individual or entity, respectively, has an outstanding overpayment due to the Secretary under this title;

''(B) payments under this title to such individual or entity, respectively, have been suspended; or

''(C) 100 percent of the payment claims under this title for such individual or entity, respectively, are reviewed on a pre-payment basis.

''(2) APPLICATION TO RESTRUCTURED ENTITIES.—In the case that an individual or entity is subject to a suspension or refusal of billing privileges under this section, if the Secretary determines that the ownership or management of a new entity is under the control or management of such an individual or entity subject to such a suspension or refusal, the new entity shall be subject to any such applicable suspension or refusal in the same manner and to the same extent as the initial individual or entity involved had been subject to such applicable suspension or refusal.

''(3) DURATION OF SUSPENSION.—A suspension of billing privileges under this subsection, with respect to an individual or entity, shall be in effect beginning on the date of the Secretary's determination that the offense was committed and ending not earlier than such date on which all applicable overpayments and other applicable outstanding debts have been paid and all applicable payment suspensions have been lifted.''.

(d) REGULATIONS; EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate such regulations as are necessary to implement the amendments made by subsections (a), (b), and (c).

(2) EFFECTIVE DATES.—

(A) SITE INSPECTIONS AND BACKGROUND CHECKS.—The amendments made by subsections (a) and (b) shall apply to applications to enroll under title XVIII of the Social Security Act received by the Secretary of Health and Human Services on or after the first day of the first year beginning after the date of the enactment of this Act.

(B) DENIALS AND SUSPENSIONS OF BILLING PRIVILEGES.—The amendment made by subsection (c) shall apply to overpayments or debts in existence on or after the date of the enactment of this Act, regardless of whether the final determination, with respect to such overpayment or debt, was made before, on, or after such date.

(e) USE OF MEDICARE INTEGRITY PROGRAM FUNDS.—The Secretary of Health and Human Services may use funds appropriated or transferred for purposes of carrying out the Medicare integrity program established under section 1893 of the Social Security Act (42 U.S.C. 1395ddd) to carry out the provisions of sections 1899B and 1899C of that Act (as added by subsections (a) and (b)).

SEC. 1602. REGISTRATION AND BACKGROUND CHECKS OF BILLING AGENCIES AND INDIVIDUALS.

(a) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) (as amended by section 1601) is amended by adding at the end the following new section:

''REGISTRATION AND BACKGROUND CHECKS OF BILLING AGENCIES AND INDIVIDUALS; IDENTIFICATION NUMBERS REQUIRED FOR PROVIDERS AND SUPPLIERS

''SEC. 1899D. (a) REGISTRATION.—

''(1) IN GENERAL.—The Secretary shall establish procedures, including modifying the Provider Enrollment and Chain Ownership System (PECOS) administered by the Centers for Medicare & Medicaid Services, to provide for the registration of all applicable persons in accordance with this section.

''(2) REQUIRED APPLICATION.—Each applicable person shall submit a registration application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(3) IDENTIFICATION NUMBER.—If the Secretary approves an application submitted under subsection (b), the Secretary shall assign a unique identification number to the applicable person.

''(4) REQUIREMENT.—Every claim for reimbursement under this title that is compiled or submitted by an applicable person shall contain the identification number that is assigned to the applicable person pursuant to subsection (c).

''(5) TIMELY REVIEW.—The Secretary shall provide for procedures that ensure the timely consideration and determination regarding approval of applications under this subsection.

''(6) DEFINITION OF APPLICABLE PERSON.—In this section, the term 'applicable person' means any individual or entity that compiles or submits claims for reimbursement under this title to the Secretary on behalf of any individual or entity.

''(b) BACKGROUND CHECKS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall conduct a background check on any applicable person that registers under subsection (a). In performing the background check, the Secretary shall—

''(A) conduct the background check before issuing a unique identification number to the applicable person;

''(B) include a search of criminal records in the background check;

''(C) provide for procedures that ensure the background check does not unreasonably delay the issuance of the unique identification number to an eligible applicable person; and

''(D) establish criteria for periodic targeted reviews with respect to the background check of the applicable person.

''(2) USE OF STATE LICENSING PROCEDURE.—The Secretary may use the results of a State licensing procedure as a background check under paragraph (1) if the State licensing procedure meets the requirements of such paragraph.

''(3) ATTORNEY GENERAL REQUIRED TO PROVIDE INFORMATION.—

''(A) IN GENERAL.—Upon request of the Secretary, the Attorney General shall provide the criminal background check information referred to in paragraph (1)(B) to the Secretary.

''(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—The Secretary may only use the information disclosed under paragraph (1) for the purpose of carrying out the Secretary's responsibilities under this title.

''(4) REFUSAL TO ISSUE UNIQUE IDENTIFICATION NUMBER.—In addition to any other remedy available to the Secretary, the Secretary may refuse to issue a unique identification number described in subsection (a)(3) to an applicable person if the Secretary determines, after a background check conducted under this subsection, that such person has a history of acts that indicate issuance of such number under this title to such person would be detrimental to the best interests of the program or program beneficiaries. Such acts may include—

''(A) any bankruptcy;

''(B) any act resulting in a civil judgment against such person; or

''(C) any felony conviction under Federal or State law.

''(c) IDENTIFICATION NUMBERS FOR PROVIDERS AND SUPPLIERS.—The Secretary shall establish procedures to ensure that each provider of services and each supplier that submits claims for reimbursement under this title to the Secretary is assigned a unique identification number.''.

(b) PERMISSIVE EXCLUSION.—Section 1128(b) of the Social Security Act (42 U.S.C. 1320a–7(b)), as amended by section 6402(d) of the Patient Protection and Affordable Care Act, is amended by adding at the end the following:

''(17) FRAUD BY APPLICABLE PERSON.—An applicable person (as defined in section 1899D(a)(6)) that the Secretary determines knowingly submitted or caused to be submitted a claim for reimbursement under title XVIII that the applicable person knows or should know is false or fraudulent.''.

(c) REGULATIONS; EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than one year after the date of the enactment of this Act,

the Secretary of Health and Human Services shall promulgate such regulations as are necessary to implement the amendments made by subsections (a) and (b).

(2) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to applicable persons and other entities on and after the first day of the first year beginning after the date of the enactment of this Act.

SEC. 1603. EXPANDED ACCESS TO THE HEALTHCARE INTEGRITY AND PROTECTION DATA BANK (HIPDB).

(a) IN GENERAL.—Section 1128E(d)(1) of the Social Security Act (42 U.S.C. 1320a–7e(d)(1)), as amended by section 6403(a)(2) of the Patient Protection and Affordable Care Act, is amended to read as follows:

''(1) AVAILABILITY.—The information in the data bank maintained under this section shall be available to—

''(A) Federal and State government agencies and health plans, and any health care provider, supplier, or practitioner entering an employment or contractual relationship with an individual or entity who could potentially be the subject of a final adverse action, where the contract involves the furnishing of items or services reimbursed by one or more Federal health care programs (regardless of whether the individual or entity is paid by the programs directly, or whether the items or services are reimbursed directly or indirectly through the claims of a direct provider); and

''(B) utilization and quality control peer review organizations and accreditation entities as defined by the Secretary, including but not limited to organizations described in part B of this title and in section 1154(a)(4)(C).''.

