

1 OPEN EXECUTIVE SESSION TO CONSIDER S. 607, THE RURAL
2 COMMUNITY HOSPITAL DEMONSTRATION EXTENSION ACT OF 2015;
3 S. 1349, THE NOTICE OF OBSERVATION, TREATMENT, AND
4 IMPLICATION FOR CARE ELIGIBILITY (NOTICE) ACT OF 2015; S.
5 1461, A ONE-YEAR EXTENSION OF THE ENFORCEMENT
6 INSTRUCTIONS ON SUPERVISION REQUIREMENTS OF OUTPATIENT
7 THERAPEUTIC SERVICES IN CRITICAL ACCESS HOSPITALS (CAHs)
8 AND SMALL RURAL HOSPITALS; S. 313, PREVENT INTERRUPTIONS
9 IN PHYSICAL THERAPY ACT OF 2015; S. 1253, PATIENT ACCESS
10 TO DISPOSABLE MEDICAL TECHNOLOGY ACT OF 2015; S. 1347,
11 ELECTRONIC HEALTH FAIRNESS ACT OF 2015; S. 704, THE
12 COMMUNITY-BASED INDEPENDENCE FOR SENIORS ACT; S. 1362,
13 THE PACE INNOVATION ACT OF 2015; S. 861, PREVENTING AND
14 REDUCING IMPROPER MEDICARE AND MEDICAID EXPENDITURES ACT
15 OF 2015; S. 349, SPECIAL NEEDS TRUST FAIRNESS ACT OF
16 2015; S. 466, QUALITY CARE FOR MOMS AND BABIES ACT; AND
17 S. 599, IMPROVING ACCESS TO EMERGENCY PSYCHIATRIC CARE
18 ACT OF 2015

19 WEDNESDAY, JUNE 24, 2015

20 U.S. Senate,
21 Committee on Finance,
22 Washington, DC.

23 The meeting was convened, pursuant to notice, at
24 10:06 a.m., in Room 215, Dirksen Senate Office Building,
25 Hon. Orrin G. Hatch (chairman of the committee)
26 presiding.

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1 Present: Senators Grassley, Crapo, Roberts, Enzi,
2 Cornyn, Thune, Burr, Isakson, Portman, Toomey, Coats,
3 Heller, Wyden, Stabenow, Cantwell, Nelson, Menendez,
4 Carper, Cardin, Brown, Bennet, and Casey.

5 Also present: Republican Staff: Kimberly Brandt,
6 Chief Health Care Investigator; Christine Brudevold,
7 Detailee; Chris Campbell, Staff Director; Erin Dempsey,
8 Health Care Policy Advisor; Jay Khosla, Chief Health
9 Counsel and Policy Director; Mark Prater, Deputy Staff
10 Director and Chief Tax Counsel; and Katie Myer Simeon,
11 Health Policy Advisor. Democratic Staff: Anne Dwyer,
12 Professional Staff; Michael Evans, General Counsel; Karen
13 Fisher, Professional Staff Member; Hannah Hawkins,
14 Research Assistant; Elizabeth Jurinka, Chief Health
15 Advisor; Matt Kazan, Health Policy Advisor; and Jocelyn
16 Moore, Deputy Staff Director. Non-Designated Staff:
17 Joshua LeVasseur, Chief Clerk and Historian; and Bryan
18 Palmer, Deputy Clerk.

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1 OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR
2 FROM UTAH, CHAIRMAN, COMMITTEE ON FINANCE

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4 The Chairman. The Committee will come to order.

5 The Committee has before it a Chairman's mark that
6 contains 12 separate health care bills.

7 I want to welcome members of the Committee to the
8 executive business meeting on various pieces of health
9 care legislation.

10 This markup is the continuation of a process we
11 began earlier this year when the Committee considered and
12 reported a number of various tax bills. I believe that
13 markup was a big success and I think that most of my
14 colleagues here on the Committee would agree with me.

15 We were able to blaze some new trails with that
16 process to allow the Committee to consider and report
17 more bills to the floor. I am pleased to continue that
18 process here today as we turn our focus to health care
19 legislation.

20 I will note that this is the sixth markup we have
21 had here in the Finance Committee so far this year. Up
22 to now, we have reported 24 separate pieces of
23 legislation, all of them with bipartisan support.
24 Assuming we report all 12 items included in the mark
25 today, that number will grow to 36 bipartisan bills, and

1 I am very pleased that we have been able to be so
2 productive. I will note that it is a testament to the
3 hard work and dedication of everyone here on this
4 Committee. I have no plans to stop anytime soon, by the
5 way, and I particularly appreciate the Ranking Member's
6 work in this Committee yesterday in particular. That was
7 a tremendous bill, and I just appreciate all the hard
8 work you did.

9 Now, the bills today, included in today's mark,
10 address just about every area of health care, ranging
11 from rural community hospital demonstrations to
12 preventing interruptions in physical therapy, and from
13 quality care for moms and babies to preventing and
14 reducing improper Medicare and Medicaid expenditures.

15 Each of these issues is important. I know they
16 represent high priorities for members of this Committee.
17 I hope we can move through consideration of these bills
18 today smoothly and quickly. That said, I hope to be able
19 to accommodate any members of the Committee that might
20 have concerns they want to raise.

21 In the end, I hope we will be able to report all 12
22 of these bills without much controversy or opposition and
23 once again with bipartisan support.

24 I will turn to Ranking Member Wyden for his opening
25 remarks at this time and then afterwards will recognize

1 any Senators who wish to make opening remarks.

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1 OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM
2 OREGON

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4 Senator Wyden. Thank you very much, Mr. Chairman.

5 It is a pleasure to be teaming up with you once again on
6 a very important set of bills.

7 Colleagues, as the Chairman has noted, this is the
8 second time this month that the Finance Committee has
9 considered bipartisan legislation that will improve
10 health care for many, many Americans, from one end of our
11 country to another.

12 The legislation before us is a product of a great
13 deal of bipartisan work, hard work by many members of the
14 Committee. I want to thank all those wonderful staff
15 folks that are down there and the ones that ring us in
16 the back, because we know that you all did a lot of heavy
17 lifting to make this possible. And I think now there is
18 real momentum behind making smart policy improvements in
19 health care.

20 I note my colleague from Michigan is here. She has
21 worked for months to help babies and families, and I want
22 to thank her for her very good work.

23 In my view, colleagues, the permanent repeal and
24 replace of this broken, dysfunctional mess known as the
25 sustainable growth rate, SGR, along with a funding

1 extension for CHIP, provides a springboard to all of us
2 here on the Finance Committee to work to strengthen the
3 Medicare guarantee, the Medicaid program, and the system
4 that serves millions of Americans in the private sector.

