United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155 WASHINGTON, MONDAY, JUNE 8, 2009 *No. 84*

Senate

The Senate met at 2 p.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of wonder, majesty and grace, You have promised that wherever two or three or a thousand gather in Your Name, You are in their midst. Come and dwell with us today. Be with our Senators but also with all beyond this Chamber who daily join us in prayer. Lord, raise up an army of praying people, whose love for You and country will bring a new birth of spirituality and patriotism to our land. Today, we claim Your promise that the earnest fervent prayers of righteous people produce powerful results. In response to our prayer, give us wisdom to discern Your will and the power to do it. We pray in Your mighty Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK R. WARNER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 8, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WARNER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will be in a period of morning business, with Senators allowed to speak therein for up to 10 minutes each. Following that, the Senate will resume consideration of the tobacco legislation. We will immediately proceed to a cloture vote on the Dodd substitute amendment.

The first vote will occur at 5:30 p.m. The filing deadline for first-degree amendments is 3 p.m. today. The filing deadline for second-degree amendments is 4:30 p.m. today.

ORDER OF PROCEDURE

I ask unanimous consent that the time from 5 until 5:30 be equally divided and controlled between Senators DODD and ENZI or their designees.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. REID. At 5:30, we are going to have an extremely important vote on whether this body will invoke cloture on the tobacco legislation.

Sunday—yesterday—3,500 children who had never smoked before tried their first cigarette. Today, another 3,500 will do the same and Tuesday it will be the same and Wednesday it will be the same. For some, it will also be their last cigarette but certainly not all.

We all have had our experiences of when we tried our first cigarette. In a little book I wrote about myself, I talk about that experience, and I will relay it here briefly.

My Brother Don is 12 years older than I am. He came home from the Marine Corps smoking Kool cigarettes. He smoked a lot of them. He agreed to take his little brother hunting. There isn't much to hunt in Searchlight, but it was a time to get together with his brother. We had a little .22 rifle, and we were hoping we would see a rabbit or something. Mostly, it was a chance for my big brother to be with his little brother. He was smoking, and he smoked a lot. We were driving down a dirt road, what we called the railroad grade. I kept saying: Don, give me a puff. I kept asking, as a little boy would do; I was maybe 10 or 11 at the time. Finally, he said: OK. Here is what you do. Take it like I do and suck in as hard as you can. I did anything my brother asked me to do, so I did that. I can still feel it. That was the last cigarette I ever smoked or ever wanted to smoke. Even though my entire family smoked, not me; it hurt too bad.

For others not having had the experience that I had, smoking would become part of their daily lives, as happened with the kids I grew up with in the little town of Searchlight. They all smoked as little kids. If you think 3,500 is a scary number, how about 3.5 million. That is a pretty scary number. That is how many American high school kids smoke—3.5 million. Nearly all of them aren't old enough to buy cigarettes. That means there are at least a half million more students who smoke than there are men, women, and children living in Nevada. It means we have as many boys and girls smoking as are participating in athletics in high schools. We have as many as are playing football, basketball, track and field, and baseball combined. When

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

there are that many students endangering their health as there are staying healthy by playing the four most popular sports in the country—remember, I didn't mention soccer, but it is popular now, so we can include that and still outmatch that by far.

Should we be surprised? Every year, the tobacco industry pours hundreds of millions, if not billions, of dollars into marketing and designing to get more people, including children—because they know what the market is—to start smoking. Nine out of ten regular smokers in America started when they were kids—some of them as young as 8 or 9 years old. The tobacco marketers are very good at their jobs, there is no question. But it is time we do our job.

The bipartisan bill Senator KENNEDY and the HELP Committee delivered does a lot of good. It helps keep American children and their families healthy. It keeps tobacco companies honest about the dangers of using their poisonous products by strengthening the existing warning labels. It will make it harder for them to sell cigarettes, and even smokeless tobacco, to children. It will make it harder for tobacco companies to lure our children in the first place.

When this bill becomes law—and it will; it is only a question of time—it will also help those who smoke overcome their addictions and make tobacco products less toxic for those who cannot or don't want to stop.

I wish to be clear about one thing. Nobody is trying to ban the use of tobacco products. But we are giving the proper authority—the Food and Drug Administration—the tools it needs to help those who smoke and protect those around them.

We will talk a lot in the coming weeks and months about different ways to lift the heavy weight of health insurance costs. Think of tobacco. These crushing costs keep Americans from getting the care they need to stay healthy or help a loved one stay the same. The overall cost of health care—think about tobacco. Health care costs have driven countless families into bankruptcy, foreclosure, disease, and even death. We will debate and, at times, we will disagree. But think of tobacco. One of the most surefire solutions is to prevent health emergencies before they begin.

There is no doubt the effects of smoking qualify for such an emergency. Tobacco-related health care costs in America are unbelievably high—more than $100 billion every year. If you think government is spending too much of your money, consider this: Your State and Federal Government spend about $60 billion every year on Medicare and Medicaid payments for health problems related to tobacco. For Medicare and Medicaid, it is $60 billion a year related to tobacco diseases and conditions. So it is not just a health crisis, it is an economic crisis—one we cannot afford.

We cannot afford to spend $60 billion in Medicare and Medicaid money on tobacco-related problems. Still, if that weren't bad enough, about 500,000 people die every year as a result of their smoking or someone else's smoking. These deaths are from lung cancer, emphysema, and many other conditions related to tobacco, including heart disease, because we all know that is made much worse by tobacco. You can name any disease, and it is rare that tobacco doesn't make it worse. It is preventable. This bill will ease the pain and prevent others from going through it.

The dangers of smoking are hardly breaking news. We have known about it for decades. We know about it, and we have known about it for a long time. I have to say, though, that my parents didn't know about it. They didn't know about it. They started smoking as kids, and everybody smoked. When you went into the military, they gave you free cigarettes as part of the deal. We didn't know about it when my brother offered me the cigarette. But we know volumes about it today. We must do more than just know about it.

This vote is simple. It is between endangering our children's health and enriching the multibillion-dollar tobacco industry that poisons and preys upon them. It is between accepting the responsibility we have to our future and rejecting the irresponsibility of the pervasive and perverse tobacco companies. It is time we have that vote because tomorrow 3,500 more of our sons and daughters will light up their first cigarette.

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

HEALTH CARE

Mr. MCCONNELL. Mr. President, when it comes to health care, Americans are looking to Washington for real reform. Americans are rightly frustrated with the ever-increasing cost of health care, and many are concerned about losing the care they already have. Americans also believe that in a nation as prosperous as ours, no one should go without the health care they need. All of us agree reform is necessary, that we must do something to address the concerns Americans have on this issue. The only question is, What kinds of reform will we deliver?

Will we deliver a so-called reform that destroys what people like about the care they already have or will we deliver a reform that preserves what is good even as we solve the problems all of us acknowledge and want to address?

Unfortunately, some of the proposals coming out of Washington in recent weeks are giving Americans reason to be concerned. Americans have witnessed a government takeover of banks, insurance companies, and major portions of the auto industry. They are concerned about the consequences. Now they are concerned about a government takeover of health care—and for good reason.

What Americans want is for health care to be affordable and accessible. What some in Washington are offering instead is a plan to take away the care people already have—care that the vast majority of them were perfectly satisfied with—and replace it with a system in which care and treatment will either be delayed or denied.

Last week, I offered some examples of real people in Britain and Canada who were denied urgent medical treatment or necessary drugs under the kind of government-run system those two countries have and that many in Washington would now like to impose on Americans, whether the American people like it or not. This afternoon, I will describe how government-run health care systems such as the one in Canada not only deny but also delay care for weeks, months, and even years.

By focusing on just one hospital in one city in Canada—Kingston General, in the city of Kingston, Ontario—we can begin to get a glimpse of the effect that government-run health care has on the Canadians and the long waits they routinely endure for necessary care.

I have no doubt that the politicians in Canada never intended for the people of that country to see their health care denied or delayed. I am sure the intention was to make health care even more accessible and affordable than it was. But as we have seen so many times in our own country, government solutions have a tendency to create barriers instead of bridges. The unintended consequence becomes the norm. That is what happened in Canada, and Americans are concerned it could happen here too.

A medium-sized city of about 115,000, Kingston, Ontario, has about the same number of residents as Lansing, MI, to its south. But while it is not uncommon for Americans to receive medical care within days of a serious diagnosis, at Kingston General Hospital wait times can be staggering. Take hip replacement surgery, for example. A couple of years ago, the wait time for hip replacement surgery at Kingston General was almost 2 years. A lot of people were understandably unhappy with the fact that they had to wait more than a year and a half between the time a doctor said they needed a new hip and their surgery to actually get it. So the government worked to shorten the wait. Today, the average wait time for the same surgery at the same hospital is about 196 days. Apparently in Canada, the prospect of waiting 6 months for hip surgery is considered progress. That is hip replacement surgery. What about knee replacements? At Kingston General, the average wait is about 340 days, or almost a year, from the moment the doctor says you need a new knee. How about brain cancer? In Ontario, the target wait time for brain cancer surgery is 3 months—3 months. The same for breast cancer and for prostate cancer. And for cardiac bypass

surgery, patients in Ontario are told they have to wait 6 months for surgery Americans often get right away.

The patients at Kingston General Hospital in Kingston, Ontario, have been understandably unhappy with all the waiting they have to do. Fran Tooley was one of them.

Two years ago, Fran herniated three disks in her back and was told that it would take at least a year before she could consult a neurosurgeon about her injury which had left her in constant pain and unable to sit or stand for more than a half hour at a time. According to a story in the Kingston Whig-Standard, Fran's doctor referred her to a neurosurgeon after an MRI scan showed the herniated disks were affecting the nerves in her legs. The story went on to say that patients in Ontario can be forced to wait for up to 2 years and sometimes even longer for tests, appointments with specialists, or even urgent surgery.

Americans don't want to end up like Fran Tooley. They like being able to get the care they need when they need it. They don't want to be forced to give up their private health plans or to be pushed into a government plan that threatens their choices and the quality of their care. They don't want to wait 2 years for surgery their doctors say they need right away. And they don't want to be told they are too old for surgery or that a drug they need is too expensive. But all of these things could be headed our way. Americans want health care reform, but they don't want reform that forces them into a government plan and replaces the freedoms and choices they now enjoy with bureaucratic hassles, hours spent on hold, and surgeries and treatments being denied and delayed. They don't want a remote bureaucrat in Washington making life-and-death decisions for them or their loved ones. But if we enact the government-run plan, that is precisely what Americans can expect.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now begin a period for the transaction of morning business until 5:30 p.m., with Senators permitted to speak for up to 10 minutes each.