(b) NO FEES FOR USE OF HIPDB BY ENTITIES CONTRACTING WITH MEDICARE.—Section 1128E(d)(2) of the Social Security Act (42 U.S.C. 1320a–7e(d)(2)), as amended by such section 6403(a)(2), is amended in the first sentence by inserting ''(other than with respect to requests by Federal agencies or other entities, such as fiscal intermediaries and carriers, acting under contract on behalf of such agencies)'' before the period at the end.

(c) CRIMINAL PENALTY FOR MISUSE OF INFORMATION.—Section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) is amended by adding at the end the following:

''(4) Whoever knowingly uses information maintained in the healthcare integrity and protection data bank maintained in accordance with section 1128E for a purpose other than a purpose authorized under that section shall be imprisoned for not more than three years or fined under title 18, United States Code, or both.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1604. LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTORS FOR CLAIMS SUBMITTED BY EXCLUDED PROVIDERS.

(a) REIMBURSEMENT TO THE SECRETARY FOR AMOUNTS PAID TO EXCLUDED PROVIDERS.—Section 1874A(b) of the Social Security Act (42 U.S.C. 1395kk(b)) is amended by adding at the end the following new paragraph:

''(6) REIMBURSEMENTS TO SECRETARY FOR AMOUNTS PAID TO EXCLUDED PROVIDERS.—The Secretary shall not enter into a contract with a Medicare administrative contractor under this section unless the contractor agrees to reimburse the Secretary for any amounts paid by the contractor for a service under this title which is furnished by an individual or entity during any period for which the individual or entity is excluded, pursuant to section 1128, 1128A, or 1156, from participation in the health care program under this title if the amounts are paid after the 60-day period beginning on the date the Secretary provides notice of the exclusion to the contractor, unless the payment was made as a result of incorrect information provided by the Secretary or the individual or entity excluded from participation has concealed or altered their identity.''.

(b) CONFORMING REPEAL OF MANDATORY PAYMENT RULE.—Section 1862(e) of the Social Security Act (42 U.S.C. 1395y(e)) is amended—

(1) in paragraph (1)(B), by striking ''and when the person'' and all that follows through ''person)''; and

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

''(2) No individual or entity may bill (or collect any amount from) any individual for any item or service for which payment is denied under paragraph (1). No individual is liable for payment of any amounts billed for such an item or service in violation of the preceding sentence.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to claims for payment submitted on or after the date of the enactment of this Act.

(2) CONTRACT MODIFICATION.—The Secretary of Health and Human Services shall take such steps as may be necessary to modify contracts entered into, renewed, or extended prior to the date of the enactment of this Act to conform such contracts to the provisions of this section.

SEC. 1605. COMMUNITY MENTAL HEALTH CENTERS.

(a) IN GENERAL.—Section 1861(ff)(3)(B) of the Social Security Act (42 U.S.C. 1395x(ff)(3)(B)), as amended by section 1301(a), is amended by striking ''entity that—'' and all that follows and inserting the following: ''entity that—

''(i) provides the community mental health services specified in paragraph (1) of section 1913(c) of the Public Health Service Act;

''(ii) meets applicable certification or licensing requirements for community mental health centers in the State in which it is located;

''(iii) provides a significant share of its services to individuals who are not eligible for benefits under this title; and

''(iv) meets such additional standards or requirements for obtaining billing privileges under this title as the Secretary may specify to ensure—

''(I) the health and safety of beneficiaries receiving such services; or

''(II) the furnishing of such services in an effective and efficient manner.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to items and services furnished on or after the first day of the sixth month that begins after the date of the enactment of this Act.

SEC. 1606. LIMITING THE DISCHARGE OF DEBTS IN BANKRUPTCY PROCEEDINGS IN CASES WHERE A HEALTH CARE PROVIDER OR A SUPPLIER ENGAGES IN FRAUDULENT ACTIVITY.

(a) IN GENERAL.—

(1) CIVIL MONETARY PENALTIES.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended by adding at the end the following: ''Notwithstanding any other provision of law, amounts made payable under this section are not dischargeable under section 727, 944, 1141, 1228, or 1328 of title 11, United States Code, or any other provision of such title.''.

(2) RECOVERY OF OVERPAYMENT TO PROVIDERS OF SERVICES UNDER PART A OF MEDICARE.—Section 1815(d) of the Social Security Act (42 U.S.C. 1395g(d)) is amended—

(A) by inserting ''(1)'' after ''(d)''; and

(B) by adding at the end the following:

''(2) Notwithstanding any other provision of law, amounts due to the Secretary under this section are not dischargeable under section 727, 944, 1141, 1228, or 1328 of title 11, United States Code, or any other provision of such title if the overpayment was the result of fraudulent activity, as may be defined by the Secretary.''.

(3) RECOVERY OF OVERPAYMENT OF BENEFITS UNDER PART b OF MEDICARE.—Section 1833(j) of the Social Security Act (42 U.S.C. 1395l(j)) is amended—

(A) by inserting ''(1)'' after ''(j)''; and

(B) by adding at the end the following:

''(2) Notwithstanding any other provision of law, amounts due to the Secretary under this section are not dischargeable under section 727, 944, 1141, 1228, or 1328 of title 11, United States Code, or any other provision of such title if the overpayment was the result of fraudulent activity, as may be defined by the Secretary.''.

(4) COLLECTION OF PAST-DUE OBLIGATIONS ARISING FROM BREACH OF SCHOLARSHIP AND LOAN CONTRACT.—Section 1892(a) of the Social Security Act (42 U.S.C. 1395ccc(a)) is amended by adding at the end the following:

''(5) Notwithstanding any other provision of law, amounts due to the Secretary under this section are not dischargeable under section 727, 944, 1141, 1228, or 1328 of title 11, United States Code, or any other provision of such title.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to bankruptcy petitions filed after the date of the enactment of this Act.

SEC. 1607. ILLEGAL DISTRIBUTION OF A MEDICARE OR MEDICAID BENEFICIARY IDENTIFICATION OR BILLING PRIVILEGES.

Section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)), as amended by section 1603, is amended by adding at the end the following:

''(5) Whoever knowingly, intentionally, and with the intent to defraud purchases, sells or distributes, or arranges for the purchase, sale, or distribution of two or more Medicare or Medicaid beneficiary identification numbers or billing privileges under title XVIII or title XIX shall be imprisoned for not more than three years or fined under title 18, United States Code (or, if greater, an amount equal to the monetary loss to the Federal and any State government as a result of such acts), or both.''.

SEC. 1608. TREATMENT OF CERTAIN SOCIAL SECURITY ACT CRIMES AS FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 24(a) of title 18, United States Code, is amended—

(1) by striking the period at the end of paragraph (2) and inserting ''; or''; and

(2) by adding at the end the following:

''(3) section 1128B of the Social Security Act (42 U.S.C. 1320a–7b).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply to acts committed on or after the date of the enactment of this Act.