5 This set of bills makes targeted improvements that
6 are going to benefit patients, health care providers, and
7 a number of public health programs, and it is my belief,
8 as has happened so often, when you see these kinds of
9 innovations as pursued in the bills we are discussing
10 today, very often they get replicated by the private
11 sector.

12 For example, this package of bills is going to test
13 some fresh new approaches to prevent low income seniors
14 from entering a nursing home. It is going to reduce
15 burdens for individuals with disabilities who rely on
16 Medicaid for long-term care and services. It is going to
17 boost transparency in Medicare so seniors and those with
18 disabilities will know what type of care that they are
19 actually paying for.

20 I am also glad that a number of these bills are
21 going to help improve care in rural areas, in underserved
22 areas, with an emphasis, in my view, on ensuring that
23 therapy services are available.

24 I am sure some people are going to say, "Well, the
25 Finance Committee decided to get together today and pass

1 out a bunch of bills that are," in the language of
2 Washington, DC, "low-hanging fruit." Anybody who says
3 that, in my view, is just plain wrong.

4 When it comes to health legislation, the decisions
5 and reforms and changes embodied in these policies are
6 going to have real consequences and they are going to
7 make life better for our fellow citizens.

8 So I again want to thank Chairman Hatch for working
9 constructively with me on these bills today. I think the
10 Chairman and I recognize that not every bill that was
11 considered could end up in the final package. But I want
12 to thank my colleagues on both sides of the aisle because
13 they had a lot of good ideas, number one, and they have
14 worked cooperatively in a bipartisan way to make this
15 important markup possible.

16 Thank you, Mr. Chairman.

17 The Chairman. Thank you, Senator Wyden.

18 I will now recognize any Senators who wish to make
19 opening remarks. I would ask that any Senator wishing to
20 make remarks keep them brief, limiting them to 3 minutes
21 and I will cut people off at 3 minutes.

22 Does anybody want to make any remarks?

23 Senator Portman. Mr. Chairman?

24 The Chairman. Senator Portman?

25 Senator Portman. Senator Brown is here, and we

1 wanted to have a brief colloquy on the MEND Act. This is
2 legislation that we had hoped to have part of this markup
3 and CBO came back with a surprise score for us. We are
4 working with you and thank you for your willingness to
5 work with us and Senator Wyden and others. But Senator
6 Brown and I wanted to talk about it for a moment.

7 There are other members of this Committee also
8 interested in this issue, but it is a bill entitled
9 Making the Education of Nurses Dependable for Schools, or
10 the MEND Act. It addresses a technical issue regarding
11 the way that CMS funds hospital-based nursing programs
12 and would help ensure that the primary care workforce
13 that is so important is prepared for the growing demand
14 we see for health care services.

15 I know my colleague, Senator Brown, has some
16 thoughts on this and I would ask him to speak to why this
17 technical fix is so important.

18 Senator Brown. Thank you, Mr. Chairman. And I
19 thank my colleague from Ohio.

20 Due to a change in the way the large accrediting
21 body for higher ed, the Higher Learning Commission, sets
22 its accreditation standards, hospital-based nursing
23 schools in 27 States, including our State of Ohio, home
24 State of Ohio -- I just visited the nursing program at
25 Aultman Hospital, in Canton, Ohio, Mr. Chairman -- they

1 can no longer comply with CMS requirements and maintain
2 accreditation under the HLC's new standard.

3 Senator Portman. That is absolutely right. It
4 puts these schools, Mr. Chairman, in an impossible
5 position. They either risk losing their Medicare funds
6 or their accreditation, one or the other. So we are
7 hoping that the MEND Act would provide a simple fix to
8 help ensure the viability of hospital-based nursing
9 programs.

10 The legislation would align CMS policy with current
11 accreditation standards for hospital-based nursing
12 programs and the majority in the majority of State across
13 the country.

14 Senator Brown. Senator Portman is correct about
15 this. The loss of Medicare payments for these schools
16 would result in the loss of institutional grants for
17 students, a significant increase in tuition at a time
18 when we obviously want to attract more young people into
19 nursing, increased difficulty in recruiting and retaining
20 students, increased hospital costs for recruiting nurses,
21 and an overall decline in the number of nursing school
22 graduates across the country.

23 Senator Portman. I agree completely with Senator
24 Brown on it. We cannot afford to impede the ability of
25 these colleges to train and graduate this critically

1 needed workforce. I think this is true in all of our
2 States.

3 Hospital-based nursing schools have a low student
4 loan default rate, consistently exceed the national
5 average for graduation rates, licensure pass rates, and
6 employment rates after graduation. So they are a model
7 of success.

8 Moreover, the colleges play a vital role in their
9 communities, acting as both an employer and an education
10 and hospital-based programs for more than 20 years under
11 Medicare has resulted in the graduation of nearly 5,000
12 nurses annually.

13 So we appreciate, again, your willingness to work
14 with us on this important legislation. And Senator Brown
15 may have some additional comments.

16 Senator Brown. Last comment, Mr. Chairman. Add
17 that to the fact that the Bureau of Labor Statistics has
18 indicated that 10 years from now, by 2025, our Nation
19 will need at least 260,000 nurses to meet the health care
20 needs of our citizens.

21 My State is already experiencing this shortage.
22 There are currently more than 5,000 nursing positions
23 open in Senator Portman's and my State.

24 So, Mr. Chairman, we appreciate your work on this
25 and willingness to work with us on this.

1 Senator Portman. Again, thank you for working with
2 us on it. We understand CBO is now finalizing their
3 score on the bill and we hope we can have your commitment
4 to work with both of our offices to advance this bill in
5 the coming months.

6 The Chairman. Thanks so much.

7 The Senator from Georgia, and then I will come to
8 the Senator from Michigan.

9 Senator Isakson. Thank you, Mr. Chairman.

10 I just wanted to briefly commend Senator Grassley on
11 S. 607 and make the comment that my State in the last 3
12 years has experienced the closing of five rural
13 hospitals, with a sixth probably closing before the end
14 of the year. It is my hope the most recent experience we
15 have had in Georgia will be a help toward being included
16 in the demonstration project covered in S. 607, and I
17 commend Senator Grassley for his introduction of the
18 legislation.

19 The Chairman. Thank you, Senator.

20 Senator Stabenow?

21 Senator Stabenow. Thank you very much, Mr.
22 Chairman. I just want to thank you and our great Ranking
23 Member and all of your staffs for bringing us to this
24 point.