The Senator from Arizona.

FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT OF 2009

Mr. MCCAIN. Mr. President, I take the floor this afternoon to discuss the issue of importation of prescription drugs and the amendment, which is No. 1229, which is pending but may be made nongermane because of a vote, if cloture is invoked.

There has also been some discussion about the fact that I am holding up the bill because of my desire for this amendment. I am not. I am simply asking for 15 minutes or even 10 minutes of debate and a vote. I understand there are other amendments, such as one by Senator LIEBERMAN and one by Senator BURR, that also should be considered. I wish to point out that I am not holding up the bill nor putting any hold on the legislation. The fact is, importation of prescription drugs is certainly germane and should apply to this legislation before us.

Last week, the majority leader was kind enough to say he would see about this amendment and when it could be considered. He has just informed me that he has discussed the possibility that it be brought up on the health care legislation when it comes to the floor. One, the issue cannot wait and, two, that is not an ironclad commitment. As much as I enjoy people's consideration around this body, from time to time I have found that without an ironclad commitment, sometimes those commitments of consideration go by the wayside. But I do appreciate very much the majority leader seeking to help me address this issue.

Mr. President, I ask unanimous consent that when the Senate begins consideration of H.R. 1256, it be in order for the Senate to consider amendment No. 1229 regarding prescription drug importation, the text of which is at the desk, and I ask that the amendment be considered in order, with 15 minutes of debate on the amendment equally divided between both sides, and that at the disposition of such time, the Senate vote on or in relation to the amendment.

The ACTING PRESIDENT pro tempore. In my capacity as a Senator from the State of Virginia and at the request of the leadership, I object.

Mr. MCCAIN. I thank the Chair. I am not surprised. But if there is to be any allegation that this bill is being held up because of this amendment, that is simply patently false. In fact, I am more than eager to vote on this legislation because it has been before this body for a long time and it is a very clear-cut issue. The pharmaceutical industry has spent millions of dollars to sway lawmakers against the idea of drug importation.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from The Hill newspaper.

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

[From The Hill, June 3, 2009]

PHRMA DEFENDS VULNERABLE DEMS

(By Aaron Blake and Reid Wilson)

What a difference a Speaker's gavel makes.

Just a few years ago, before Democrats took control of Congress, the pharmaceutical industry was busy funneling millions to Republican candidates, at times giving the GOP three dollars for every one headed to Democrats.

Over the last two cycles, though, drug makers have been much more generous with the other party. In the 2008 cycle, pharmaceutical companies gave the two parties about $14.5 million each, and this year the industry has given $714,000 to Republicans and $721,000 to Democrats.

But the industry's main lobbying arm in Washington is now going beyond writing a check. The Pharmaceutical Research and Manufacturers of America, better known as PhRMA, spent the congressional recess running advertisements thanking four vulnerable Democratic freshmen for their early work in Congress.

The advertisements are running on behalf of Reps. Parker Griffith (D–Ala.), Bobby Bright (D–Ala.), Tom Perriello (D–Va.) and Frank Kratovil (D–Md.). They cite the four freshmen's votes for the State Children's Health Insurance Program (SCHIP) and for extending healthcare benefits to unemployed workers, a measure contained within the stimulus package passed earlier this year.

PhRMA is also running advertisements for a few Republican candidates, though the group declined to provide their names.

Nonetheless, Democrats are encouraged by the group's ads on behalf of the four members, all of whom won in 2008 by the narrowest of margins.

PhRMA ''has really stepped it up and shown a willingness to work with us where our policy interests intersect,'' one senior Democratic aide said.

The group isn't the only one that gives overwhelmingly to Republicans that has had to change its approach lately. In February, the Chamber of Commerce put out press releases praising Democratic votes in favor of the stimulus legislation, and the National Federation of Independent Businesses backed Democrats on the credit card bill last month.

PhRMA itself has grown more bipartisan. In recent years, Democratic strategist Steve McMahon has crafted many of the organization's advertisements, and former Democratic Congressional Campaign Committee political director Brian Smoot has been helping its efforts as well.

The group said the ads are part of a yearlong campaign run in conjunction with the Healthcare Leadership Council. Both groups say they ''share the goal of getting a comprehensive healthcare reform bill on the president's desk this year,'' according to PhRMA Senior Vice President Ken Johnson.

Ken Spain, spokesman for the National Republican Congressional Committee, said the question going forward is ''whether or not Democrats in Congress will choose to do for the healthcare industry what they have done for General Motors. That is a concern many in the healthcare community share with Republicans in Congress.''—R.W.

No partnership among brothers when it gets down to promotions.

Republicans are Republicans and Democrats are Democrats.

Except, that is, when it comes to House members eyeing the Senate.

The start of the 2010 election cycle has been marked by a pretty overt attempt by House campaign committees—specifically the Democratic Congressional Campaign Committee (DCCC)—to push members of the opposing party into statewide races.

Problem is, those statewide races are pretty important, too. And when the pressure on people like Reps. Mark Kirk (R-Ill.) and Mike Castle (R-Del.) pushes them out of their House seats and into their states' open Senate races, they could seriously hamper Senate Democrats' efforts to win those much rarer seats.

The equation is really pretty simple: If you're a random Democrat somewhere, even if you are guaranteed to win that House seat—one of 435—do you really want Kirk and Castle to run for Senate, where they have a good chance at winning one out of 100 Senate seats?

That goes double when the upper chamber often requires 60 percent of the votes to prevail. After all, one House seat is pretty expendable when you are close to an 80-seat majority, but one Senate seat is golden when you have an 18- or 20-seat edge in the filibuster-able Senate.

The latest example is Rep. Pete King (R-N.Y.), about whom our colleague Jeremy Jacobs writes in today's Campaign section.

Sure, Democrats want his ripe Long Island seat in their hands, but polling has also shown him within 11 digits of Sen. Kirsten Gillibrand (D-N.Y.), and he has the right kind of profile to be competitive for her seat.

King was bound and ready to run for Senate when it looked like Caroline Kennedy would win the Senate appointment, but he has since backed off. Now Democrats are working hard to put pressure on him, emphasizing that the State Legislature might make his reelections much harder in the next round of redistricting.

Democrats have also been applying pressure to another frequent target—Rep. Jim Gerlach (R-Pa.). Gerlach is a centrist in the same vein as Kirk, Castle and King, and he could pack some bipartisan appeal in a run for Senate.

Of course, the tactic isn't solely a Democratic province. Republicans have sought to put pressure on Reps. Peter DeFazio (D-Ore.), Stephanie Herseth Sandlin (D-S.D.) and Loretta Sanchez (D-Calif.) to seek their states' governors' mansions.

—A.B.

Mr. MCCAIN. Mr. President, it says:

Just a few years ago, before Democrats took control of Congress, the pharmaceutical industry was busy funneling millions to Republican candidates, at times giving the GOP three dollars for every one headed to Democrats.

Over the last two cycles, though, drug makers have been much more generous with the other party. In the 2008 cycle, pharmaceutical companies gave the two parties about $14.5 million each, and this year the industry has given $714,000 to Republicans and $721,000 to Democrats.

Which helps to explain the e-mail sent by the top lobbyist for the Pharmaceutical Research and Manufacturers of America, known as PhRMA, which stated:

The Senate is on the tobacco bill today. Unless we get some significant movement, the full-blown Dorgan or Vitter bill will pass. . . . We're trying to get Senator DORGAN to back down—calling the White House and Senator REID. Our understanding is that Senator MCCAIN has said he will offer regardless . . . Please make sure your staff is fully engaged in this process. This is real.

It really is real. It is real that it would provide savings to the millions of Americans who have lost a job, millions of Americans who are struggling to put food on the dinner table, and millions of Americans who are struggling with health care costs and the high cost of prescription drugs.

The Congressional Budget Office has estimated that this amendment would save American consumers $50 billion over the next decade. Let me repeat—$50 billion. Why is that? The Fraser Institute found in 2008 that Canadians paid on average 53 percent less than Americans for identical brand-name drugs. Specifically, the institute found that the most commonly prescribed brand-name drug, Lipitor, is 40 percent less in Canada, Crestor is 57 percent less in Canada, and the popular arthritis drug Celebrex is 62 percent less expensive in Canada. Americans would love a 60-percent off coupon for prescription drugs and deserve such a discount now more than ever.

This morning, President Obama met with his Cabinet and announced that he intended to accelerate the distribution of the $787 billion stimulus funds, which, by the way, were all supposed to be shovel-ready, but that is the subject of a different debate. Many have lamented the slow pace at which the stimulus funds are being spent. This amendment would provide an immediate stimulus to each and every American if enacted. Over half of all Americans must take a prescription drug every day, according to a 2008 poll by Kaiser Public Opinion, and millions more take prescription drugs when diagnosed with a virus or other ailment. Many Americans who are cutting household expenses cannot afford to cut out the prescription drugs they must take each day for their health. We must help these Americans by enacting this amendment.

Some of my colleagues have argued that this amendment should not be considered on legislation regulating tobacco and my efforts to add this amendment to the bill are actually holding up the bill.

The amendment is directly relevant to the underlying legislation. The bill would require the Food and Drug Administration to regulate tobacco because of its well-known negative health effects. This amendment would require the Food and Drug Administration to regulate the importation of prescription drugs from importers declared safe by the FDA. I reject any argument that this amendment is not related.

Furthermore, it is well documented that smokers have higher health costs than nonsmokers. So this amendment is necessary to assist those who have experienced so many health issues due to smoking. Smoking kills. I have supported stricter regulation of tobacco products for 10 years. In fact, this bill contains many of the provisions included in the National Tobacco Policy and Youth Smoking Reduction Act I introduced and fought for weeks on the floor of this Senate to achieve passage.

I don't seek to hold up consideration of the bill. I merely ask for an up-or-down vote on the amendment. Therefore, I think the American people deserve better than the monetary influence buying by PhRMA, an organization that has spent tens of millions of dollars to prevent the American consumer from being able to acquire prescription drugs, screened by the FDA, at a lower cost. That is what this is all about. It is the special interests versus the American interests, and special interests—in this case, PhRMA—have won rounds 1 through 9. We will not quit this fight because the American people deserve it, particularly in these difficult economic times.