SEC. 1609. AUTHORITY OF OFFICE OF INSPECTOR GENERAL OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) AUTHORITY.—Notwithstanding any other provision of law, upon designation by the Inspector General of the Department of Health and Human Services, any criminal investigator of the Office of Inspector General of such department may, in accordance with guidelines issued by the Secretary of Health and Human Services and approved by the Attorney General, while engaged in activities within the lawful jurisdiction of such Inspector General—

(1) obtain and execute any warrant or other process issued under the authority of the United States;

(2) make an arrest without a warrant for—

(A) any offense against the United States committed in the presence of such investigator; or

(B) any felony offense against the United States, if such investigator has reasonable cause to believe that the person to be arrested has committed or is committing that felony offense; and

(3) exercise any other authority necessary to carry out the authority described in paragraphs (1) and (2).

(b) FUNDS.—The Office of Inspector General of the Department of Health and Human Services may receive and expend funds that represent the equitable share from the forfeiture of property in investigations in which the Office of Inspector General participated, and that are transferred to the Office of Inspector General by the Department of Justice, the Department of the Treasury, or the United States Postal Service. Such equitable sharing funds shall be deposited in a separate account and shall remain available until expended.

SEC. 1610. UNIVERSAL PRODUCT NUMBERS ON CLAIMS FORMS FOR REIMBURSEMENT UNDER THE MEDICARE PROGRAM.

(a) UPNS ON CLAIMS FORMS FOR REIMBURSEMENT UNDER THE MEDICARE PROGRAM.—

(1) ACCOMMODATION OF UPNS ON MEDICARE CLAIMS FORMS.—Not later than February 1, 2011, all claims forms developed or used by the Secretary of Health and Human Services for reimbursement under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) shall accommodate the use of universal product numbers for a UPN covered item.

(2) REQUIREMENT FOR PAYMENT OF CLAIMS.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), as amended by sections 1601 and 1602, is amended by adding at the end the following new section:

''USE OF UNIVERSAL PRODUCT NUMBERS

''SEC. 1899E. (a) IN GENERAL.—No payment shall be made under this title for any claim for reimbursement for any UPN covered item unless the claim contains the universal product number of the UPN covered item.

''(b) DEFINITIONS.—In this section:

''(1) UPN COVERED ITEM.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'UPN covered item' means—

''(i) a covered item as that term is defined in section 1834(a)(13);

''(ii) an item described in paragraph (8) or (9) of section 1861(s);

''(iii) an item described in paragraph (5) of section 1861(s); and

''(iv) any other item for which payment is made under this title that the Secretary determines to be appropriate.

''(B) EXCLUSION.—The term 'UPN covered item' does not include a customized item for which payment is made under this title.

''(2) UNIVERSAL PRODUCT NUMBER.—The term 'universal product number' means a number that is—

''(A) affixed by the manufacturer to each individual UPN covered item that uniquely identifies the item at each packaging level; and

''(B) based on commercially acceptable identification standards such as, but not limited to, standards established by the Uniform Code Council-International Article Numbering System or the Health Industry Business Communication Council.''.

(3) DEVELOPMENT AND IMPLEMENTATION OF PROCEDURES.—

(A) INFORMATION INCLUDED IN UPN.—The Secretary of Health and Human Services, in consultation with manufacturers and entities with appropriate expertise, shall determine the relevant descriptive information appropriate for inclusion in a universal product number for a UPN covered item.

(B) REVIEW OF PROCEDURE.—From the information obtained by the use of universal product numbers on claims for reimbursement under the Medicare program, the Secretary of Health and Human Services, in consultation with interested parties, shall periodically review the UPN covered items billed under the Health Care Financing Administration Common Procedure Coding System and adjust such coding system to ensure that functionally equivalent UPN covered items are billed and reimbursed under the same codes.

(4) EFFECTIVE DATE.—The amendment made by paragraph (2) shall apply to claims for reimbursement submitted on and after February 1, 2011.

(b) STUDY AND REPORTS TO CONGRESS.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study on the results of the implementation of the provisions in paragraphs (1) and (3) of subsection (a) and the amendment to the Social Security Act in paragraph (2) of such subsection.

(2) REPORTS.—

(A) PROGRESS REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report that contains a detailed description of the progress of the matters studied pursuant to paragraph (1).

(B) IMPLEMENTATION.—Not later than 18 months after the date of the enactment of this Act, and annually thereafter for 3 years, the Secretary of Health and Human Services shall submit to Congress a report that contains a detailed description of the results of the study conducted pursuant to paragraph (1), together with the Secretary's recommendations regarding the use of universal product numbers and the use of data obtained from the use of such numbers.

(c) DEFINITIONS.—In this section:

(1) UPN COVERED ITEM.—The term ''UPN covered item'' has the meaning given such term in section 1899E(b)(1) of the Social Security Act (as added by subsection (a)(2)).

(2) UNIVERSAL PRODUCT NUMBER.—The term ''universal product number'' has the meaning given such term in section 1899E(b)(2) of the Social Security Act (as added by subsection (a)(2)).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the purpose of carrying out the provisions in paragraphs (1) and (3) of subsection (a), subsection (b), and section 1899E of the Social Security Act (as added by subsection (a)(2)).

SEC. 1611. USE OF TECHNOLOGY FOR REAL-TIME DATA REVIEW.

Part A of title XI of the Social Security Act (42 U.S.C. 1395 et seq.), as amended by section 6703(b) of the Patient Protection and Affordable Care Act, is amended by adding at the end the following new section:

''SEC. 1150C. USE OF TECHNOLOGY FOR REAL TIME DATA REVIEW.

''(a) IN GENERAL.—The Secretary shall establish procedures for the use of technology (similar to that used with respect to the analysis of credit card charging patterns) to provide real-time data analysis of claims for payment under the Medicare, Medicaid, and SCHIP programs under title XVIII, XIX, and XXI to identify and investigate unusual billing or order practices under such programs that could indicate fraud or abuse.

''(b) COMPETITIVE BIDDING.—The procedures established under subsection (a) shall ensure that the implementation of such technology is conducted through a competitive bidding process.

''(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary, not to exceed $50,000,000 for each of fiscal years 2010 through 2014.

''(d) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report on the effectiveness of activities conducted under this section, including a description of any savings to the programs referred to in subsection (a) as a result of such activities and the overall administrative cost of such activities and a determination as to the amount of funding needed to carry out this section for subsequent fiscal years, together with recommendations for such legislation and administrative action as the Secretary determines appropriate.''.

SEC. 1612. COMPREHENSIVE SANCTIONS DATABASE AND ACCESS TO CLAIMS AND PAYMENT DATABASES.

(a) COMPREHENSIVE SANCTIONS DATABASE.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish a comprehensive sanctions database on sanctions imposed on providers of services, suppliers, and related entities. Such database shall be overseen by the Inspector General of the Department of Health and Human Services and shall be linked to related databases maintained by State licensure boards and by Federal or State law enforcement agencies.

(b) ACCESS TO CLAIMS AND PAYMENT DATABASES.—The Secretary shall ensure that the Inspector General of the Department of Health and Human Services and Federal law enforcement agencies have direct access to all claims and payment databases of the Secretary under the Medicare or Medicaid programs.