25 There are two bills that have been put together that

1 are bipartisan and I appreciate being included in this
2 markup. One Senator Grassley and I have worked on for a
3 number of years. It is called the Quality Care for Moms
4 and Babies Act, which basically sets up a set of quality
5 measures, standards for maternal care and infant care in
6 Medicaid and the CHIP programs and would fund
7 collaborative where they are accelerating best practices
8 around maternity care.

9 Then I appreciate Senator Portman joining with me on
10 a separate piece called the Quality Measure Alignment Act
11 which, again, is all about quality measures and aligning
12 them with the public and private sectors.

13 I would say what does it mean when we say quality
14 standards for moms and babies? It means it does not
15 matter what doctor you have, it does not matter if you
16 live in a small town like where I grew up or a big city,
17 we want to make sure that we have the same quality
18 measures and that children are getting healthy starts and
19 moms-to-be are getting the maternity care and help that
20 they need.

21 This is something strongly supported by the medical
22 community and we are very pleased to have this included.

23 Thank you.

24 The Chairman. Thank you, Senator.

25 Senator Portman. Mr. Chairman?

1 The Chairman. Senator Cornyn was next.

2 Senator Portman. Mr. Chairman, could I comment on
3 Senator Stabenow's legislation?

4 The Chairman. Sure.

5 Senator Portman. Just briefly. This is S. 1427
6 and we appreciate your allowing us to include it in
7 another bill. We would rather have had our own bill, but
8 we have to be grateful for small favors.

9 It is incredibly important.

10 The Chairman. You call that a small favor. I am
11 just kidding.

12 Senator Portman. It is bipartisan legislation that
13 we think is really important.

14 The Chairman. We think it is important, too. You
15 have done a great job, you guys.

16 Senator Portman. So we hope it will get to the
17 floor. Thank you, Mr. Chairman.

18 The Chairman. Senator Cornyn?

19 Senator Cornyn. Mr. Chairman, I would seek
20 recognition for the purposes of a brief colloquy.

21 The Chairman. Happy to have you do it.

22 Senator Cornyn. I want to highlight a bill that is
23 not before us today, but which I think deserves the
24 attention of the Committee. This bill, S. 202, would
25 make a technical correction to previous changes made to

1 payments for long-term hospitals.

2 As part of the 2013 SGR bill and then again as part
3 of the March 2014 SGR bill, payments to long-term
4 hospitals were reformed. Part of that reform included an
5 extension of a moratorium on new long-term care
6 hospitals. However, during the drafting of that
7 moratorium, a moratorium on new beds for existing
8 facilities was also put in place.

9 Everyone agrees that this was an inadvertent
10 drafting error. It needs to be corrected. It is harming
11 hospitals in Texas and around the country and it needs to
12 be fixed as soon as possible.

13 With that, Mr. Chairman, I would be glad to yield to
14 you for any comments that you might care to make on that
15 topic.

16 The Chairman. Well, let me just say this. I am
17 committed to working with you and we will see what we can
18 do to get that done.

19 Senator Cornyn. That is good enough for me, Mr.
20 Chairman. Thank you.

21 The Chairman. Let us just work together on it. I
22 think you would commit to that, as well, Senator Wyden.

23 Senator Cardin?

24 Senator Cardin. Thank you, Mr. Chairman. I thank
25 you for the manner in which we are able to bring forward

1 important bills.

2 Each of the bills that are included in this package
3 is important and I thank you and Senator Wyden for
4 figuring a way that we can move forward on legislation
5 and get it moving.

6 I want to acknowledge the work on a couple of these,
7 if I might, first, S. 1349 that Senator Enzi and I have
8 worked on to deal with a real problem of notification of
9 observation status and the implications for eligibility
10 for Medicare coverage of skilled nursing care.

11 I think everyone here is aware that you must have 3
12 days of continuous stay in a hospital to be eligible for
13 Medicare's skilled nursing coverage. Observation in the
14 hospital does not count, even if that observation exceeds
15 24 hours.

16 Some of our constituents are shocked when they find
17 out later that they thought they had 3 continuous days
18 and were qualified for skilled nursing coverage only to
19 get a huge bill that they are responsible for.

20 Senator Enzi and I have brought forward legislation
21 that would give them notice of their status so that they
22 are not going to be surprised later and they understand
23 their eligibility, and I thank the Chair for working with
24 us.

25 This legislation is bipartisan. It has already

1 passed the House.

2 S. 599, I want to thank Senator Toomey for his work
3 on this legislation, along with Senator Collins, that
4 improves access to emergency psychiatric care, extending
5 the 3-year Medicaid demonstration program for 21- to 64-
6 year-olds.

7 Mr. Chairman, the need for emergency psychiatric
8 care in our community is incredible. So many end up in
9 emergency rooms or in primary care offices, and they do
10 not have the capacity to deal with it. This program
11 helps with a demonstration to see whether we can do this
12 in a more cost-effective, humane way, and I thank the
13 Chair for including that in the package.

14 Then, lastly, Senator Grassley and I introduced S.
15 704, the Community-Based Independence for Seniors Act.
16 This demonstration allows Special Needs Plans to provide
17 community-based long-term services and supports to avoid
18 the need for institutional care for low-income Medicare
19 beneficiaries.

20 It will allow for the demonstration under the
21 Medicare Advantage Special Needs Plans for 5 years. I
22 can tell you, in my experiences in Baltimore in dealing
23 with aging in place, particularly those who are most
24 vulnerable, it is what they want, we can save money, and
25 this demonstration project, I am sure, will save us money

1 and give us a better way to deal with those that are
2 extremely vulnerable and I thank you for including that
3 proposal.

4 The Chairman. Thank you, Senator.

5 Anybody else? Senator Burr, and then Senator
6 Toomey, and then Senator Menendez. We can go back and
7 forth. Let us do Senator Burr first, then Senator
8 Menendez, and then Senator Toomey.

9 Senator Burr. Mr. Chairman, I want to thank you
10 and the Ranking Member for working with Senator Bennet
11 and myself to advance our Patient Access to Disposable
12 Medical Technology Act as part of today's executive
13 session.

14 I also want to thank the Centers for Medicare and
15 Medicaid Services for all the technical feedback that
16 they provide on this bill and to the Minority and
17 Majority staffs who have contributed greatly.

18 America's seniors should have access to the most
19 innovative health care technologies, including disposable
20 products that could help them heal faster and better meet
21 their needs so that they can enjoy a better quality of
22 life.