We may be blocked on this bill. We may be blocked on the next bill. But we will come back and back and keep coming back. That is my message to the other side and those at PhRMA. We will succeed in allowing Americans to acquire much needed, in some cases lifesaving, prescription drugs at a lower cost for themselves and their families. That is what this amendment is all about.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHANNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Nebraska.

TRIBUTE TO OUR ARMED FORCES

SERGEANT JUSTIN J. DUFFY

Mr. JOHANNS. Mr. President, today I rise in solemn remembrance of the life of a fallen hero, SGT Justin J. Duffy, of the U.S. Army's 82nd Airborne Division.

Justin died while serving his country in Iraq on June 2 when his humvee was struck by an improvised explosive device in eastern Baghdad. He was 31 years old.

A native Nebraskan, Justin was born in Moline and later moved with his family to Cozad, graduating from Cozad High School in 1995. He earned a degree in criminal justice from the University of Nebraska at Kearney.

After working in Kearney for 5 years, Justin joined the Army in June 2007, beginning a career that satisfied his sense of adventure and work ethic. He had been serving with the 82nd Airborne Division in Iraq since November of 2008.

Justin's family and friends referred to him as ''The Shepherd.'' He was always looking after the welfare of others, putting their well-being above his own. In this same fashion, Justin selflessly gave his life while protecting the safety of others.

Justin is survived by his parents, Joseph and Janet Duffy, his two sisters, and his grandfather. Today I join them in mourning the death of their beloved son, brother, and grandson. Justin made the ultimate sacrifice in service to his country. Our Nation owes him and his family an immeasurable debt of gratitude. May God's peace be with Justin's family, friends, and all those who continue to mourn his death and remember his life.

Let us also pause today to remember and celebrate the lives of all our Nation's fallen soldiers, marines, sailors,

and airmen who have laid down their lives defending our country. We also lift in prayer all those serving our country today, spreading freedom and democracy abroad. May God bless them and their families.

Mr. President, I yield the floor and note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KYL. Mr. President, I ask I be permitted to take whatever time I may consume in my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

START

Mr. KYL. Mr. President, there are three things I would specifically like to address today. First, briefly, a matter of concern to the Senate, namely the ongoing negotiations between the United States and the Russian Federation on the so-called START follow-on. Specifically, I am concerned that the administration is heading toward a confrontation with the Senate that could easily be avoided.

I ask unanimous consent to have two letters printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. KYL. Mr. President, the first is one I sent as Administrative Co-Chairman of the successor to the Arms Control Observer Group—to Assistant Secretary of State Rose Gottemoeller, prior to her confirmation by the Senate. The second letter is the response that I received from her.

The response makes clear that Assistant Secretary Gottemoeller would regularly consult with Senate committees and the National Security Working Group. In fact, the response from Ambassador Michael Polt, the then-Acting Assistant Secretary of State for Legislative Affairs, quotes Ms. Gottemoeller in her confirmation hearing: ''For me, consultation is not a catch word. It is a commitment.''

The National Security Working Group was established to provide a forum for the administration, any administration, to meet with and consult with a bipartisan group of Senators concerning matters that the administration may seek to advance through the Senate, especially on matters requiring the Senate's advice and consent.

The value of this working group was also recognized in the recent final report of the Perry-Schlesinger Commission.

I remind the administration: this is advice and consent.

If the administration wants to have the Senate on board when it concludes the treaty negotiation process—for example, when and if it attempts to have a treaty ratified by this body, it would be prudent for the administration to live up to its commitments and ensure thorough consultation with the Senate so it is on board at the beginning of the process.

I hope that this is possible. I believe it still is, but the administration must reverse course quickly.

EXHIBIT 1

U.S. SENATE,
Washington, DC, April 1, 2009.

Hon. ROSE GOTTEMOELLER,
Assistant Secretary of State for Verification, Compliance and Implementation—Nominated, Department of State, Washington, DC.

DEAR MS. GOTTEMOELLER: Congratulations on your nomination to be Assistant Secretary of State for Verification, Compliance and Implementation. This is an extremely important position; if confirmed, you will be the point person on matters with the greatest impact on the national security of the United States.

I was reassured by your response to Senator Lugar during the Foreign Relations Committee hearing on your nomination regarding your familiarity with the historical role played by the Arms Control Observer Group, now known as the National Security Working Group (NSWG), which, as you know, has the responsibility—by Senate Resolution—to support the Senate's advice and consent role by understanding in real time the Administration's negotiation positions on arms control matters and providing the Administration with feedback as to the perspective of Senators on those positions.

As Senator Lugar noted, the Arms Control Observer Group was created at the behest of President Reagan, who understood that it was vital for the Senate to be well-versed in ongoing negotiations—in that case, on arms control treaties—from the very beginning, so that it would be more likely the Administration could negotiate a treaty that the Senate would be able to support and ratify.

As you know, the National Security Working Group has been given the responsibility, on behalf of the Senate, to ''act as official observers on the United States delegation to any formal negotiations to which the United States is a party on the reduction of nuclear, conventional, or chemical arms.'' In the past, it has been helpful for the Administration to provide regular briefings to the Members and designated staff of the Arms Control Observer Group throughout the formal and informal negotiation process.

In reviewing your response to Senator Lugar, it is clear to me that you understand the statutory and historical role of this Senate body. As an Administrative Co-Chairman of the National Security Working Group, I look forward to ensuring that this productive relationship between the Administration and the Senate continues.

I agree with Senator Lugar that this will be all the more important this year. In fact, in view of the commitment of Presidents Obama and Medvedev to reach an agreed draft on the next START treaty well in advance of the December 5th expiration of the current START treaty, we should probably begin briefings and consultation between the Administration and NSWG soon.

I hope you could begin discussing these matters with the NSWG Members and staff immediately upon your confirmation.

Sincerely,

JON KYL,
United States Senator.

DEPARTMENT OF STATE,
Washington, DC, April 2, 2009.

Hon. JON KYL,
U.S. Senate.

DEAR SENATOR KYL: Thank you for your letter of April 1 to Rose Gottemoeller, the President's nominee for Assistant Secretary of State for Verification and Compliance, regarding the importance of consultation with the Congress and the National Security Working Group.

In Ms. Gottemoeller's testimony on March 26 before the Senate Foreign Relations Committee, she quoted a phrase from Secretary of State Clinton's statement before the Committee. She said, ''For me, consultation is not a catch word. It is a commitment.'' Ms. Gottemoeller fully shares the Secretary's commitment.

If she is confirmed by the Senate, Ms. Gottemoeller would be working with the Congress as a partner in addressing our national security challenges. She would provide regular and complete briefings to the Senate Foreign Relations Committee, the Armed Services Committee, the Select Committee on Intelligence, the National Security Working Group, and other relevant and interested organizations.

We expect the future Assistant Secretary to engage in a dynamic consultation process with you and others in the Congress on the key national security issues in the Bureau's portfolio, including the follow-on to the Strategic Arms Reduction Treaty.

Sincerely,

MICHAEL C. POLT,
Acting Assistant Secretary, Legislative Affairs.

COMMISSION ON STRATEGIC POSTURE

Mr. KYL. Mr. President, the next matter I wish to address is a follow-on also to the bipartisan Commission on the Strategic Posture of the United States. I called it the Perry-Schlesinger Commission a moment ago. As part of the 2008 National Defense Authorization Act, Congress created this bipartisan Commission and charged the Commission of six Democrats and six Republicans to assess the needs of the United States with regard to nuclear weapons and missile defense and asked that it make recommendations regarding the role each should play in the Nation's defense.

As its Chair and Vice-Chair, former Secretary of Defense for President Clinton, William Perry, and former Secretary of Defense for Defense and Energy for Presidents Nixon, Ford and Carter, James Schlesinger, respectively, stated in testimony to the House and Senate Armed Services Committees, the Congress wanted the Commission to reach a bipartisan consensus on its recommendations and

findings to provide a roadmap for action by the administration and Congress.

The final report issued by the Commission on May 6th did that to a remarkable degree.

In fact, the Commission reached bipartisan consensus on all but one issue, the merit of the Comprehensive Test Ban Treaty, which this body rejected 10 years ago.

It now falls to the administration and the Congress to act on the findings and recommendations of the Commission. And the recommendations come at a propitious time because the administration and Congress have been following a course significantly at odds with the Commission's findings.

It is not too late for the President to change course and pursue the bipartisan recommendations of this esteemed panel to recreate the basic building blocks of the U.S. strategic deterrent.

First, let me discuss the Commission's recommendations. The unifying theme of the Commission on the Strategic Posture was a simple one: nuclear weapons will be needed to guarantee U.S. national security—and that of our allies—for the indefinite future.

There has been a great deal written about ways the U.S. should lead the world toward the elimination of nuclear weapons.

The President himself has endorsed this goal.

The Commission, however, urged caution:

[t]he conditions that might make the elimination of nuclear weapons possible are not present today and establishing such conditions would require a fundamental transformation of the world political order.

It necessarily follows that if the United States needs to possess nuclear weapons for the foreseeable future, it needs a safe, reliable and credible nuclear deterrent.

As the Commission stated:

[t]he United States requires a stockpile of nuclear weapons that is safe, secure, and reliable, and whose threatened use in military conflict would be credible.

However, the Commission issued ominous warnings about the current state of our weapons, and the programs to extend their life, stating:

The life extension program has to date been effective in dealing with the problem of modernizing the arsenal. But it is becoming increasingly difficult to continue within the constraints of a rigid adherence to original materials and design as the stockpile continues to age.

Of course, this is not breaking news. Those with responsibility for the safety and reliability of our nuclear weapons have been issuing similar, and, in some cases, more dire, warnings.

For example, Secretary Gates stated in his October 2008 speech at the Carnegie Endowment:

[L]et me first say very clearly that our weapons are safe, reliable and secure. The problem is the long-term prognosis, which I would characterize as bleak.

He went on:

[A]t a certain point, it will become impossible to keep extending the life of our arsenal, especially in light of our testing moratorium.

Add to this the warnings of our lab directors, like Director Michael Anastasio at the Los Alamos National Lab who said in open testimony last April:

[T]he weapons in the stockpile are not static. The chemical and radiation processes inside the nuclear physics package induce material changes that limit weapon lifetimes. We are seeing significant changes that are discussed in detail in my Annual Assessment letter.