(c) CIVIL MONEY PENALTIES FOR SUBMISSION OF ERRONEOUS INFORMATION.—In the case of a provider of services, supplier, or other entity that knowingly submits erroneous information that serves as a basis for payment of any entity under the Medicare or Medicaid program, the Secretary may impose a civil money penalty of not to exceed $50,000 for each such erroneous submission. A civil money penalty under this subsection shall be imposed and collected in the same manner as a civil money penalty under subsection (a) of section 1128A of the Social Security Act is imposed and collected under that section.

SA 3561. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 2304. NONDISCRIMINATION ON ABORTION AND RESPECT FOR RIGHTS OF CONSCIENCE.

(a) NONDISCRIMINATION.—A Federal agency or program, and any State or local government, or health care entity that receives Federal financial assistance under the Patient Protection and Affordable Care Act (or an amendment made by such Act), shall not—

(1) subject any individual or institutional health care entity to discrimination; or

(2) require any health care entity that is established or regulated under the Patient Protection and Affordable Care Act (or an amendment made by such Act) to subject any individual or institutional health care entity to discrimination,

on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.

(b) DEFINITION.—In this section, the term ''health care entity'' includes an individual

physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, a plan sponsor, a health insurance issuer, a qualified health plan or issuer offering such a plan, or any other kind of health care facility, organization, or plan.

(c) ADMINISTRATION.—The Office for Civil Rights of the Department of Health and Human Services is designated to receive complaints of discrimination based on this section, and coordinate the investigation of such complaints.

SA 3562. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of section 1405, add the following:

(e) NONAPPLICATION TO CLASS I DEVICES.—Paragraph (2) of section 4191(b) of the Internal Revenue Code of 1986, as added by subsection (a), is amended by redesignating subparagraphs (A) through (D) as subparagraphs (B) through (E), respectively, and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

''(A) devices classified in class I under section 513 of such Act,''.

SA 3563. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle F of title I, add the following:

SEC. 1502. REPEAL OF PERSONAL RESPONSIBILITY EDUCATION PROGRAM.

Section 513 of the Social Security Act, as added by section 2953 and amended by section 10201(h) the Patient Protection and Affordable Care Act, is repealed.

SA 3564. Mr. GRASSLEY (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); as follows:

At the end of subtitle A of title I, insert the following:

SEC. 1006. PARTICIPATION OF PRESIDENT, VICE PRESIDENT, MEMBERS OF CONGRESS, POLITICAL APPOINTEES, AND CONGRESSIONAL STAFF IN THE EXCHANGE.

(a) IN GENERAL.—Section 1312(d)(3)(D) of the Patient Protection and Affordable Care Act is amended to read as follows:

''(D) PRESIDENT, VICE PRESIDENT, MEMBERS OF CONGRESS, POLITICAL APPOINTEES, AND CONGRESSIONAL STAFF IN THE EXCHANGE.—

''(i) IN GENERAL.—Notwithstanding chapter 89 of title 5, United States Code, or any provision of this title—

''(I) the President, Vice President, each Member of Congress, each political appointee, and each Congressional employee shall be treated as a qualified individual entitled to the right under this paragraph to enroll in a qualified health plan in the individual market offered through an Exchange in the State in which the individual resides; and

''(II) any employer contribution under such chapter on behalf of the President, Vice President, any Member of Congress, any political appointee, and any Congressional employee may be paid only to the issuer of a qualified health plan in which the individual enrolled in through such Exchange and not to the issuer of a plan offered through the Federal employees health benefit program under such chapter.

''(ii) PAYMENTS BY FEDERAL GOVERNMENT.—The Secretary, in consultation with the Director of the Office of Personnel Management, shall establish procedures under which—

''(I) the employer contributions under such chapter on behalf of the President, Vice President, and each political appointee are determined and actuarially adjusted for age; and

''(II) the employer contributions may be made directly to an Exchange for payment to an issuer.

''(iii) POLITICAL APPOINTEE.—In this subparagraph, the term 'political appointee' means any individual who—

''(I) is employed in a position described under sections 5312 through 5316 of title 5, United States Code, (relating to the Executive Schedule);

''(II) is a limited term appointee, limited emergency appointee, or noncareer appointee in the Senior Executive Service, as defined under paragraphs (5), (6), and (7), respectively, of section 3132(a) of title 5, United States Code; or

''(III) is employed in a position in the executive branch of the Government of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

''(iv) CONGRESSIONAL EMPLOYEE.—In this subparagraph, the term 'Congressional employee' means an employee whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the Patient Protection and Affordable Care Act.

SA 3565. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

On page 99, between lines 9 and 10, insert the following:

(e) EXCLUSION OF ASSISTIVE DEVICES FOR PERSONS WITH DISABILITIES.—

(1) IN GENERAL.—For purposes of section 4191(b)(1) of the Internal Revenue Code of 1986, as added by subsection (a), the term ''taxable medical device'' shall not include any device which is primarily designed to assist persons with disabilities with tasks of daily life.

(2) EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.—Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986, as added by section 1501(b) of the Patient Protection and Affordable Care Act and amended by section 10106 of such Act, is amended by striking ''8 percent'' and inserting ''5 percent''.

(3) APPLICATION OF PROVISION.—The amendment made by paragraph (2) shall apply as if included in the Patient Protection and Affordable Care Act.

SA 3566. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle F of title I, insert the following:

SEC. _____. INCREASED TRANSPARENCY.

(a) SCORING AND SUMMARY.—It shall not be in order in the Senate or the House of Representatives to vote on final passage on a bill, resolution, or conference report unless a final Congressional Budget Office score and Congressional Research Service summary report on policy changes in the bill, resolution, or conference report has been posted online on the public website of the body 72 hours before such final vote.

(b) ADDITIONAL REQUIREMENTS.—The information required to be posted by subsection (a) shall also include—

(1) an affidavit that the policy summary of the Congressional Research Service adequately reflects the measure signed by the Majority and Minority Leaders; and

(2) signed affidavits from every member of the body attesting that they have read the measure.

(c) WAIVER AND APPEAL.—

(1) WAIVER.—This section may be waived or suspended in the Senate or House of Representatives only by an affirmative vote of ⅗ of the members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of ⅗ of the members of the Senate or House of Representatives, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.

(d) PUBLIC AVAILABILITY OF AMENDMENTS.—Each amendment offered in the Senate or House of Representatives shall to be posted online on the public website of the body as soon as practicable after the amendment is offered.

SA 3567. Mr. GREGG (for himself and Mr. COBURN) proposed an amendment to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); as follows:

At the end of subtitle B of title I, add the following:

SEC. _____. PREVENTING THE IMPLEMENTATION OF NEW ENTITLEMENTS THAT WOULD RAID MEDICARE.

(a) BAN ON NEW SPENDING TAKING EFFECT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Treasury and the Secretary of Health and Human Service are prohibited from implementing any spending increase or revenue reduction provision in either the Patient Protection and Affordable Care Act or this Act (referred to in this section as the ''Health Care Acts'') unless both the Director of the Office of Management and Budget (referred to in this section as ''OMB'') and the Chief Actuary of the Centers for Medicare and Medicaid Services Office of the Actuary (referred to in this section as'' CMS OACT'') certify that they project that all of the projected Federal spending increases and revenue reductions resulting from the Health Care Acts will be offset by projected gross savings from the Health Care Acts.