23 Unfortunately, we all know that Medicare does not
24 always recognize and reflect innovations in health care.
25 That is why advancing this bill is so important. It

1 sends the clear signal that innovating on behalf of
2 America's patients is important and that Medicare
3 recognizes these advances as critical for fostering the
4 next generation of innovative products on behalf of
5 seniors.

6 Therefore, I am pleased that our bill will provide a
7 path forward for beneficiaries to benefit from disposable
8 negative pressure wound therapy in the home setting.
9 This will provide more certainty in the coming years as
10 to how Medicare will reimburse these cutting-edge
11 technologies and incorporate them into the Medicare home
12 health benefit on behalf of seniors.

13 But because we recognize that there are and will be
14 many more disposable technologies from which seniors in
15 the Medicare program could benefit, our modified bill
16 also requires GAO to submit a report that will assess the
17 value of disposable devices and the role of these devices
18 in Medicare more broadly.

19 I want to thank Senator Bennet, who has been a great
20 partner on working to advance Medical product innovation
21 on behalf of patients and I look forward to working with
22 all of my colleagues here to keep the momentum on this
23 legislation moving forward as we move through the
24 Committee and to consideration by the full Senate.

25 I thank the Chair.

1 The Chairman. Thank you, Senator.

2 Senator Menendez? Then we will go to Senator
3 Toomey.

4 Senator Menendez. Thank you, Mr. Chairman.

5 Mr. Chairman, while I am disappointed that several
6 pieces of legislation that I thought qualified under the
7 standard that the Chair and the Ranking Member had set
8 did not make it in this round, I am pleased to see that
9 an amendment that Senator Carper and I were going to
10 offer has been included to one of the pieces of the
11 underlying legislation, Preventing Interruptions in
12 Physical Therapy Act.

13 This is an important bill that would allow Medicare
14 beneficiaries receiving outpatient therapy services to be
15 treated by a substitute therapist in the event their
16 regular provider is temporarily unavailable, for example,
17 on maternity leave.

18 Now, it came to our attention that a modification
19 was initially proposed to limit the bill's applicability
20 to rural only areas, meaning that none of the
21 beneficiaries in my State or in Senator Carper's State of
22 Delaware would have been able to benefit, and that would
23 have been patently unfair to our constituents.

24 So the amendment, as accepted by the Chair, provides
25 that we also include health professional shortage areas

1 and medically underserved areas, and that, to me, ensures
2 that beneficiaries in underserved urban areas, for
3 example, are afforded equal opportunities to access care.

4 I believe that this change ensures that all the most
5 at need beneficiaries will be able to continue their
6 therapy uninterrupted, including those who live in urban
7 areas.

8 I look forward to working with the Committee to
9 further policies that ensure providers and beneficiaries
10 in urban areas receive equal recognition in the Medicare
11 program, and I appreciate the Chairman's inclusion of the
12 amendment.

13 The Chairman. Thank you, Senator Menendez.

14 Senator Toomey?

15 Senator Toomey. Thank you, Mr. Chairman.

16 I just want to quickly follow-up on some comments
17 that Senator Cardin made. I want to thank Senator Cardin
18 for working with me on S. 599, a bill I introduced with
19 Senator Cardin and with Senator Collins as a cosponsor.

20 Senator Cardin observed quite rightly that we have a
21 severe shortage of hospital beds for acute mental
22 illness. It is a huge problem that manifests itself in
23 many, many problematic ways.

24 One of the exacerbating factors is an antiquated
25 Medicaid rule that forbids severely mentally ill people

1 from getting care at facilities with more than 16 beds.
2 That is an arbitrary and unnecessary limitation.

3 The legislation that Senator Cardin and I introduced
4 would extend a 3-year-old Medicaid pilot demonstration
5 project that will allow HHS to complete their evaluation
6 of the effectiveness of providing this treatment in
7 hospitals that have more than 16 beds.

8 Our legislation requires in order for the
9 continuation to occur, it has to be deemed to be budget
10 neutral, and I think this is a very, very important way
11 to create greater access and availability for essential
12 mental health care.

13 One other bill that is in this package, Mr.
14 Chairman, that I would like to comment on briefly is S.
15 1362, a bill that I introduced with Senator Carper. I
16 very much appreciate his support on this.

17 This is about the PACE program, and what is
18 wonderful about the PACE program -- this is all-inclusive
19 care for the elderly - is that it allows nursing home
20 eligible patients to remain in their homes, and we all
21 know how important it is for people to remain in their
22 homes if it is at all possible. It is such a better
23 place, such a better environment for people to receive
24 the care they need.

25 The PACE program makes that possible. Pennsylvania

1 leads the Nation in the number of PACE programs. There
2 is a very high level of satisfaction. Beneficiaries are
3 well cared for. There are very good outcomes and it does
4 not cost anymore than actually being admitted in a
5 nursing home.

6 This legislation that you have included in this
7 package, for which I am grateful, clarifies that the
8 Secretary of Health and Human Services has the authority
9 to waive certain requirements that will make PACE
10 demonstration projects more viable.

11 So I appreciate that, Mr. Chairman, and I appreciate
12 your work on this.

13 I do have an amendment that I would like to offer
14 and withdraw. If that would be better at another time, I
15 will do it whenever you suggest.

16 The Chairman. I do not have a problem with you
17 doing it right now, except -- let us listen to Senator
18 Nelson first.

19 Senator Toomey. That is fine, sure.

20 The Chairman. Senator Nelson?

21 Senator Nelson. Well, just in the spirit of the
22 bipartisanship, Senator Grassley and I have the Special
23 Needs Trust Fairness Act and it basically allows a person
24 with a disability to be able to set up their own special
25 needs trust instead of the current law says it has to be

1 a parent or grandparent.

2 For example, if a person were blind and they needed,
3 in order that the expenditures would supplement the
4 benefits provided by Medicaid, there is no need tethering
5 them to a grandparent or a parent, particularly if they
6 are an adult.

7 Thank you.

8 The Chairman. Thank you.

9 Senator Thune. Mr. Chairman?

10 The Chairman. Senator Thune?

11 Senator Thune. Mr. Chairman, I want to thank you
12 and Senator Wyden for you and your staffs' work on this
13 markup.

14 I had a couple of bills that I had hoped to get in
15 this time that hopefully we can get in at a future date.

16 One is with Senator Cantwell, having to do with the
17 Rural ACO Improvement Act, and it has to do with
18 reimbursements and how they are tied now to -- as we move
19 toward alternative payment models, that we make sure that
20 we address the needs of rural areas, that these
21 alternative payment methods actually work for them.