Sadly, these warnings have fallen on the deaf ears of Congress, which has killed, with next to no debate, even the most restrained modernization programs and has even been underfunding the tools by which we maintain the weapons we have.

As Director Anastasio said in that same testimony:

At the same time, there are ever-increasing standards imposed by environmental management, safety, and security requirements driving up the costs of the overall infrastructure. When coupled with a very constrained budget, the overall effect is exacerbated, restricting and, in some cases eliminating, our use of experimental tools across the complex. This puts at risk the fundamental premise of Stockpile Stewardship.

That is a profound statement. Stockpile stewardship was the promise made—the bargain, so to speak—when Congress imposed the testing moratorium in the early 1990s and then again when President Clinton urged ratification of the Comprehensive Test Ban Treaty.

We were told testing wasn't necessary because we would undertake a robust science-based stockpile stewardship program. But, as the Commission recognized, it isn't adequately funded. In fact, inadequate funding is now a recurring theme for the U.S. nuclear weapons enterprise. Director Anastasio warned last year that, at least regarding Los Alamos, the purchasing power of his laboratory has declined by more than half a billion dollars over the last 5 years and that according to preliminary planning—of the kind reflected in the President's budget for fiscal year 2010—the next 5 years will see a further erosion of about another $400 million. These are significant cuts.

Perhaps the most troubling impact of these budgets is the human capital, the scientists, engineers and technicians who possess skills and experience that can't be replaced.

In an understated fashion, the Commission warned that the ''intellectual infrastructure is also in serious trouble'' and that budget trends show further workforce elimination is imminent.

Secretary Gates expressed his concern about the nuclear weapons workforce this way:

The U.S. is experiencing a serious brain drain in the loss of veteran nuclear weapons designers and technicians. Since the mid-1990s, the National Nuclear Security Administration has lost more than a quarter of its workforce. Half of our nuclear lab scientists are over 50 years old, and many of those under 50 have had limited or no involvement in the design and development of a nuclear weapon. By some estimates, within the next several years, three-quarters of the workforce in nuclear engineering and at the national laboratories will reach retirement age.

This is playing out today on the newspaper pages: just look at the May 29 Los Angeles Times report on delays in the Lifetime Extension Program for the W76 warhead, the submarine-based mainstay of America's nuclear deterrent.

The L.A. Times reported:

At issue with the W76, at least in part, is a classified component that was used in the original weapons but that engineers and scientists at the Energy Department's plant in Oak Ridge, Tennessee, would not duplicate in a series of efforts over the last several years.

As Philip Coyle, a former deputy director of the Livermore Lab, stated in this article:

I don't know how this happened that we forgot how to make fogbank, it should not have happened, but it did.

Related to the safety and reliability of our nuclear weapons stockpile, said the Commission, is the design and size of the nuclear force itself. On this point, it is not only U.S. security that is threatened, so is the security of the 30 or so friendly and allied nations that rely on the so-called U.S. extended deterrent, aka the nuclear umbrella.

As Secretary Schlesinger explained at the Senate Armed Services Committee on Thursday, May 7th:

The requirements for Extended Deterrence still remain at the heart of the design of the U.S. nuclear posture.

While this may seem like an onerous responsibility for the United States, it is one, Secretary Schlesinger explained, we must continue to pay, because ''extended deterrence remains a major barrier to proliferation.''

And restraining proliferation is definitely a top national security interest of the United States.

In essence, what this means is, numbers matter. We cannot just reduce the numbers of our weapons to some arbitrary number, like 1,500 or 1,000, significant only because they end with zeroes, we must have a nuclear arsenal sufficient to cover both the U.S. and the allies who rely on us. And if we do not, our allies could conclude they need to develop their own.

The Commission also recognized that specific platforms matter; this is why the Commission stated that the triad, the submarines, bombers, and ICBMs, must be retained as well as other delivery systems, such as our nuclear-capable cruise missiles, which are of interest to key allies in strategically vital areas of the world.

It is my hope that the administration and Congress will take these findings and recommendations seriously.

We owe the Commissioners a debt of gratitude for their service. The best

way to show our gratitude is by listening to them and charting our course based on where they revealed consensus is possible.

Will Congress and the administration heed the Commission's bipartisan findings and recommendations?

I am fearful that that will not be the case. Why do I say that?

It appears the administration is preparing to take big risks in the negotiation of a START follow-on treaty with Russia.

Specifically, the President announced at his G–20 meeting with Russian President Medvedev that he intends to seek a START follow-on treaty that moves below the lower level of strategic nuclear forces permitted by the Moscow Treaty.

Some press reports suggest that administration is seeking to go as low as 1,500 deployed strategic nuclear weapons, or about a 30-percent reduction from present levels.

I am not going to prejudge the correct number of nuclear forces for the U.S.

I will, however, say that I agree with the Commission, which referred to the ''complex decision-making'' process involved in determining the size of the U.S. nuclear force.

What this means is that careful and rigorous analysis is needed before pursuing reductions below Moscow levels.

Congress has ordered just this analysis in the form of a Quadrennial Defense Review and Nuclear Posture Review.

But there is every indication that our arms control negotiators are working off of some other kind of analysis.

Presumably, the next NPR would then have to conclude that the level agreed to in a START follow-on is the right number.

This is like writing the test to suit what the test taker knows, and not what the test taker should know.

The last NPR looked at the world as it stood in 2001 and its recommendations resulted in reductions of U.S. nuclear forces to approximately 2,200 strategic nuclear weapons.

Is the world more or less safe than in 2001? Is Russia more or less aggressive that it was then? Is Pakistan a more or less significant threat? Is Iran closer to a nuclear weapon? How many more nuclear weapons has China built since 2001?

These are all questions that must be answered.

And the needs of our allies must be understood in this threat context. They are similarly concerned about the size of our deterrent, as I noted before.

We must engage in consultations with each of them about what U.S. nuclear force posture assures them of their security, not what we think should assure them.

And we must understand what threats they need to deter for their security. We must understand whether they are concerned about Russia's tactical nuclear weapons, which Russia insists absolutely cannot be discussed.

If so, how do further U.S. strategic nuclear reductions affect the balance of forces between the hundreds of tactical nuclear weapons the U.S. possesses versus the several thousands of tactical nuclear weapons Russia possesses?

Equally concerning is the fact that the cart appears to be before the horse. And by that I mean, it appears we may be presented with a START follow-on that compels a new nuclear posture, with significant reductions, but does not explain how that posture will be supported.

What kind of modernization program will be undertaken to support the requirement articulated by the Commission that the U.S. maintain a safe and reliable deterrent for so long as one is necessary? And what about the Manhattan Project-era complex of physical infrastructure that sustains it—what will be done to modernize it?

It is unclear how we can safely put further reductions ahead of long overdue modernization. All of this argues for slowing down and taking a breath.

The START Treaty of 1991 expires early this December. I agree with those who say that the verification and confidence building elements of that treaty are too important to allow to expire. It is also significant that that treaty's provisions undergird the Moscow Treaty.

So why not simply negotiate a 1- or 2-year extension to permit time to perform the complex analyses that are involved in appropriately sizing the U.S. nuclear force posture?

At the same time, the administration could devise a plan for the modernization of our nuclear weapons and the complex which supports it.

Otherwise, the administration will be asking the Senate to ratify a START follow-on that may include significant strategic arms reductions, which compels serious and lengthy review based on the panoply of issues the Commission addressed, without the necessary modernization plan, which, in light of the fiscal year 2010 budget request, would have to be included in the fiscal year 2011 budget request that will not be submitted to the Congress until February of 2010.

So the administration either needs to slow down on this ambitious START follow-on, move forward on a follow-on that only deals with the necessary issues, or submit an amended budget request that reflects modernization programs recommended by the last administration, such as the NNSA complex transformation, which the Commission endorsed, and RRW.

In fact, with or without nuclear weapons reductions, this is a critical exercise.

We maintain a significant nondeployed reserve of nuclear weapons today because we are concerned about the reliability of our aging weapons, the last of which was designed in the 1980s and built in the 1990s and we have no viable production capability.

We worry about the failure of a weapon that could affect an entire class of weapons, possibly knocking out a leg of the triad.

We worry about this because the weapons are old and we have do not have the capacity to respond quickly to a significant failing in these weapons because of the age and obsolescence of the nuclear weapons complex.

Additionally, because of the ancient state of much of the nuclear weapons complex, we must also be worried about the danger of a strategic surprise, put another way, a new global threat.

If a new threat emerged, a real prospect given the instability in Pakistan and North Korea's proliferation to Syria, we do not presently have the capacity to quickly build up our stockpile or develop a nuclear weapon capable of dealing with the threat.

So, we maintain many more nuclear weapons than necessary.

A modernization program for our stockpile and infrastructure would permit the administration to pursue all of its objectives now, including reducing the number of warheads.

The administration should fund the NNSA transformation plan, which would allow us to build a smaller, more efficient, and modern laboratory and production infrastructure, and finally replace the Manhattan Project-era facilities we are currently spending so much money to maintain. In fact, the NNSA complex transformation plan was specifically endorsed by the Commission.

It can pick up and fund the Reliable Replacement Warhead studies, which would, for the first time since the 1980s, put our weapons designers to work on a modern warhead for the U.S. stockpile.

But it must move forward now.

Unfortunately, the budget the administration just put forward does not recognize the critical state of affairs in our nuclear weapons enterprise.

It not only does nothing to modernize our weapons, it continues the neglect of the Stockpile Stewardship Program and the basic science and engineering that supports it.

Specifically, the science campaign, the science in science-based stockpile stewardship, continues to be underfunded in the President's fiscal year 2010 budget request. Worse yet, according to the projections in the President's budget, the underfunding of the science in Stockpile Stewardship will actually be accelerated between fiscal year 2011 and fiscal year 2014.

The impact of these cuts to the science campaign can also be seen in the continued cuts in the funding requested for the laboratories to use the Stockpile Stewardship Program, SSP, tools, including the DAHRT facility, which is essentially a big x-ray used to study what goes on in a nuclear weapon at the earliest stages of criticality, without actually producing nuclear yield.

Another example is the advanced computing program, the use of which this budget continues to underfund.

The budget for the engineering campaign, which develops capabilities to improve the safety and reliability of the stockpile, is kept at the fiscal year 2009 level, which is a reduction from the fiscal year 2008 level. Again, between fiscal year 2011–2014, the engineering campaign budget is cut, and it is cut more significantly than the science campaign budget.