(2) CALCULATIONS.—For purposes of this section, projected gross savings shall—

(A) include gross reductions in Federal spending and gross increases in revenues made by the Health Care Acts; and

(B) exclude any projected gross savings or other offsets directly resulting from changes to Medicare made by the Health Care Acts.

(b) LIMIT ON FUTURE SPENDING.—For the purpose of carrying out this section and upon the enactment of this Act, CMS OACT and the OMB shall—

(1) certify whether all of the projected Federal spending increases and revenue reductions resulting from the Health Care Acts, starting with fiscal year 2014 and for the following 9 fiscal years, are fully offset by projected gross savings resulting from the Health Care Acts (as calculated under subsection (a)(2)); and

(2) provide detailed estimates of such spending increases, revenue reductions, and gross savings, year by year, program by program and provision by provision.

SA 3568. Mr. BENNETT (for himself, Mr. WICKER, Mr. BROWNBACK, Mr. HATCH, Mr. ROBERTS, Mr. INHOFE, Mr. CORNYN, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, add the following:

SEC. _____. RIGHT OF THE PEOPLE OF THE DISTRICT OF COLUMBIA TO DEFINE MARRIAGE.

(a) FINDINGS.—Congress finds that—

(1) a broad coalition of residents of the District of Columbia petitioned for an initiative in accordance with the District of Columbia Home Rule Act to establish that ''only marriage between a man and a woman is valid or recognized in the District of Columbia'';

(2) this petition anticipated the Council of the District of Columbia's passage of an Act legalizing same-sex marriage;

(3) the unelected District of Columbia Board of Elections and Ethics and the unelected District of Columbia Superior Court thwarted the residents' initiative effort to define marriage democratically, holding that the initiative amounted to discrimination prohibited by the District of Columbia Human Rights Act; and

(4) the definition of marriage affects every person and should be debated openly and democratically.

(b) REFERENDUM OR INITIATIVE REQUIREMENT.—Notwithstanding any other provision of law, including the District of Columbia Human Rights Act, the government of the District of Columbia shall immediately suspend the issuance of marriage licenses to any couple of the same sex until the people of the District of Columbia have the opportunity to hold a referendum or initiative on the question of whether the District of Columbia should issue same-sex marriage licenses.

SA 3569. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, insert the following:

SEC. ___. REVISIONS TO THE PRACTICE EXPENSE GEOGRAPHIC ADJUSTMENT UNDER THE MEDICARE PHYSICIAN FEE SCHEDULE.

Effective as if included in the enactment of the Patient Protection and Affordable Care Act, subparagraph (H) of section 1848(e)(1) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)), as added by section 3102(b) of the Patient Protection and Affordable Care Act, is amended to read as follows:

''(H) PRACTICE EXPENSE GEOGRAPHIC ADJUSTMENT FOR 2010 AND SUBSEQUENT YEARS.—

''(i) FOR 2010.—Subject to clause (iii), for services furnished during 2010, the employee wage and rent portions of the practice expense geographic index described in subparagraph (A)(i) shall reflect ½ of the difference between the relative costs of employee wages and rents in each of the different fee schedule areas and the national average of such employee wages and rents.

''(ii) FOR 2011.—Subject to clause (iii), for services furnished during 2011, the employee wage and rent portions of the practice expense geographic index described in subparagraph (A)(i) shall reflect ¼ of the difference between the relative costs of employee wages and rents in each of the different fee schedule areas and the national average of such employee wages and rents.

''(iii) HOLD HARMLESS.—The practice expense portion of the geographic adjustment factor applied in a fee schedule area for services furnished in 2010 or 2011 shall not, as a result of the application of clause (i) or (ii), be reduced below the practice expense portion of the geographic adjustment factor under subparagraph (A)(i) (as calculated prior to the application of such clause (i) or (ii), respectively) for such area for such year.

''(iv) ANALYSIS.—The Secretary shall analyze current methods of establishing practice expense geographic adjustments under subparagraph (A)(i) and evaluate data that fairly and reliably establishes distinctions in the costs of operating a medical practice in the different fee schedule areas. Such analysis shall include an evaluation of the following:

''(I) The feasibility of using actual data or reliable survey data developed by medical organizations on the costs of operating a medical practice, including office rents and nonphysician staff wages, in different fee schedule areas.

''(II) The office expense portion of the practice expense geographic adjustment described in subparagraph (A)(i), including the extent to which types of office expenses are determined in local markets instead of national markets.

''(III) The weights assigned to each of the categories within the practice expense geographic adjustment described in subparagraph (A)(i).

In conducting such analysis, the Secretary shall not take into account any data that is not actual or survey data.

''(v) REVISION FOR 2012 AND SUBSEQUENT YEARS.—As a result of the analysis described in clause (iv), the Secretary shall, not later than January 1, 2012, make appropriate adjustments to the practice expense geographic adjustment described in subparagraph (A)(i) to ensure accurate geographic adjustments across fee schedule areas, including—

''(I) basing the office rents component and its weight on occupancy costs only and making weighting changes in other categories as appropriate;

''(II) ensuring that office expenses that do not vary from region to region be included in the 'other' office expense category; and

''(III) considering a representative range of professional and non-professional personnel employed in a medical office based on the use of the American Community Survey data or other reliable data for wage adjustments. Such adjustments shall be made without regard to adjustments made pursuant to clauses (i) and (ii) and shall be made in a budget neutral manner.

''(vi) SPECIAL RULE.—If the Secretary does not complete the analysis described in clause (iv) and make any adjustments the Secretary determines appropriate for 2012 or a subsequent year under clause (v), the Secretary shall apply clause (ii) for services furnished during 2012 or a subsequent year in the same manner as such clause applied for services furnished during 2011.''.

SEC. ___. ELIMINATION OF SWEETHEART DEAL THAT INCREASES MEDICARE REIMBURSEMENT JUST FOR FRONTIER STATES.

Effective as if included in the enactment of the Patient Protection and Affordable Care Act, section 10324 of such Act (and the amendments made by such section) is repealed.

SA 3570. Mr. MCCAIN (for himself, Mr. BURR, and Mr. COBURN) proposed an amendment to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); as follows:

At the end of subtitle F of title I, add the following:

SEC. 1502. ELIMINATION OF SWEETHEART DEALS.

(a) REPEALS.—Effective as if included in the enactment of the Patient Protection and Affordable Care Act, the following provisions are repealed:

(1) SWEETHEART DEAL TO PROVIDE TENNESSEE WITH MEDICAID DSH FUNDS.—Clause (v) of section 1923(f)(6)(A) of the Social Security Act (42 U.S.C. 1396r–4(f)(6)(A)), as added by section 1203(b) of this Act.

(2) SWEETHEART DEAL TO PROVIDE HAWAII WITH MEDICAID DSH FUNDS.—Clause (iii) of section 1923(f)(6)(B) of the Social Security Act (42 U.S.C. 1396r–4(f)(6)(B)), as added by section 10201(e)(1)(A) of the Patient Protection and Affordable Care Act.