22 So it is a bill that we hope to get into a future
23 mark.

24 The same way, with Senator Stabenow, the VBID, which
25 is the concept of value-based insurance design, which is

1 designed to make it easier for seniors to access high-
2 value clinical services and it is something that we had
3 introduced.

4 It has passed the House of Representatives and it is
5 something that is designed to -- again, it is a
6 demonstration project that we hope would come out and
7 provide services and more affordable costs for the
8 taxpayers and address the beneficiaries who have chronic
9 conditions and deal with the issues that pertain to them.

10 So those are a couple of bills that we hope we can
11 get included in a future mark.

12 I do want to mention briefly and thank you for
13 including Senator Cantwell's and my bill on dealing with
14 the impact of supervision requirements of outpatient
15 therapeutic services in critical access hospitals and
16 small rural hospitals.

17 In 2009, the Medicare outpatient prospective payment
18 systems final rule, CMS issues a new policy regarding
19 direct physician supervision of outpatient therapeutic
20 services and what they characterize as a change -- and
21 the change was simply a restatement and clarification of
22 existing policy that had been in place since 2001.

23 But many health care organizations, particularly
24 critical access hospitals, recognize this change is a
25 burdensome and unnecessary policy change. It is

1 something that we have deferred the last few years and it
2 is really important to small communities, rural areas,
3 critical access hospitals that we now allow this new
4 policy to be adopted, this so-called clarification.

5 So what this bill does, S. 1451, is simply extends
6 the delay of that implementation through 2015 and it is
7 an instruction to not enforce this direct supervision
8 requirement.

9 So I am pleased that that is included in the mark
10 today. It will mean a lot to those small hospitals in
11 rural areas, critical access hospitals that many of us
12 represent.

13 Thank you, Mr. Chairman.

14 The Chairman. Senator Casey, we will turn to you.

15 Senator Casey. Mr. Chairman, thanks very much. I
16 want to thank you and the Ranking Member for the hearing.

17 I wanted to commend two members of your staffs,
18 Kristin Welsh and Karen Fisher, both from Chairman
19 Hatch's and Ranking Member Wyden's staff, for their work
20 in helping to move a revised version of a bill that
21 Senator Grassley and I introduced, the Prevent
22 Interruptions to Physical Therapy Act, S. 313. So we
23 appreciate their work and the opportunity to make
24 progress today on it.

25 This bill would allow physical therapists to enter

1 into arrangements that allow for a licensed, qualified
2 substitute to treat patients when solo practitioners must
3 be away for short periods of time for medical,
4 professional or family reasons.

5 This is obviously an issue in small practices around
6 the country and we want to make sure that this bill helps
7 them to confront that challenge.

8 We want to keep working until the arrangements are
9 allowed nationwide. So good progress on that.

10 I also want to talk about S. 488, which was
11 originally supposed to be considered today. I am a
12 cosponsor of the bill. It makes just a commonsense
13 adjustment to Medicare policy to allow physician
14 assistants, nurse practitioners, and clinical nurse
15 specialists to supervise cardiac, intensive cardiac and
16 pulmonary rehabilitation.

17 Under current law, these procedures must be directly
18 supervised by a physician. The current requirements that
19 these procedures be directly supervised by a physician is
20 both cumbersome and unnecessary, costing time and
21 resources.

22 We want to allow specialized nurses to supervise
23 these programs. So that will increase patient access to
24 important rehab services.

25 So I am disappointed that we are not going to be

1 able to consider S. 488 during the markup, but I look
2 forward to working with colleagues to get this done. But
3 I want thank the Chairman and Ranking Member.

4 The Chairman. Thank you, Senator Casey.

5 Next will be Senator Grassley, and then I will go to
6 the Senator from Washington.

7 Senator Grassley. I thank the Chairman and my
8 colleagues for letting me probably go ahead of a lot of
9 people. As Senator Hatch knows, because he appeared
10 before our Drug Caucus, I am chairing that with Senator
11 Feinstein. So I will rush right back there.

12 S. 313 is one of the four bills being marked up
13 today. I introduced this with Senator Casey. It will
14 allow physical therapists to utilize what is called locum
15 tenens arrangements with Medicare. That Latin phrase
16 means placeholder.

17 Under current law, practicing physicians utilizing
18 that arrangement do it to have qualified substitutes who
19 are not employees of the physician to serve as a
20 placeholder to provide care to their patients during
21 short periods of absence.

22 This bill then would add physical therapists to the
23 list of professionals allowed to use that arrangement.
24 Physical therapists provide important and necessary
25 services to their patients and should have the ability to

1 ensure continuous care for patients when a period of
2 short-term leave is needed.

3 I am disappointed that this bill needed to be
4 limited from the introduced version that Senator Casey
5 and I put in because of CBO scoring issues and we hope to
6 revisit the scoring of this bill as it advances through
7 the process.

8 S. 349 was introduced with Senator Nelson and it is
9 a simple and technical change in the laws, but speaks to
10 the dignity of people with disabilities.

11 In the Medicaid program, most trusts are counted as
12 an asset in determining eligibility for aged and disabled
13 individuals and are subject to asset transfer rules.
14 Medicaid does not count certain special needs trusts as
15 assets and does not apply asset transfer rules to these
16 types.

17 This exception is commonly referred to as a special
18 needs trust exemption. In order for a trust to meet this
19 exception under Medicaid, a trust must contain the asset
20 of an individual under age 65 and permits only parents,
21 grandparents, legal guardians and a court to establish a
22 special needs trust on behalf of non-elderly disabled
23 individuals.

24 So this bill would make a technical correction to
25 allow non-elderly individuals with disabilities to

1 establish a special needs trust on their own behalf.

2 It is a simple technical fix to the statute that has
3 nominal cost, but it is important for individuals capable
4 of creating the trust themselves.

5 S. 607 is a bill I introduced with Senator Bennet.
6 Currently, CMS is conducting the rural community hospital
7 demonstration program. This demonstration, which was
8 initiated as a 5-year program under the Medicare
9 Modernization Act, was extended an additional 5-year
10 period under the Affordable Care Act.

11 This program was created in response to financial
12 concerns of small rural hospitals. The demonstration
13 tests the feasibility of providing reasonable cost
14 reimbursement for small rural hospitals. There are 22
15 hospitals participating in the demonstration.

16 So this bill would extend the demonstration program
17 for 5 more years.

18 The final bill, S. 704, was introduced with Senator
19 Cardin. It is called the Community-Based Independence
20 for Seniors Act. It will establish a 5-year
21 demonstration program to provide community-based services
22 not typically covered by Medicare to eligible low income
23 seniors.