The effect of the administration's budget is to continue, and even accelerate, the brain drain at the labs.

The Commission is not alone in warning about the effects of this brain drain.

The recent Los Angeles Times article was based off of, in part, a recent GAO study that pointed out that the lifetime extension programs on the W–76 and the B–61 were in some cases affected by the fact that we have forgotten some of the key processes involved in building our nuclear weapons.

The administration would also be wise to consider that there was bipartisan consensus on every aspect of the Commission's report save one, the CTBT.

The administration has said that it intends to push hard to get the Senate to ratify this treaty, even though the Senate has already rejected it once, by a significant margin.

I know of no information that suggests that the matters that led the Senate to reject the treaty have changed for the better. In some respects, like the deteriorating condition of our strategic deterrent, they have gotten worse.

Lastly, it is worth pointing out that the Commission articulated real dangers from nuclear terrorism and the ''tipping point'' of a proliferation cascade on which we are now perilously perched thanks to the impotent response of the world community to the illegal Iranian and North Korean nuclear weapons programs.

The President also recognized this threat in recent remarks in Prague when he stated: ''in a strange turn of history, the threat of global nuclear war has gone down, but the risk of a nuclear attack has gone up.''

I think that is exactly right.

My concern is the initial steps the President has chosen to deal with this threat, the threat also identified by the Commission, are not at all tailored to provide a solution to these grave threats.

It is important to ensure the verification measures of START do not expire, but that treaty would not deal with the threat of terrorists obtaining nuclear weapons technology or material.

Likewise, CTBT, a bad idea shrouded in good intentions, would not even be capable of detecting political tantrums like the North Korean test, even when the international monitoring system is told where and when to look.

Yet, these are the measures the administration has chosen to spend its capital on.

I urge the administration to look for areas to work with the Congress: globalizing the Nunn-Lugar program, dealing with the threat posed by the spread of civilian nuclear technology, strengthening our nuclear intelligence, attribution and forensic capabilities to name a few.

Mr. President, the Commission on the Strategic Posture, led by two of our most esteemed experts on U.S. national security, has just completed more than a year-long review of the role that nuclear weapons play in our national security.

The 12 Commissioners have done what no one thought was possible: they have found a bipartisan consensus.

They have presented their findings and recommendations to the President and the Congress.

It now becomes our turn, the elected political leaders, to take the fruit of the Commission's labor and move forward on the necessary and long overdue steps these experts have deemed necessary, regardless of party affiliation, to protect the American people.

GUANTANAMO BAY

Mr. KYL. Mr. President, finally, I wish to refer to a debate that occurred on the floor, I believe it was last Thursday, following remarks of the distinguished minority leader and concerning remarks made by the assistant majority leader. This has to do with Guantanamo Bay, the prison there, and the people whom we have kept in prison there.

I want to specifically address the chorus of false claims and insinuations about that facility, noting it has grown louder, in tandem, I suspect, with growing American opposition to closing the facility and bringing the terrorists to U.S. soil.

A majority of Americans now oppose the closure of Guantanamo. This is according to a USA Today poll of June 2. This is by a margin of 2 to 1. Many of the arguments we have heard recently to dissuade them, frankly, give off more heat than light.

My friend and colleague, the majority whip, recently gave a speech in which he claimed arguments opposing the closure of the prison at Guantanamo made by Senator MCCONNELL and others are ''based on fear.'' I contend these arguments are based on concerns about both the safety of Americans and the logistical obstacles to closing the facility.

Last month, before the House Judiciary Committee, FBI Director Robert Mueller testified that transferring the remaining Guantanamo detainees to U.S. prisons—even maximum security prisons—would entail serious security risks. He said this: ''The concerns we have about individuals who may support terrorism being in the United States run from concerns about providing financing, radicalizing others,'' as well as ''the potential for individuals undertaking attacks in the United States.''

The Guantanamo facility is separated from American communities. It is well protected from the threat of a terrorist attack. No one has ever escaped from Guantanamo.

Why should we feel pressure to support President Obama's arbitrary deadline to close the facility when the administration has yet to offer a plan about where to relocate the terrorists and where, I would submit, a case has not been made for closing this facility and locating those prisoners elsewhere? In fact, other countries have told us they do not want them, with the exception of France, which offered to take one prisoner. And a new June 2 USA Today poll, which I talked about before, shows that Americans, by a measure of 3 to 1, reject bringing those terrorists to the United States.

In his speech, Senator DURBIN also made reference to the ''torture of prisoners held by the United States'' and the ''treatment of some prisoners at Guantanamo.''

Regarding the treatment of Guantanamo detainees, I think the record needs to reflect the following: The living conditions at the facility are safe and humane. This is a $200 million state-of-the-art facility that meets or exceeds standards of modern prison facilities. Following his February tour of Guantanamo, Attorney General Holder said:

> I did not witness any mistreatment of prisoners. I think, to the contrary, what I saw was a very conscious attempt by these guards to conduct themselves in an appropriate way.

Numerous international delegations and government officials from dozens of countries have likewise visited the facility. During a 2006 inspection by the Organization for Security Cooperation in Europe, a Belgian representative said:

> At the level of the detention facilities, it is a model prison, where people are better treated than in Belgian prisons.

Detainees get to exercise regularly, receive culturally and religiously appropriate meals three times a day, and access to mail and a library. Additionally, the International Committee of the Red Cross has unfettered access to the detainees. They have met all detainees in private sessions and routinely consult with the United States on its detention operations.

The facility provides outstanding medical care to every detainee. In 2005, the military completed a new camp hospital to treat detainees, who have now received hundreds of surgeries and thousands of dental procedures and vaccinations. So this idea that the prisoners are treated badly is patently false.

The insinuation—directly or indirectly—that torture has occurred at

Guantanamo must stop. Torture is illegal. It was never permitted at Guantanamo. And torture has never been sanctioned by the United States.

In discussions about torture, we have heard a lot of rhetoric that attempts to draw a straight line between what happened at Abu Ghraib and the legal, enhanced interrogations at Guantanamo. But let's be clear about the distinction: At Abu Ghraib, a few brutal prison guards abused inmates. In doing so, they violated American law and military regulations. And for that they rightly received Army justice.

The methods of legal interrogation used at Guantanamo, which have wrongly been characterized by some as ''torture,'' were used on a few of the most hardened terrorists after all other efforts failed.

At Guantanamo, all credible allegations of detainee abuse are investigated, and the military has not hesitated to prosecute or discipline any guards who violate those standards, regardless of provocation.

Navy RADM Mark Buzby, commander of the Joint Task Force at Guantanamo, said, in 2007, the facility's practices have been in keeping with DOD policies:

> We tend to get wrapped up in the greater discussion of detainees down here with those detained elsewhere. There have been many, many investigations conducted of the conditions in Guantanamo . . . and they found no deviations from standing DOD policies.

''No deviations from standing DOD policies.''

Then there is the idea that has been floated by the President, Senator DURBIN, and others that keeping Guantanamo Bay open serves as a ''recruitment tool'' for al-Qaida. By this logic, our fight against the Taliban or our targeted airstrikes against terrorists in Pakistan could be dubbed ''recruitment tools'' for al-Qaida, since both policies involve planting U.S. forces in Muslim nations to fight jihadists.

This ''recruitment tool'' idea is the latest incarnation of what Ambassador Jeane Kirkpatrick dubbed the ''blame America first'' mentality. It makes excuses for the terrorists and heaps scorn on the United States for fighting back.

Recall that al-Qaida was swelling its ranks throughout the 1990s—before the war on terror and well before the prison at Guantanamo Bay was even created. During that decade, it struck the World Trade Center, the Khobar Towers in Saudi Arabia, and the U.S. Embassies in Kenya and Tanzania. Then, in October 2000, it attacked the USS *Cole* off the coast of Yemen.

So by the time the 19 hijackers boarded the four planes that crashed on September 11, 2001, al-Qaida had already identified numerous grievances with America, including its contempt for Western culture, equal rights for women and men, and our support for free speech and the exchange of ideas.

I have sent a letter to the National Security Advisor asking for evidence that keeping Guantanamo Bay open has created more terrorists than the facility has housed. That was a statement that President Obama made, that the existence of the Guantanamo prison has created more terrorists than the facility has housed. It is an incredible assertion, but it is at the foundation of his claim that we need to close Guantanamo because somehow it represents a valid symbol of American torture or oppression that hurts our efforts abroad. Anything we do is going to cause recruitment of terrorists who hate us. Whether we close Guantanamo or not, the terrorists will still have plenty of reasons to recruit fellow jihadists. I wish to ask again, today, that the administration provide us with the information that backs up the President's claim on this issue.

Ultimately, the debate over Guantanamo has become a debate over geography. Both the new Attorney General and the new Solicitor General have endorsed the government's right to detain suspected terrorists indefinitely. That is correct. Whether we detain them at Guantanamo or at prisons on U.S. soil does not change the fundamental reality that this administration, like its predecessor, will be holding certain individuals without trial.

We have been told that Guantanamo must be closed for symbolic reasons. But America should never make national security decisions based on symbolism or false moral arguments.

I hope as we continue to debate this issue of the prison at Guantanamo, and as the President has been asked to provide a plan for how that base would be closed, and how much it would cost, and as he continues to ask Congress to provide the funding to carry out that plan, we keep in mind these critical points.

The first is you cannot legitimately make the argument that anything has occurred at Guantanamo for which the United States should be embarrassed, should apologize, or should, at the end of the day, close the facility because of some embarrassment that the United States has about our activities there.

Our soldiers who are involved in protecting our interests by guarding those terrorists, the medical personnel, and all of the others who are involved, have done a job which, frankly, we should be thankful for. And rather than slapping them in the face and insinuating they have done something wrong—which makes us have to close that prison down—is a terrible indictment on the military men and women who have worked hard to do their very best at that facility and, as I pointed out, have in all respects conducted themselves in accordance with Army procedures.