(3) SWEETHEART DEAL TO PROVIDE LOUISIANA WITH A SPECIAL INCREASED MEDICAID FMAP.—Subsection (aa) of section 1905 of the Social Security Act, as added by section 2006 of the Patient Protection and Affordable Care Act.

(4) SWEETHEART DEAL THAT INCREASES MEDICARE REIMBURSEMENT JUST FOR FRONTIER STATES.—Section 10324 of the Patient Protection and Affordable Care Act (and the amendments made by such section).

(5) SWEETHEART DEAL GRANTING MEDICARE COVERAGE FOR INDIVIDUALS EXPOSED TO ENVIRONMENTAL HAZARDS IN LIBBY, MONTANA.—Section 10323 of the Patient Protection and Affordable Care Act (and the amendments made by such section).

(6) SWEETHEART DEAL FOR A HOSPITAL IN CONNECTICUT.—Section 10502 of the Patient Protection and Affordable Care Act.

(b) ELIMINATION OF SWEETHEART DEAL THAT RECLASSIFIES HOSPITALS IN MICHIGAN AND CONNECTICUT TO INCREASE THEIR MEDICARE REIMBURSEMENT.—Section 3137(a) of the Patient Protection and Affordable Care Act, as amended by section 10317 of such Act, is amended—

(1) in paragraph (2)—

(A) by striking ''FISCAL YEAR 2010'' and all that follows through ''for purposes of implementation of the amendment'' and inserting ''FISCAL YEAR 2010.—For purposes of implementation of the amendment''; and

(B) by striking subparagraph (B); and

(2) by striking paragraph (3).

SA 3571. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle F of title I, insert the following:

SEC. 1___. SPECIAL RULE FOR INDIVIDUALS AGE 30 AND OVER NOT ELIGIBLE FOR EXCHANGE CREDITS AND REDUCTIONS.

Section 1302(e) of the Patient Protection and Affordability Act is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2), the following:

''(3) SPECIAL RULE FOR INDIVIDUALS AGE 30 AND OVER NOT ELIGIBLE FOR EXCHANGE CREDITS AND REDUCTIONS.—

''(A) IN GENERAL.—Subject to subparagraph (B), an individual who has attained at least the age of 30 before the beginning of a plan year shall be treated as an individual described in paragraph (2) if the individual is not eligible for the plan year for the premium tax credit under section 36B of the Internal Revenue Code of 1986 or the cost-sharing reductions under section 1402 with respect to enrollment in a qualified health plan offered through an Exchange. The preceding sentence shall not apply to an individual if the individual is not eligible for such credit or reductions because the individual is eligible to enroll in minimum essential coverage consisting of coverage under a government sponsored program described in section 5000A(f)(1)(A).

''(B) REQUIREMENTS.—Subparagraph (A) shall only apply to an individual if the individual elects the application of this paragraph and such election provides that—

''(i) the individual acknowledges that coverage under the catastrophic plan is the lowest coverage available, that the plan provides no benefits for any plan year until the individual has incurred cost-sharing expenses in an amount equal to the annual limitation in effect under subsection (c)(1) for the plan year (except as provided for in section 2713), and that these cost-sharing expenses could involve significant financial risk for the individual; and

''(ii) the individual agrees that—

''(I) the individual will not change such coverage until the next applicable annual or special enrollment period under section 1311(c)(5); and

''(II) if the individual elects to change such coverage at the time of such enrollment period, the individual may only enroll in the bronze level of coverage.

''(4) STATE AUTHORITY.—In accordance with section 1321(d), a State may impose additional requirements or conditions for catastrophic plans described in this subsection to the extent such requirements or conditions are not inconsistent with the requirements under this subsection.''.

SA 3572. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, add the following:

SEC. ___. ASSESSMENT OF MEDICARE COST-INTENSIVE DISEASES AND CONDITIONS.

(a) INITIAL ASSESSMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall conduct an assessment of the diseases and conditions that are the most cost-intensive for the Medicare program under title XVIII of the Social Security Act and, to the extent possible, assess the diseases and conditions that could become cost-intensive for the Medicare program in the future.

(2) REPORT.—Not later than January 1, 2011, the Secretary shall transmit a report to the Committees on Energy and Commerce, Ways and Means, and Appropriations of the House of Representatives and the Committees on Health, Education, Labor and Pensions, Finance, and Appropriations of the Senate on the assessment conducted under paragraph (1). Such report shall—

(A) include the assessment of current and future trends of cost-intensive diseases and conditions described in such paragraph;

(B) address whether current research priorities are appropriately addressing current and future cost-intensive conditions so identified;

(C) include the input of relevant research agencies, including the National Institutes of Health, the Agency for Healthcare Research and Quality, and the Food and Drug Administration; and

(D) include recommendations concerning research in the Department of Health and Human Services that should be funded to improve the prevention, treatment, or cure of such cost-intensive diseases and conditions.

(b) UPDATES OF ASSESSMENT.—Not later than January 1, 2013, and biennially thereafter, the Secretary shall—

(1) review and update the assessment and recommendations described in subsection (a)(1); and

(2) submit a report described in subsection (a)(2) to the Committees specified in subsection (a)(2) on such updated assessment and recommendations.

(c) CMS MEDICARE COST-INTENSIVE RESEARCH FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ''CMS Medicare Cost-Intensive Research Fund'', in this subsection referred to as the ''Fund''. The Administrator of the Centers for Medicare & Medicaid Services shall administer the Fund. The Fund shall consist of such amounts as may be appropriated or credited to such Fund for the purposes described in paragraph (2). The Administrator shall not transfer appropriations to or from other relevant research agencies, including the National Institutes of Health, the Agency for Healthcare Research and Quality, and the Food and Drug Administration.

(2) PURPOSES OF FUND.—From amounts in the Fund, the Administrator of the Centers for Medicare & Medicaid Services shall make available research grants, contracts, and other funding mechanisms to facilitate research into the prevention, treatment, or cure of cost-intensive diseases and conditions under the Medicare program as recommended by the reports under this section.

SA 3573. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, add the following:

SEC. ___. IMPROVING CARE PLANNING FOR MEDICARE HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1814(a)(2) of the Social Security Act (42 U.S.C. 1395f(a)(2)), in the matter preceding subparagraph (A), is amended—

(1) by inserting ''(as those terms are defined in section 1861(aa)(5))'' after ''clinical nurse specialist''; and

(2) by inserting '', or in the case of services described in subparagraph (C), a physician, or a nurse practitioner or clinical nurse specialist who is working in collaboration with a physician in accordance with State law, or a certified nurse-midwife (as defined in section 1861(gg)) as authorized by State law, or a physician assistant (as defined in section 1861(aa)(5)) under the supervision of a physician'' after ''collaboration with a physician''.