24 Studies have found that community-based services
25 play an essential role in keeping individuals healthy

1 without. Without community-based services, seniors
2 frequently experience negative health outcomes and lose
3 their ability to live independently.

4 In order to cover long-term care expenses, seniors
5 who deplete their assets often have no choice but to
6 return to Medicaid for coverage.

7 The purpose of the demonstration is to support at-
8 risk seniors so they can remain healthy, independent and
9 in their homes as long as possible.

10 Some of the benefits that could be made available
11 through the demonstration project include homemaker
12 services, home-delivered meals, transportation services,
13 respite care, adult day care services, and non-Medicare-
14 covered safety and other equipment.

15 Providing these additional benefits to seniors
16 participating in the demonstration will not only improve
17 their quality of life, but will also result in savings
18 for both Medicare and Medicaid programs.

19 So we consider it a win-win situation.
20 Additionally, if successful, the demonstration could be
21 expanded to help more seniors and result in further
22 savings.

23 This bill is an important step in working toward
24 better quality of life for America's seniors and doing so
25 in a more fiscally responsible way.

1 Lastly, I want to thank Senator Stabenow for my
2 being able to work with her on legislation, as well.

3 Thank the Committee and all my colleagues. Maybe
4 Senator Bennet wanted to say something while I am still
5 here. I do not know. Could he speak?

6 The Chairman. We will be glad to call on him. I
7 hope everybody will stay because we are just about ready
8 to wrap up. We have a few more to go and it is important
9 we get all these bills done.

10 Senator Grassley. Does that mean I have to stay?
11 Because I have to get back.

12 The Chairman. No. We have enough without you, but
13 that is why I am asking everybody to stay.

14 Senator Bennet?

15 Senator Bennet. Thank you, Mr. Chairman.

16 The Chairman. I should have gone to Senator
17 Cantwell next.

18 Senator Cantwell. No. You can go to Senator
19 Bennet. Go ahead.

20 The Chairman. We are going to go to you and going
21 to go to Senator Cantwell right after.

22 Senator Bennet. I will be very brief. I just want
23 to thank Senator Grassley for his tremendous leadership
24 on the Rural Community Hospital Demonstration Act, S.
25 607.

1 This is an important bill. It needs to be extended.
2 The demonstrations help several hospitals in Colorado's
3 rural communities, like Delta County, Steamboat Springs
4 and Sterling, to allow them to continue to serve their
5 communities.

6 I thank my colleagues for moving this bill forward.
7 Then I wanted to thank Senator Burr for his work on the
8 Patient Access to Disposable Medical Technology Act,
9 deeply appreciate the partnership of him and his staff to
10 make sure that seniors have more options and to make sure
11 that we are driving innovation, as he said, with our
12 reimbursement program.

13 So thank you, Chairman Hatch and Ranking Member
14 Wyden, for holding this markup. With that, I will turn
15 it over to my colleague from Washington.

16 The Chairman. Thank you, Senator.

17 Senator Cantwell?

18 Senator Cantwell. Thank you, Mr. Chairman.

19 I just wanted to echo the comments of my colleague,
20 Senator Thune, on S. 1461, which we sponsored together on
21 the extension on rural hospitals and to also echo his
22 comments about making sure that accountable care
23 organizations in rural communities deserve better clarity
24 and treatment so that they can work effectively.

25 That bill did not make it onto the schedule today.

1 We hope that you will continue to work with us on
2 getting that legislation. It is a much needed fix for
3 accountable care organizations to work in rural
4 communities. We want them to be as successful as
5 accountable care organizations in urban areas. So let us
6 make sure that we get that right and move forward.

7 I also just want to note, since many of my
8 colleagues have talked today about home-based care and
9 several of the bills are related to that, I hope our
10 Committee will get an update at some point in time on the
11 Affordable Care Act provision that enticed States to work
12 toward rebalancing to community-based care away from
13 nursing home care, because I think it has been a very
14 cost-effective program and one that we need to continue
15 and to encourage States that did not rebalance to
16 rebalance toward that effort.

17 I know there are many members of this Committee
18 whose States have chosen to do it, and I think for us it
19 is a savings. As many of my colleagues have said here
20 today, more people would rather stay in their homes than
21 go into nursing home care.

22 For us, it is a cost-effective program. Instead of
23 paying for those very expensive delivery systems in
24 nursing homes, States would be building more cost-
25 effective services for people to stay at home.

1 So I hope we will get an update on that, as well,
2 and I thank the Chair for allowing me to comment on the
3 Thune-Cantwell bill, S. 1461.

4 The Chairman. Thank you so much.

5 Next in order is Senator Toomey and then I am going
6 to come to Senator Carper.

7 Senator Toomey. Thank you, Mr. Chairman. I am
8 grateful for this legislation. I have already spoken on
9 behalf of several provisions and I fully support it.

10 But I do think it is unfortunate that we have not
11 yet found a way forward on another issue that has
12 demonstrated very broad bipartisan support, and that is
13 repeal of the medical device tax.

14 As many of us will remember, in 2013 there was a
15 vote during the budget consideration of the budget
16 resolution in which 79 Senators voted to repeal the
17 medical device tax. This is because we all know it is a
18 very ill-designed tax, a tax on revenue irrespective of
19 the income of medical device makers. It raises the costs
20 of essential medical devices for patients. It is a job-
21 killer. It makes us less competitive in an industry that
22 has been a thriving success story.

23 So the medical device tax itself is very bad policy.
24 We have had big majorities in the United States Senate
25 indicate their support for repeal. And very recently,

1 Mr. Chairman, as you know, just last week, the House
2 voted overwhelmingly to repeal the medical device tax.
3 The vote was 280 in favor of repeal, 140 opposed. There
4 were 46 Democrats joining every Republican.

5 This vote in the House was only one vote shy of that
6 which would be required to override a presidential veto.
7 That is how broad the support is.

8 So I understand the reasons why it was not suitable
9 for this particular package and I accept that, Mr.
10 Chairman. So I will not actually offer this as an
11 amendment or ask for a vote, but it is long past due.

12 We have had very broad bipartisan support. I think
13 we can get this done and I hope that members of this
14 Committee will do everything we can to get this tax
15 repealed.

16 The Chairman. Thank you, Senator.

17 Now we are down to the last two. Senator Carper and
18 then Senator Roberts, and then we will move ahead.

19 Senator Carper. I had not planned to say anything
20 on the medical device tax. I have a lot of respect for
21 my colleague who has just spoken.

22 I would just ask us to keep in mind there is a cost
23 to repeal. I think it is about \$25 billion a year or so.
24 And to the extent that we repeal it, it would be helpful
25 to know how we are going to make up for that, how we are

1 going to offset the loss of those revenues.