At the end of the day, you cannot lie prostrate at the feet of your enemies—in this case, the terrorists—and say: We are sorry that we do some things to offend you, we will stop doing those, and then maybe you will no longer be offended. To suggest that will cause them to no longer recruit colleagues and plan attacks against us is fantasy. Therefore, I challenge the administration again: Supply the facts on which the President made the allegation that the existence of Guantanamo created more terrorists than have ever been housed there. It is a palpably false statement, and he should not be able to argue to the American people and to the Congress, from which he is requesting money, that we have to give money to shut down Guantanamo because of that false fact. I urge my colleagues, as we continue to debate this issue, to challenge the administration to provide that information to us.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

''CAR CZAR'' AWARD

Mr. ALEXANDER. Mr. President, I am here to present the ''Car Czar'' award for Monday, June 8, 2009. It is a service to taxpayers from America's newest automotive headquarters: Washington, DC.

This is the first in a series of ''Car Czar'' awards to be conferred upon Washington meddlers who distinguish themselves by making it harder for the auto companies your government owns to compete in the world marketplace.

Today's ''Car Czar'' award goes to Congressman BARNEY FRANK of Massachusetts for interfering in the operation of General Motors. Congressman FRANK is chairman of the Financial Services Committee of the House of Representatives. One might call it the ''House Bailout Committee.'' Congressman FRANK's phone call to General Motors always is likely to be returned since the U.S. Treasury recently purchased 60 percent of GM and 8 percent of Chrysler with $62 billion of your tax dollars.

According to the June 5 Wall Street Journal:

> The latest self-appointed car czar is Massachusetts's own Barney Frank, who intervened this week to save a GM distribution center in Norton, Mass. The warehouse, which employs some 90 people, was slated for closing by the end of the year under GM's restructuring plan. But Mr. FRANK put in a call to GM CEO Fritz Henderson and secured a new lease on life for the facility.

The Congressman's spokesman said that Mr. FRANK was ''just doing what any other Congressman would do'' in looking out for the interests of his constituency—precisely the reason for these ''Car Czar'' awards. As the journal put it:

> . . . that's the problem with industrial policy and government control of American business. In Washington, every Member of Congress now thinks he's a czar who can call ol' Fritz and tell him how to make cars.

I will continue to confer ''Car Czar'' awards until Congress and the President enact my Auto Stock for Every Taxpayer legislation which would distribute the government's stock in General Motors and Chrysler to the 120 million Americans who paid taxes on April 15. That is the fastest way to get ownership of the auto companies out of the hands of meddling Washington politicians and back into the hands of Americans and the marketplace.

It also may be the fastest way for Congressmen to get themselves reelected. According to the National Tennessean, an AutoPacific survey reports that 81 percent of Americans polled ''agreed that the faster the government gets out of the automotive business, the better.'' And 95 percent disagreed ''that the government is a good overseer of corporations such as General Motors and Chrysler.'' And 93 percent disagreed ''that having the government in charge of (the two automakers) will result in cars and trucks that Americans will want to buy.''

There should be plenty of material for these ''Car Czar'' awards. For example, last week auto executives spent 4 hours testifying before congressional committees about dealerships. I assume the executives drove to Washington, DC, from Detroit in their congressional approved modes of transportation—probably hybrid cars—leaving them very little time on that day to design, build or sell cars and trucks.

I have counted at least 60 congressional committees and subcommittees with the authority to hold hearings on auto companies, and no doubt most will. Car executives trying to manage complex companies will be reduced to the status of some Assistant Secretary hauling briefing books between subcommittees answering questions—under oath, of course—about models, sizes, paint colors, plant closings, fuel efficiency, and why the GM Volt's battery is being made in South Korea.

And should Congressmen run out of reasons to meddle, the President and his aides stand ready. Already, the administration has warned General Motors it is making too many SUVs and that its Chevy Volt is too expensive. The President himself has weighed in on whether General Motors should move to Warren, MI, and has fired one president of General Motors.

Now, here is an invitation for those who may be listening: If you know of a Washington ''Car Czar'' who deserves to be honored, please e-mail me at CarAward@alexander.senate.gov, and I will give you full credit in my regular ''Car Czar'' reports here on the floor of the United States Senate.

And after you write to me, I hope you will write or call your Congressmen and Senators and remind them to enact the Auto Stock For Every Taxpayer Act just as soon as General Motors emerges from bankruptcy. All you need to say when you write or call are these eight magic words, ''I paid for it. I should own it.''

Mr. President, I ask unanimous consent that the Wall Street Journal editorial from June 5, entitled ''Barney Frank, Car Czar'' be printed in the CONGRESSIONAL RECORD at this time.

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

[From the Wall Street Journal, June 5, 2009]

BARNEY FRANK, CAR CZAR

President Obama may have ''no interest'' in running General Motors, as he averred Monday. But even if that's true, we are already discovering that he shares Washington with 535 Members of Congress, many of whom have other ideas.

The latest self-appointed car czar is Massachusetts's own Barney Frank, who intervened this week to save a GM distribution center in Norton, Mass. The warehouse, which employs some 90 people, was slated for closure by the end of the year under GM's restructuring plan. But Mr. Frank put in a call to GM CEO Fritz Henderson and secured a new lease on life for the facility.

Mr. Frank's spokesman, Harry Gural, says the Congressman discussed, among other things, ''the facility's value to GM.'' We'd have thought that would be something that GM might have considered when it decided to close the Norton center, but then a call from one of the most powerful Members of Congress can certainly cause a ward of the state to reconsider what qualifies as ''value.'' A CEO who refuses the offer can soon find himself testifying under oath before Congress, or answering questions from the Government Accountability Office about his expense account. To that point, Mr. Henderson spent Wednesday with Chrysler President Jim Press being castigated by the Senate Commerce Committee for their plans to close 3,400 car dealerships. Every Senator wants dealerships closed in someone else's state.

As Mr. Gural put it, Mr. Frank was ''just doing what any other Congressman would do'' in looking out for the interests of his constituents. And that's the problem with industrial policy and government control of American business. In Washington, every Member of Congress now thinks he's a czar who can call ol' Fritz and tell him how to make cars.

Mr. ALEXANDER. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont is recognized.

HEALTH CARE REFORM

Mr. SANDERS. Mr. President, let me be very clear. Our health care system is disintegrating. Today, 46 million Americans have no health insurance and even more are underinsured with high deductibles and copayments. At a time when 60 million people, including many with insurance, do not have access to a doctor of their own, over 18,000 Americans die every year from preventable illnesses because they do not get the medical care they should. This is six times the number of people who died at the tragedy of 9/11, but this occurs every single year, year after year. In the midst of this horrendous lack of coverage, the United States spends far more per capita on health care than any other Nation, and health care costs continue to soar. At $2.4 trillion and 18 percent of our GDP, the skyrocketing cost of health care in this country is unsustainable, both from a personal and macroeconomic perspective.

At the individual level, the average American spends about $7,900 per year on health care—$7,900 per individual every year. Despite that huge outlay, a recent study found that medical problems contributed to 62 percent of all bankruptcies in 2007. From a business perspective, General Motors spends more on health care per automobile than on steel—more on health care than on steel—while small business owners are forced to divert hard-earned profits into health coverage for their employees rather than new business investments. Because of rising health care costs, many businesses are cutting back drastically on their level of health care coverage or they are doing away with it entirely.

Further, despite the fact that we spend almost twice as much per person on health care as any other Nation, our health care outcomes lag behind many other countries. We get poor value for what we spend. According to the World Health Organization, the United States ranks 37th—37th—in terms of health system performance, and we are far behind many other countries in terms of such important indices as infant mortality, life expectancy, and preventable deaths. In other words, we are spending huge amounts of money, but what we are getting for that investment does not compare well to many other countries that spend a lot less than we do.

As the health care debate heats up in Washington, we as a nation have to answer two fundamental questions.

First, should all Americans be entitled to health care as a right and not a privilege? That is the way every other major country treats health care and the way we respond to such other basic needs as education, police, and fire protection. One hundred or more years ago, this country decided that every young person, regardless of income, is going to get a primary and secondary education because that is the right thing to do and good for the country. But unlike every other major industrialized Nation, we have not come to that same conclusion that health care is a right.

Second, if we are to provide quality health care to all, the next question is, how do we accomplish that in the most cost-effective way possible? We can provide health care to all people in a lot of ways, but some of those ways will essentially bankrupt this country. What is the most cost-effective way to provide quality health care to every man, woman, and child in this country?

In terms of the first question I asked: Should all Americans be entitled to health care as a right, I think the answer to that question is pretty clear and is, in fact, one of the reasons Barack Obama was elected President of the United States. Most Americans do

believe all of us should have health care coverage and that nobody should be left out of the system. The real debate is how we accomplish that goal in an affordable and sustainable way. In that regard, I think the evidence is overwhelming that we must end the private insurance company domination of health care in our country and move toward a publicly funded, single-payer, Medicare-for-all approach.

Our current private health insurance system is the most costly, wasteful, complicated, and bureaucratic in the world. Its function is not to provide quality health care for all of our people but to make huge profits for the people who own the companies. That is what private health insurance is about. With thousands of different health benefit programs designed to maximize profits, private health insurance companies spend an incredible 30 percent of each health care dollar on administration and billing. Thirty cents of every dollar is not going to doctors, nurses, medicine, medical personnel; it is going to bureaucracy and administration. Included in that spending are not only general administration and billing but exorbitant CEO compensation packages, advertising, lobbying, and campaign contributions. Public programs such as Medicare, Medicaid, and the VA are administered for far less money.

In recent years, while we have experienced an acute shortage of primary health care doctors as well as nurses, as well as dentists, and many other health care personnel, we are paying for a huge increase in health care bureaucrats and bill collectors. Over the last three decades, the number of administrative personnel has grown by 25 times the number of physicians. Instead of investing in primary health care, instead of investing in doctors, instead of addressing the nursing shortage, where our health care dollars are going is to health insurance bureaucrats who spend half their lives on the telephone telling us we are not covered for the procedures we thought we had paid for. That is a dumb way to spend health care dollars.

Further, and not surprisingly, while health care costs are soaring, so are the profits of private health insurance companies. From 2003 to 2007, the combined profits of the Nation's major health insurance companies increased by 170 percent. Health care costs are soaring; people can't afford health insurance. Yet the profits of the private health insurance companies have gone up by 170 percent from 2003 to 2007. While more and more Americans are losing their jobs and their health insurance, the top executives in the industry are receiving lavish compensation packages. It is not just William McGuire, the former head of United Health, who several years ago accumulated stock options worth an estimated $1.6 billion, or CIGNA CEO Edward Hanway, who made more than $120 million in the last 5 years. It is not just them. It is the reality that CEO compensation for the top seven health insurance companies now averages $14.2 million. Forty-six million Americans have no health insurance, more are underinsured, and we apparently have the money to pay exorbitant compensation packages to the heads of private health insurance companies.