(b) CONFORMING AMENDMENTS.—(1) Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)), as amended by sections 3108(a)(2) and section 6407 of the Patient Protection and Affordable Care Act, is amended—

(A) in paragraph (2)(C), by inserting '', a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant (as the case may be)'' after ''physician'' each place it appears;

(B) in the second sentence, by inserting ''certified nurse-midwife,'' after ''clinical nurse specialist,'';

(C) in the third sentence—

(i) by striking ''physician certification'' and inserting ''certification'';

(ii) by inserting ''(or on January 1, 2008, in the case of regulations to implement the amendments made by section 3115 of the Patient Protection and Affordable Care Act)'' after ''1981''; and

(iii) by striking ''a physician who'' and inserting ''a physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant who''; and

(D) in the fourth sentence, by inserting '', nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant'' after ''physician''.

(2) Section 1835(a) of the Social Security Act (42 U.S.C. 1395n(a)), as amended by section 6405 of the Patient Protection and Affordable Care Act, is amended—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking ''or an eligible professional under section 1848(k)(3)(B)'' and inserting '', an eligible professional under section 1848(k)(3)(B), or a nurse practitioner or clinical nurse specialist (as those terms are defined in 1861(aa)(5)) who is working in collaboration with a physician enrolled under section 1866(j) or such an eligible professional in accordance with State law, or a certified nurse-midwife (as defined in section 1861(gg)) as authorized by State law, or a physician assistant (as defined in section 1861(aa)(5)) under the supervision of a physician so enrolled or such an eligible professional''; and

(ii) in each of clauses (ii) and (iii) of subparagraph (A) by inserting '', a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant (as the case may be)'' after ''physician'';

(B) in the third sentence, by inserting '', nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant (as the case may be)'' after physician;

(C) in the fourth sentence—

(i) by striking ''physician certification'' and inserting ''certification'';

(ii) by inserting ''(or on January 1, 2008, in the case of regulations to implement the amendments made by section 3115 of the Patient Protection and Affordable Care Act)'' after ''1981''; and

(iii) by striking ''a physician who'' and inserting ''a physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant who''; and

(D) in the fifth sentence, by inserting '', nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant'' after ''physician''.

(3) Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(A) in subsection (m)—

(i) in the matter preceding paragraph (1)—

(I) by inserting ''a nurse practitioner or a clinical nurse specialist (as those terms are

defined in subsection (aa)(5)), a certified nurse-midwife (as defined in section 1861(gg)), or a physician assistant (as defined in subsection (aa)(5))'' after ''physician'' the first place it appears; and

(II) by inserting ''a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant'' after ''physician'' the second place it appears; and

(ii) in paragraph (3), by inserting ''a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant'' after ''physician''; and

(B) in subsection (o)(2)—

(i) by inserting '', nurse practitioners or clinical nurse specialists (as those terms are defined in subsection (aa)(5)), certified nurse-midwives (as defined in section 1861(gg)), or physician assistants (as defined in subsection (aa)(5))'' after ''physicians''; and

(ii) by inserting '', nurse practitioner, clinical nurse specialist, certified nurse-midwife, physician assistant,'' after ''physician''.

(4) Section 1895 of the Social Security Act (42 U.S.C. 1395fff) is amended—

(A) in subsection (c)(1), by inserting '', the nurse practitioner or clinical nurse specialist (as those terms are defined in section 1861(aa)(5)), the certified nurse-midwife (as defined in section 1861(gg)), or the physician assistant (as defined in section 1861(aa)(5)),'' after ''physician''; and

(B) in subsection (e)—

(i) in paragraph (1)(A), by inserting '', a nurse practitioner or clinical nurse specialist (as those terms are defined in section 1861(aa)(5)), a certified nurse-midwife (as defined in section 1861(gg)), or a physician assistant (as defined in section 1861(aa)(5))'' after ''physician''; and

(ii) in paragraph (2)—

(I) in the heading, by striking ''PHYSICIAN CERTIFICATION'' and inserting ''RULE OF CONSTRUCTION REGARDING REQUIREMENT FOR CERTIFICATION''; and

(II) by striking ''physician''.

(c) REQUIREMENT OF FACE-TO-FACE ENCOUNTER.—

(1) PART A.—Section 1814(a)(2)(C) of the Social Security Act, as amended by subsection (b) and section 6407(a) of the Patient Protection and Affordable Care Act, is further amended by striking '', and, in the case of a certification made by a physician'' and all that follows through ''face-to-face encounter'' and inserting '', and, in the case of a certification made by a physician after January 1, 2010, or by a nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant (as the case may be) after January 1, 2011, prior to making such certification the physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant must document that the physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant himself or herself has had a face-to-face encounter''.

(2) PART B.—Section 1835(a)(2)(A)(iv) of the Social Security Act, as added by section 6407(a) of the Patient Protection and Affordable Care Act, is amended by striking ''after January 1, 2010'' and all that follows through ''face-to-face encounter'' and inserting ''made by a physician after January 1, 2010, or by a nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant (as the case may be) after January 1, 2011, prior to making such certification the physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant must document that the physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant has had a face-to-face encounter''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2011.

SA 3574. Mr. LEMIEUX submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

On page 123, strike line 9 and all that follows through line 2 on page 144.

SA 3575. Mr. LEMIEUX submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

On page 114, strike line 3 and all that follows through line 2 on page 144.

SA 3576. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle F of title I, add the following:

SEC. 1502. JUDICIAL REVIEW.

(a) CHALLENGE BY MEMBERS OF CONGRESS.—Any Member of Congress may bring an action for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act, any amendment made by this Act, any provision of the Patient Protection and Affordable Care Act, or any amendment made by that Act, which may be filed in any United States district court of appropriate jurisdiction.

(b) INTERVENTION BY MEMBERS OF CONGRESS.—In any action in which the constitutionality of any provision of this Act, any amendment made by this Act, any provision of the Patient Protection and Affordable Care Act, or any amendment made by that Act is raised, any member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or Senate shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment. To avoid duplication of efforts and reduce the burdens placed on the parties to the action, the court in any such action may make such orders as it considers necessary, including orders to require intervenors taking similar positions to file joint papers or to be represented by a single attorney at oral argument.

SA 3577. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, insert the following:

SEC. ___. PROTECTING MEDICARE BENEFICIARY ACCESS TO HOSPITAL CARE IN RURAL AREAS FROM RECOMMENDATIONS BY THE INDEPENDENT PAYMENT ADVISORY BOARD.

(a) IN GENERAL.—Section 1899A(c)(2)(A) of the Social Security Act, as added by section 3403 of the Patient Protection and Affordable Care Act and amended by section 10320 of such Act, is amended by adding at the end the following new clause:

''(vii) The proposal shall not include any recommendation that would reduce payment rates for items and services furnished by a critical access hospital (as defined in section 1861(mm)(1)).''.

(b) EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.—Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986, as added by section 1501(b) of the Patient Protection and Affordable Care Act, is amended by striking ''8 percent'' and inserting ''5 percent''.

SA 3578. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, insert the following:

SEC. ___. PROTECTING MEDICARE BENEFICIARY ACCESS TO HEALTH CARE FROM RECOMMENDATIONS BY THE INDEPENDENT PAYMENT ADVISORY BOARD.

(a) IN GENERAL.—Section 1899A(c)(2)(A) of the Social Security Act, as added by section 3403 of the Patient Protection and Affordable Care Act and amended by section 10320 of such Act, is amended by adding at the end the following new clause:

''(vii) The proposal shall not include any recommendation that would result in reduced beneficiary access to care.''.