2 Also, keep in mind -- you have all heard or used the
3 term "slippery slope" -- if we think that it makes sense
4 to have tax credits to actually make more affordable
5 health care for people who need health care and maybe
6 cannot afford it, that is what we have in the Affordable
7 Care Act. But we pay for those not just through the
8 medical device tax, not just through a tax on the
9 pharmaceuticals or hospitals or tanning salons and
10 others, but when we repeal the medical device tax, every
11 one of those interests are going to say, "Well, how about
12 me? How about me?"

13 We need to think through what we are going to say
14 when they say "How about me." We need to think through
15 it before they say it. How are we going to pay for this
16 stuff if it is worth having?

17 The second thing I want to do is say to Senator
18 Toomey thank you for joining me in something that
19 actually works. Some of you remember Alan Blinder
20 sitting down here about 2 years ago, where Ms. Fisher is
21 sitting, and he was talking about getting better health
22 care results for less money and I said to him, "Like,
23 what is your idea," and his answer famously was, "Find
24 out what works, do more of that." That is all he said,
25 "Find out what works, do more of that."

1 We think the PACE program works and the PACE program
2 was for dual eligibles, people that are elderly, poor, in
3 very bad health who are eligible for Medicare and
4 Medicaid, and the legislation that Senator Toomey and I
5 have offered here today, it is on the agenda, would help
6 make sure that a good idea is having the opportunity to
7 actually grow that idea and expand that idea.

8 The other thing I want to say, Tom Coburn is not
9 within earshot today, but if he were, he would be happy
10 to know I am going to mention his name. And for a number
11 of years, he and I worked together on something called
12 PRIME Act and PRIME Act is designed to help us find ways
13 to eliminate fraud and waste in Medicare and Medicaid.

14 One of the pay-fors among -- in fact, the only pay-
15 for, I think, in the SGR fix actually were a number of
16 provisions that had been in the PRIME Act that we pulled
17 out and we stuck them as a partial pay-for for the SGR
18 Doc Fix. And we did not get everything out of the PRIME
19 Act that was good, but today I think we had about four
20 more provisions and include them here today.

21 It will save money. It will go after some waste and
22 fraud. We all know it is hard to get rid of it all, but
23 we will do some good work here today.

24 Mr. Chairman, I will close by saying this is my
25 third markup this morning. We had one at 9:30, EPW. We

1 reported out unanimously a 6-year transportation bill.
2 And the ball was passed off, handed off to us to see what
3 we can do next, without amendment, without an dissenting
4 vote. It is very encouraging.

5 We just finished a markup in Homeland Security and I
6 think we reported out a dozen or more bills. Of all the
7 votes we took, there were only two dissenting votes.
8 Every bill had bipartisan cosponsors.

9 Then we are here today I think about to do some more
10 good work and, again, on a bipartisan basis. Maybe we
11 should go home after this. It has been a good day.

12 Senator Cornyn. Mr. Chairman? Will the Senator
13 yield for a question?

14 Senator Carper. Happy to yield.

15 Senator Cornyn. And the Senator knows how much I
16 respect him and enjoy working with him where we find
17 common cause.

18 Senator Carper. You can stop right there.

19 [Laughter.]

20 Senator Cornyn. But I cannot let the idea pass
21 that every time we want to repeal a boneheaded tax, that
22 we have to raise taxes somewhere else to pay for it.

23 For the record, I just want to say this is something
24 that separates us and I just think it would be really a
25 bad idea. The medical device tax, as Senator Toomey has

1 pointed out time and time again and he has really
2 championed the cause against this devastating gross
3 receipts tax, not even on income, which has chased jobs
4 out of my State to Costa Rica and elsewhere just to avoid
5 the tax, that is a line in the sand that we are not going
6 to cross or I am not going to cross and I think many of
7 us are very concerned about.

8 So I just wanted to say that is something that,
9 unlike trade and other things that we agree on, that is
10 something that does separate us. So I think going
11 forward we need to recognize that and figure ways to work
12 in that framework.

13 Senator Carper. I would just like to close this
14 little colloquy by saying there is a lot more that we
15 agree on than we disagree on and it is important we focus
16 on the 80 percent that we agree on.

17 The last thing I would say is in that transportation
18 bill, Mr. Chairman, that we passed, one of the things we
19 incorporated into it -- I went and I met with everybody
20 on this Committee and say how would you pay for
21 transportation improvements in this country, how would
22 you do it, and among the ideas I heard were find ways to
23 build roads, highways, bridges and transit systems in a
24 more cost-effective way. I heard that repeatedly.

25 You will be pleased to know, colleagues, especially

1 my Republican colleagues, that we actually do that in the
2 6-year bill that we passed today out of committee.

3 The Chairman. Senator Roberts, we will go to you.

4 Senator Roberts. Thank you, Mr. Chairman. Thank
5 you and the Ranking Member for all of these bills, all of
6 them, which are very good bills.

7 I just had a suggestion that we probably ought to
8 vote on whether Senator Grassley should come or stay in
9 the future. Maybe that would be a good thing.

10 I would like to invite Senator Carper to come to the
11 Agriculture Committee. I know that my distinguished
12 Ranking Member and I would be delighted if you could be
13 the catalyst for markup over there, as well. So if you
14 are Mr. Catalyst.

15 Mr. Chairman, we have a 96-hour rule for critical
16 access hospitals. Hospitals must make a decision when a
17 patient is diagnosed if they might be hospitalized for
18 more than 4 days. That is just an almost impossible task
19 for doctors to make.

20 So if you are bringing flowers to Aunt Harriet and
21 all of a sudden Aunt Harriet is not there in the critical
22 access hospital and you ask what happened and they say,
23 well, they were not sure what they had, so they sent her
24 off 150 miles to the regional hospital, I think that is
25 ridiculous. But I think that we could provide some help

1 there.

2 I know that the score is such, like a lot of things
3 around here, that we could not consider it at this time,
4 but I would certainly like to work with other members on
5 this problem for the rural health care delivery system.

6 Thank you, sir.

7 The Chairman. Thank you.

8 Now, Senator Stabenow, we will turn to you and then
9 we are going to move because we are about to lose a
10 quorum.

11 Senator Stabenow?

12 Senator Stabenow. Thank you, Mr. Chairman.

13 Very quickly, I just wanted to respond to my friend
14 from Texas to say that while I think it is important we
15 deal with the medical device tax, that it is not about
16 raising taxes if we are going to eliminate another tax.
17 It is about making sure we do not add to the deficit and
18 we pay our bills. So hopefully we are going to keep that
19 in mind, as well.