Moving toward a national health insurance program, which provides cost-effective, universal, comprehensive, and quality health care for all, will not be easy. That is an understatement. It will not be easy. The powerful special interests, the insurance companies, the drug companies, and the medical equipment suppliers, among others, will wage an all-out fight to make sure we maintain the current system which enables them to make billions and billions of dollars every year in profits.

In recent years, these special interests have spent hundreds of millions of dollars on lobbying, on campaign contributions, and advertising, and with unlimited resources. They can make out a check as big as they need. They will continue to spend as much as they need in order to preserve this dysfunctional health care system from which they profit so much.

But at the end of the day, as difficult as it may be, the fight for a national health care program will prevail. Like the civil rights movement, the struggle for women's rights, and other grassroots efforts, justice in this country is often delayed, but it will not be denied. We shall overcome.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

Mrs. FEINSTEIN. Madam President, I ask to speak in morning business.

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

FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mrs. FEINSTEIN. Madam President, I have come to the floor to offer a few comments on the Family Smoking Prevention and Tobacco Control Act, the bill on which we will shortly be voting cloture, I hope.

I wish to begin by paying tribute and thanking Senator KENNEDY. I have had occasions to discuss this subject with him more than once. No one has been more dedicated, worked harder or longer to see this day on the floor than Senator TED KENNEDY. I thank him for it. I hope once this bill gains cloture we will pass it swiftly, and it will become the law of the land, and it will, in fact, save lives.

I would like to make three main points. The first is that tobacco is the leading preventable cause of death in this country; the second is the huge financial cost to tobacco; and finally, the relationship between tobacco and cancer.

We know tobacco harms the health of Americans—those who use cigarettes and those who are exposed to secondhand smoke. But I think what most people do not know is that every year, 400,000 Americans die from tobacco use. That makes tobacco the leading preventable cause of death in the United States, killing more people each year than HIV/AIDS, illegal drug use, alcohol use, motor vehicle accidents, suicides, and murders combined. That is why it is the leading preventable cause of death.

In California, every year 36,600 adults die from their smoking; in Michigan, the number is 14,500; in New York, 25,400; in Wyoming, a very small State, 700 people die every year. Every State in this country loses people prematurely to death from smoking.

We know the high cost, the human cost of tobacco use, but I think people also do not realize my second point, and that is the tremendous financial cost. Smoking costs our health care system $96 billion every year. States pay $13.3 billion every year in Medicaid expenses and the Federal Government spends $17.6 billion. Medicare pays $27.6 billion and the VA and other Federal programs spend an additional $9.6 billion. The rest of this cost, about $28 billion, is borne by private payers. So the financial cost is $96 billion a year.

The Senate is about to embark on the enormous task of expanding health care coverage and access for the 47 million Americans without insurance. Imagine that instead of spending $96 billion every year to treat tobacco-related illnesses, we could use this money to improve our health care system. It could fund a significant portion of health reform. One, we could nearly triple the budget of the National Institutes of Health, a very good thing. Two, only 2 months of tobacco-related health spending could provide a year of health insurance for every uninsured child in America. Three—let me put it another way—we could provide health insurance to every uninsured child in America and still have $80 billion left over. That is the inordinate, inexplicable cost of tobacco products in this country. Instead, we continue to spend $96 billion every year on preventable illness caused by tobacco.

Passing this bill will not immediately end smoking or the illness it causes, but helping Americans to live healthier lives is a critical component of any long-term reform of our health care system. I believe we should view this bill as a sound, critical, and important first step on the road to broader reform.

Tobacco and cancer. My life has been surrounded by cancer, so I am very sensitive on this point. Without a doubt, cancer is one of the most expensive tobacco-related illnesses. Cigarette

smoking alone accounts for approximately 30 percent of cancer deaths annually. It is the leading cause of lung cancer, and lung cancer is the No. 1 cancer killer in this country.

Since coming to the Senate, I have tried to be committed to finding cures and treatments that will end death and suffering from cancer. My goal is in my lifetime. As I tell people, I am not that young anymore, so I want to see it come fast and soon. I have had the opportunity to talk with countless experts in oncology, biomedical research, and medicine about how to meet this goal. They all say one thing: Go after tobacco. We will not end cancer until we end tobacco use. This bill takes a major step in that direction.

In 2007, the President's cancer panel called on Congress to authorize the FDA to strictly regulate tobacco products and product marketing. This same report called the tobacco industry ''a vector of disease and death that can no more be ignored in seeking solutions to the tobacco problem than mosquitos can be ignored in seeking to eradicate malaria.'' I think that is a very good quote. I think it is really true.

Most people associate tobacco use with lung cancer, as I just have. But according to the National Cancer Institute, 90 percent of lung cancer deaths among men can be attributed to smoking—90 percent—and 80 percent of these same deaths attributed to women are from smoking as well. But there are a variety of other cancers caused by tobacco products: cancer of the mouth, of the nasal cavities, of the larynx, of the throat, of the esophagus—esophageal cancer is increasing, for some strange reason, and I suspect this has to do with it—stomach, liver, pancreas, kidney, bladder, cervix, and even acute myeloid leukemia. There is so much we do not know about cancer—how it is caused, how it progresses, how to treat it effectively. But we know beyond a shadow of a doubt that many types are caused at least in part by tobacco use. So I firmly believe the passage of this bill will lead to a reduction in cancer, and most importantly to cancer deaths, and it will give the FDA the ability to make the cigarettes currently available less toxic and less carcinogenic and less addicting.

Let me give an example. A study by researchers—namely, David Burns and Christy Anderson, both of the University of California, San Diego School of Medicine—suggests that cigarette smoke today may double the risk of lung cancer compared to cigarettes smoked by Americans 40 years ago. Now, that is amazing.

Remember all the unfiltered cigarettes of yesteryear? You would think those cigarettes would be stronger; right? No, they are saying. They attribute this to a change in the chemicals which have been added in recent years to cigarettes. The researchers compared cigarettes in the United States with cigarettes in Australia, and here is what they found: Cigarettes smoked in Australia have a much lower level of a compound known as tobacco-specific nitrosamines. This chemical is a carcinogen. It causes a type of lung cancer called adenocarcinoma. Rates of this lung cancer are much lower in Australia, leading researchers to conclude that the contents of cigarettes are exposing American smokers to a higher risk.

This suggests that lung cancer rates could be reduced by regulatory control of additives to tobacco products. That is what this bill will do. It will give the Food and Drug Administration the ability to make the cigarettes smoked in this country less dangerous, less addictive. They can ratchet down chemical components and addictive qualities that are added to tobacco to increase the addiction.

Under this bill, the FDA can reduce carcinogens such as tobacco-specific nitrosamines. Some Americans may still smoke, but the products they will smoke will be less likely to give them lung cancer. I think that is a good thing, and I hope you would agree with me.

It is time to close the decades-long loophole that has allowed tobacco to become the one product that is sold and advertised without any government oversight—without any government oversight. Think about that. Food is regulated, consumer products are regulated, medicine and medical devices are regulated, products designed to save lives are regulated. Yet tobacco companies sell products that, when used as directed, No. 1, addict people; No. 2, make them sick; and, No. 3, in some cases, kill them. So if there is one industry that deserves the strictest scrutiny of the Federal Government, it is in fact tobacco.

So I urge my colleagues to join me in supporting this legislation. I know it is difficult, but I am one who has participated in something that the American Cancer Society started called C-Change. This is where the cancer society has brought together some 65 groups—advocates, individuals, providers, government officials—to deal with cancer and what causes cancer. Madam President, the one constant through all the discussions, the one thing the physicians and the scientific community were the strongest on is that tobacco causes cancer, and that is just an inescapable fact. This bill deals with it. It provides regulation, it allows for the ratcheting down of addictive components, it allows for the control of chemicals that go into tobacco products, and it will, in fact, save lives.

I thank the Chair, and I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEMINT. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

NORTH KOREA

Mr. DEMINT. Madam President, all of us know the United States is facing many challenges at home and abroad today. We are in the middle of an economic crisis. Many Americans are losing their jobs. We are also being tested by our enemies and potential enemies all around the world. We have certainly seen Iran continue its nuclear weapons program. It snubbed its nose at the international community as the international community asked it to halt.

Recently, perhaps the most alarming threat to our security has come from North Korea. We have seen them fire test missiles over the last year, actually test a very powerful nuclear weapon, and now they are telling us they are going to test a rocket that is capable of reaching our shores. In the middle of this, they kidnapped two Americans and sentenced them to, I think, 12 years in a labor camp.

Throughout all this, America has talked tough, but I am afraid North Korea believes we are all talk.

The problem with our position with North Korea at this point is there are other rogue nations looking at what is happening and seeing that they can basically ignore the United States and the international community and continue to be a growing threat to all of us.

It is very important that the United States not reward this behavior as we have done for North Korea. The Democratic People's Republic of Korea was added to the State Department's ''State Sponsors of Terrorism'' list in 1988 for activities ranging from the protection of Japanese terrorists to its role in the bombing of a Korean airliner. Since that time, North Korea has remained, as a matter of documented fact, a sponsor of terrorism.

Last June, President Bush announced his intention to remove North Korea from the list. At no time before or since has anyone said that North Korea ceased to be a state sponsor of terror. The delisting of North Korea was a carrot waved in front of Kim Jong Il as part of a well-meaning but extremely dangerous attempt to deal diplomatically with the urgent problem of North Korea's illegal nuclear programs. Secretary of State Clinton acknowledges that North Korea was delisted only in exchange for North Korea's commitment to abandon its nuclear weapons program and submit to outside verification.

Since then, I think as most of us know, North Korea has gone further in its campaign of militant destabilization of the world than ever before. It has detonated a large nuclear bomb. It has launched missiles capable of hitting our allies. It has withdrawn from the six-party talks. It has reprocessed spent fuel rods. It has withdrawn from the United Nation's treaty that ended

the Korean war over 50 years ago. It has announced its intention to launch a ballistic missile capable of hitting the Western United States.

In response to these threats, I and seven of my colleagues wrote Secretary Clinton asking that she relist North Korea as a state sponsor of terrorism. In addition, Senator BROWNBACK and I authored amendments that have been endorsed by 15 Senators directing Secretary Clinton to redesignate North Korea. The response thus far has fallen short. Secretary Clinton says relisting is being considered but as part of an ongoing diplomatic process. President Obama has offered strong words, but we have yet to see action.