(b) EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.—Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986, as added by section 1501(b) of the Patient Protection and Affordable Care Act, is amended by striking ''8 percent'' and inserting ''5 percent''.

SA 3579. Mr. ROBERTS (for himself, Mr. INHOFE, and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

Strike section 1405 and insert the following:

SEC. 1405. REPEAL OF MEDICAL DEVICE FEE.

(a) IN GENERAL.—Section 9009 of the Patient Protection and Affordable Care Act, as amended by section 10904 of such Act, is repealed effective as of the date of the enactment of that Act.

(b) EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.—Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986, as added by section 1501(b) of the Patient Protection and Affordable Care Act and amended by section 10106 of such Act, is amended by striking ''8 percent'' and inserting ''5 percent''.

(c) APPLICATION OF PROVISION.—The amendment made by subsection (b) shall apply as if included in the Patient Protection and Affordable Care Act.

SA 3580. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

Strike section 1403 and insert the following:

SECTION 1403. REPEAL OF LIMITATION ON HEALTH FLEXIBLE SPENDING ARRANGEMENTS UNDER CAFETERIA PLANS.

(a) IN GENERAL.—Sections 9005 and 10902 of the Patient Protection and Affordable Care Act are hereby repealed effective as of the date of the enactment of such Act and any provisions of law amended by such sections are amended to read as such provisions would read if such sections had never been enacted.

(b) EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.—Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986, as added by section 1501(b) of the Patient Protection and Affordable Care Act and amended by section 10106 of such Act, is amended by striking ''8 percent'' and inserting ''5 percent''.

(c) APPLICATION OF PROVISION.—The amendment made by subsection (b) shall apply as if included in the Patient Protection and Affordable Care Act.

SA 3581. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle E of title I, insert the following:

SECTION —. REPEAL OF LIMITATION ON DEDUCTIONS FOR OVER-THE-COUNTER MEDICINE.

(a) IN GENERAL.—Section 9003 of the Patient Protection and Affordable Care Act is hereby repealed effective as of the date of the enactment of such Act and any provisions of law amended by such section is amended to read as such provision would read if such section had never been enacted.

(b) EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.—Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986, as added by section 1501(b) of the Patient Protection and Affordable Care Act and amended by section 10106 of such Act, is amended by striking ''8 percent'' and inserting ''5 percent''.

(c) APPLICATION OF PROVISION.—The amendment made by subsection (b) shall apply as if included in the Patient Protection and Affordable Care Act.

SA 3582. Mr. BARRASSO (for himself, Mr. HATCH, and Mr. COBURN) proposed an amendment to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); as follows:

At the end of subtitle B of title II, insert the following:

SEC. 2___. AFFORDABLE PREMIUMS AND COVERAGE.

The implementation of the Patient Protection and Affordable Care Act (and the amendments made by such Act) shall be conditioned on the Secretary of Health and Human Services certifying to Congress that the implementation of such Act (and amendments) would not increase premiums more than the premium increases projected prior to the date of enactment of such Act.

SA 3583. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, insert the following:

SEC. 1006. ELIGIBILITY OF SELF-EMPLOYED FOR TRANSITIONAL SMALL BUSINESS TAX CREDIT.

(a) IN GENERAL.—Section 45R(g) of the Internal Revenue Code of 1986, as added by section 1421 of the Patient Protection and Affordable Care Act, is amended by adding at the end the following:

''(4) CREDIT ALLOWED FOR SELF-EMPLOYED.—

''(A) IN GENERAL.—Notwithstanding subsection (e)(1)(A)(i), the term 'employee' shall include an employee withing the meaning of section 401(c)(1).

''(B) PAYROLL TAXES.—For purposes of applying subsection (f) to an employee described in subparagraph (A), the term 'payroll taxes' includes the amount of taxes imposed on such employee under section 1401(b).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the Patient Protection and Affordable Care Act.

SA 3584. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of section 1003, insert the following:

(e) PREEMPTION OF STATE LAWS EXTENDING EMPLOYER MANDATE TO EMPLOYERS WITH FEWER THAN 50 EMPLOYEES.—Section 1321(d) of the Patient Protection and Affordable Care Act is amended to read as follows:

''(d) NO INTERFERENCE WITH STATE REGULATORY AUTHORITY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this title shall be construed to preempt any State law that does not prevent the application of the provisions of this title.

''(2) EXCEPTION FOR SMALL EMPLOYER MANDATES.—The provisions of, and the amendments made by, this title shall preempt any State law enacted after the date of enactment of this Act that would impose a requirement on any employer with less than 50 full-time employees to, or would impose a penalty on such an employer for failing to, offer health insurance to its employees.''.

SA 3585. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, insert the following:

SEC. 1006. EXPANSION OF ENROLLMENT IN CATASTROPHIC PLANS TO ALL INDIVIDUALS.

(a) IN GENERAL.—Section 1302(e) of the Patient Protection and Affordable Care Act is amended to read as follows:

''(e) CATASTROPHIC PLAN.—

''(1) IN GENERAL.—A health plan not providing a bronze, silver, gold, or platinum level of coverage shall be treated as meeting the requirements of subsection (d) with respect to any plan year if the plan provides—

''(A) except as provided in subparagraph (B), the essential health benefits determined under subsection (b), except that the plan provides no benefits for any plan year until the individual has incurred cost-sharing expenses in an amount equal to the annual limitation in effect under subsection (c)(1) for the plan year (except as provided for in section 2713); and

''(B) coverage for at least three primary care visits.

''(2) RESTRICTION TO INDIVIDUAL MARKET.—If a health insurance issuer offers a health plan described in this subsection, the issuer may only offer the plan in the individual market.''.

(b) ELIGIBILITY FOR ENROLLMENT.—Section 1312(d)(3)(C) of such Act is amended to read as follows:

''(C) INDIVIDUALS ALLOWED TO ENROLL IN ANY PLAN.—A qualified individual may enroll in any qualified health plan.''.

(c) ELIGIBILITY FOR SUBSIDIES.—Section 36B(c)(3)(A) of the Internal Revenue Code of 1986, as added by section 1401 of such Act, is amended by striking '', except that such term shall not include a qualified health plan which is a catastrophic health plan described in section 1302(e) of such Act''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the Patient Protection and Affordable Care Act.

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following staff be allowed floor privileges during the considering of the pending bill: Randy Aussenberg, Aislinn Baker, Mary Baker, Scott Berkowitz, Brittany Durell, Ivie English, Andrew Fishburn, Laura Hoffmeister, Scott Matthews, Meena Sharma, Dustin Stevens, Gregg Sullivan, and Max Updike.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX ON BONUSES RECEIVED FROM CERTAIN TARP RECIPIENTS

On Monday, March 22, 2010, the Senate passed H.R. 1586, as amended, as follows:

H.R. 1586

Resolved, That the bill from the House of Representatives (H.R. 1586) entitled ''An Act to impose an additional tax on bonuses received from certain TARP recipients.'', do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''FAA Air Transportation Modernization and Safety Improvement Act''.

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