20 Thank you.

21 The Chairman. Thank you, Senator.

22 Senator Cornyn. Mr. Chairman, if I could just
23 respond.

24 [Laughter.]

25 Senator Cornyn. If I can just agree with the

1 Senator 100 percent, but we have to cut spending. That
2 is another way. That is a novel idea around here, but we
3 could do that.

4 Senator Cantwell. Mr. Chairman? Mr. Chairman?

5 The Chairman. You will notice that I have
6 refrained from getting into this debate and I feel very
7 deeply about the medical device tax.

8 Senator Cantwell. Mr. Chairman, could I just make
9 this point? Two of the gentlemen who just spoke on this
10 issue are from States for which the Affordable Care Act
11 provided an option to rebalance from nursing home care to
12 community-based care.

13 The Nation is going to have huge savings there. I
14 hope that my colleagues will consider throwing onto their
15 list reforming the system in ways that will save all of
16 us money, particularly with baby boomers. There is more
17 that we can do.

18 Thank you.

19 The Chairman. All right. That is enough on that.
20 We are going to move ahead.

21 Once again, the Committee has before it a mark that
22 includes 12 bills, each subject to a Chairman's
23 modification that has been agreed to by the Ranking
24 Member and the bill's sponsor.

25 The modifications are hereby incorporated into each

1 of the bills.

2 The next order of business is typically to walk
3 through the mark and modifications and answer any
4 questions. Toward that end, we have seated at the table
5 Erin Dempsey, Kristin Welsh, Katie Myer Simeon, Kim
6 Brandt, and the majority of the Finance Committee, and
7 Karen Fisher, Hannah Hawkins, Mark Kazan from the
8 Minority staff.

9 I commend them all for their hard work.

10 In the interest of time, I think we should dispense
11 with that requirement and move to a final vote on the
12 passage of all these bills, as modified, en bloc.

13 Is there any objection to passing all of these bills
14 by voice vote?

15 Senator Wyden. I would so move.

16 The Chairman. The motion has been made.

17 Those in favor will say aye.

18 [A Chorus of Ayes.]

19 The Chairman. All those who oppose will say no.

20 [No Response.]

21 The Chairman. The ayes have it and the bills, as
22 modified, are order reported.

23 I ask consent that the staff be granted customary
24 authority to make -- let us have order. Let us have
25 order.

1 I ask consent that staff be granted customary
2 authority to make technical, conforming and budgetary
3 changes.

4 Without objection, it is so ordered.

5 Senator Wyden. We have a colloquy, colleagues.

6 The Chairman. Let me do that first. Before we
7 conclude, I would like to engage in a brief colloquy with
8 Ranking Member Wyden.

9 We have developed these bills on a bipartisan basis
10 to reflect the views and priorities of all members and
11 while the management of the Senate calendar is the
12 prerogative of the Senate leadership, the Ranking Member
13 and I intend to work with our respective leaders to see
14 that these bills we have reported today are considered on
15 the Senate floor in a balanced and bipartisan manner.
16 That is my intention.

17 Senator Wyden. Mr. Chairman, I agree with that. I
18 intend to work closely with you and the Senate leadership
19 on both sides and with all Committee members to see that
20 these bills are considered on the floor in a balanced and
21 bipartisan fashion.

22 In addition, colleagues, I note that there are
23 several additional bills that were considered as part of
24 our efforts, but they did not make it over the finish
25 line because of the need for scores, further technical

1 work or offsets.

2 Is it the intention of the Chairman to continue
3 working on these bills with the hope that the Committee
4 can consider them in the near future?

5 The Chairman. Yes.

6 Senator Wyden. Thank you very much, Mr. Chairman.

7 Senator Carper. Mr. Chairman?

8 The Chairman. Senator Carper?

9 Senator Carper. If I could, very briefly. I
10 mentioned a couple of folks who were involved in the work
11 on the PACE Act, legislation expansion we talked about
12 here today. I did not mention that Senator Enzi, Senator
13 Portman, Senator Warner and Senator Thune were also part
14 of that effort with -- this is on the PRIME Act. Each of
15 these folks is part of that effort, as well.

16 On the PACE Act, with Senator Toomey, Senator Casey,
17 Senator Roberts, Senator Stabenow, Senator Warner, and
18 Senator Schumer, I thank them all. And, again, our
19 staffs. We made great progress here in getting to
20 closure and having the kind of consensus we developed and
21 everybody in the room who worked on that, Majority and
22 Minority, I just want to say a special thank you. Good
23 work.

24 The Chairman. Thank you, Senator.

25 I enter into the record a colloquy among Senators

1 Toomey, Casey, Enzi, and Cardin, and will do that without
2 objection at this point.

3 [The colloquy appears at the end of the transcript.]

4 The Chairman. In closing, I want to thank all
5 members for their cooperation and, of course, all of our
6 staffs for their hard work. This has been another
7 productive bipartisan meeting of the Senate Finance
8 Committee. So I want to give thanks for the work of
9 everyone here today.

10 I look forward to tackling more bipartisan
11 challenges in the future.

12 With that, the Committee is adjourned.

13 [Whereupon, at 11 a.m., the meeting was concluded.]

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I N D E X

PAGE

STATEMENT OF:

THE HONORABLE ORRIN G. HATCH A United States Senator from the State of Utah	3
THE HONORABLE RON WYDEN A United States Senator from the State of Oregon	6

Colloquy text:

Sen. Toomey: “It is our understanding that under Pennsylvania statute, hospitals within the Commonwealth are required to inform Medicare beneficiaries about whether they have been placed in observation or admission status. Given the significant financial ramifications for senior citizens who may require follow up care at a skilled nursing facility, it is important that seniors in Pennsylvania, and across the country, receive clear and accurate information. The NOTICE Act will help ensure all states meet the example being set in our state.”

Senator Casey: It is also our understanding that the legislation we’re passing today does not impose any new requirement on hospitals in the specific circumstance where a patient’s status is changed after discharge from the hospital as the result of an audit by a Recovery Auditor. For instance, if a patient is found to have been incorrectly classified as an inpatient during an audit months later, the hospital should face no special penalty under the NOTICE Act, provided the facility used its best judgment and the most accurate information it had at the time of its decision to place a patient in the original status.

Senator Toomey: “Senators Cardin and Enzi do you share that interpretation?”

Senator Enzi: “Yes.”

Senator Cardin: “Yes.”

Senator Toomey: “We thank both Senators Cardin and Enzi for their work on behalf of senior citizens across the country on this legislation.”