North Korea has proven that it is immune to talk, whether that talk be sweet or tough. The President gave a speech last week saying that good relationships require speaking ''clearly and . . . plainly'' about international controversies. Relisting North Korea will speak clearly and plainly about the true nature of North Korea's regime. It will send a strong signal to our allies in the Pacific.

It is now clear that President Bush's diplomatic gamble, which many opposed last year, has failed. North Korea has exploited its newfound flexibility and respectability and used it to threaten Asia and the United States. They have tapped unfrozen assets to fund their mischief, and they remain a supplier to both Hezbollah in Lebanon and the Iranian Revolutionary Guard.

Secretary Clinton's statement over the weekend that she wants ''to see recent evidence of [North Korea's] support for international terrorism'' misses the point. North Korea was not delisted because it ceased assisting in sponsoring terror. If a convicted arsonist is released on parole, he does not have to burn down a house to go back to prison. Any crime will do. That is where we are with North Korea today. They are not operating in the spirit or letter of their agreements, and without a shred of good faith. They have not reformed and cannot be trusted. They are a state sponsor of terror and should be recognized for it.

Once relisted, North Korea will suffer consequences for its aggressive provocations. There will be trade restrictions, there will be sanctions and the refreezing of assets to limit North Korea's ability to fund its weapons program. Relisting North Korea as a state sponsor of terrorism will let them and the world know that the United States is serious—something this administration has yet to do.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ENZI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ENZI. Madam President, I ask unanimous consent that the time in the quorum call be equally divided between the two sides.

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

Mr. ENZI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. DODD. Madam President, I further ask—and this has been cleared on both sides—unanimous consent that the vote occur at 5:35 instead of at 5:30.

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

Mr. DODD. I thank the Presiding Officer.

Madam President, I wish to take a few minutes to first thank my colleague from Wyoming, Senator ENZI. We have had a very productive couple of weeks. We had a good markup in our committee. We were able to accommodate some of the concerns that Senator ENZI has had. He has been involved with this issue for a long time. I am filling in for my colleague from Massachusetts who obviously would be standing where I am at this moment and managing this proposal. As we all know, Senator KENNEDY is dealing with a health issue himself and would love to have been here to manage this bill, but I am confident we can get this matter done.

Let me say to my colleagues, I know we ended up in sort of a little bit of a knot here as we finished business last week. Having spoken with the majority leader—and I always hesitate to speak for him, but he told me that we want to inform our colleagues that there are a number of amendments that are either germane or close to being germane that the majority leader wishes to accommodate, including I believe the substitute offered by our colleague from North Carolina—both of our colleagues from North Carolina, the Presiding Officer as well as Senator BURR—and our hope is to be able to do that as well. I am told they might not be quite germane, but the majority leader wishes to do that. They have offered an amendment in committee. A case has been made for it and they ought to have the ability to make the case here as well. So our hope would be to get cloture and then deal with the germane and close-to-germane amendments as well so we can have a full debate on this issue, the substance of this debate and issue, which has been about 10 years, I think 10 years—my colleague may correct me—8 or 10 years that this matter has been kicking around.

This is a matter of substantial import. I know I have said this repeatedly over the last several weeks, but maybe the significance of it can't be repeated often enough. That is the number of children every day who start smoking, somewhere between 3,000 and 4,000 a day, and 400,000 people who perish every year as a result of smoking-related illnesses. Thousands more live very debilitated lives as a result of their use of tobacco, cigarettes, or other tobacco products.

This is a matter for which it is absolutely essential to have Food and Drug Administration regulation. We know the Food and Drug Administration has the ability to regulate virtually every product we consume, including the irony of every product our pets consume, and yet does not have the power or the right to regulate tobacco products. This is the 21st century. With 400,000 people a year losing their lives, millions more in jeopardy of grave illness or death as a result of this self-inflicted health hazard, this must be addressed. It will give them the ability to deal with sales and marketing, as well as the production of cigarettes, particularly to children. Ninety percent of the adults in this country who smoke started as child smokers. Of the 3,000 to 4,000, as I mentioned a moment ago, 1,000 become addicted and about one-third of that number end up dying as a result of that addiction. Those are numbers that are unacceptable. They ought to be, particularly on the eve of a health care debate, in talking about how to prevent illness, how to make sure we don't end up with more people in hospitals and doctors' offices in dealing with these issues. What stronger step could this body take with a strong bipartisan vote?

The reason this legislation has been around 10 years is because every time this body has acted, the other body has not or when they have acted, we have not. So we have had these ships passing in the night for 10 years. The House has now acted and we have an opportunity to join them in that action for the first time since the court ruled that tobacco products did not have to be regulated by a court order, and clearly, congressional action was necessary. Well, here is the action. We urge our colleagues to support cloture. To accommodate our colleagues on matters they still wish to raise in debate as part of this bill, I will support them in doing that. I may disagree with the substance they are offering, but they ought to have the right to do that and I will do everything I can to see that those opportunities are available.

At any rate, I thank my colleague from Wyoming, who cares deeply about this issue as well. We end up disagreeing on this matter, but no one brings more passion than the Senator from Wyoming, Senator ENZI. So I thank him and his staff for the terrific work they have done on this matter.

I yield the floor to my colleague from Wyoming, and then we will see if others wish to be heard.

Mr. ENZI. Madam President, I thank the Chair, and I thank the chairman, but from the speeches, one can tell that the Senator from Connecticut has more passion than I do. Nobody is more passionate than the Senator from Connecticut, and I appreciate his passion, particularly on this issue.

I am very hopeful we can get something done. It has been at least 10 years—I know I have worked on this all the time I have been here, and it is true in the Senator's explanation that sometimes it makes it through the House and sometimes it makes it through the Senate but it never makes it through both Houses at the same time. I think to get it done, though, it is going to take a little bit longer. I appreciate the offer the leader is making that he wishes to have votes on the relevant and arguably germane amendments that are before us, but there isn't any assurance of that if there is cloture on the bill, and that is the difficulty.

It seems to me as though we ought to be able to work out some kind of an agreement so we can quickly get into the couple of amendments that have already been debated and debated extensively, and that we would be assured of at least those two, but we haven't had a vote on anything.

I appreciate the cooperation we have had from Chairman DODD in working out a couple of the provisions, but there are some other people who have some provisions they think ought to be debated and brought up and perhaps included, but if we invoke cloture, there is no assurance they get to do that. So I have been asked to suggest that we not invoke cloture at this point in time and then do it quickly another time if it can be brought up again.

One of the amendments is Senator BURR's alternative. Even though he represents a tobacco State, he has a substitute amendment that takes major steps to restrict tobacco. It takes a tougher stance than some of the things we have in the bill. It creates a new office within HHS to regulate tobacco. I spoke about the difficulties of having the FDA do it, as they are supposed to take poisonous materials and get them off the market. Instead of giving that kind of a seal of approval, this new office would regulate the tobacco industry. It puts in place a realistic, science-based standard for the approval of new and reduced risk products. It also requires States to do more on tobacco control—something we can all support. The Burr amendment makes it more difficult for kids to get tobacco and start smoking, and that is the most important thing of all, and that is what Senator DODD has concentrated on in his remarks.

But we won't be considering that amendment, nor will we consider my amendment to ensure that the FDA continues to have the resources to carry out this program, or any amendments on smoking cessation. We won't have an opportunity to improve the bill and attack the root of the problem, which is tobacco use.

For example, I had an amendment to reduce smoking by 1 percent a year. That is a 100-year phaseout that ought to be fairly reasonable, but we aren't going to get to debate that at all or have a vote on that amendment if we invoke cloture. So I hope we can find a way to give germane amendments serious consideration over a short period of time.

I have to oppose cloture at this point in time, and I urge my colleagues to do the same.

I yield the floor, reserve the remainder of the time, and suggest the absence of a quorum, with the time to be divided equally.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. REID. Madam President, there has been some misunderstanding. I announced this on Thursday, and Senator DODD followed me and also said the same thing. Right now, there is a question with the minority on whether there would be a vote on Burr on the substitute. We said Thursday, and we say today, we are happy to allow Senator BURR to have a vote on that amendment. We have never said anything to the contrary. We still believe that should be the way it is. It is important to him, it is important to Senator HAGAN, and we are going to allow a vote on that unless there is some objection from the minority. Over here, even though cloture is invoked and technically it may not be in order, we would be happy to arrange a vote on that. We have said it for the last many hours we have been on this legislation. My point is, anybody who is not going to vote for cloture because of that is misguided and doesn't understand the facts.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1256, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1256) to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, and to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

Pending:

Dodd amendment No. 1247, in the nature of a substitute.

Burr/Hagan amendment No. 1246 (to amendment No. 1247), in the nature of a substitute.

Schumer (for Lieberman) amendment No. 1256 (to amendment No. 1247), to modify provisions relating to Federal employees' retirement.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Dodd substitute amendment No. 1247 to Calendar No. 47, H.R. 1256, Family Smoking Prevention and Tobacco Control Act.

Harry Reid, Christopher J. Dodd, Robert P. Casey, Jr., Benjamin L. Cardin, Blanche L. Lincoln, Patty Murray, Ron Wyden, Jack Reed, Sheldon Whitehouse, Maria Cantwell, Roland W. Burris, Tom Harkin, Sherrod Brown, Debbie Stabenow, Richard Durbin, Mark Udall, Edward E. Kaufman.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on amendment No. 1247 offered by the Senator from Connecticut, Mr. DODD, to H.R. 1256, the Family Smoking Prevention and Tobacco Control Act, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from New York (Mrs. GILLIBRAND), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Michigan (Ms. STABENOW) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from New Hampshire (Mr. GREGG), the Senator from Texas (Mrs. HUTCHISON), the Senator from Idaho (Mr. CRAPO), and the Senator from Kansas (Mr. ROBERTS).

The PRESIDING OFFICER (Mrs. SHAHEEN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 61, nays 30, as follows:

[Rollcall Vote No. 204 Leg.]

YEAS—61

Akaka	Cardin	Feingold
Baucus	Carper	Feinstein
Bayh	Casey	Grassley
Begich	Cochran	Harkin
Bennet	Collins	Inouye
Bingaman	Conrad	Johnson
Boxer	Cornyn	Kaufman
Brown	Dodd	Kerry
Burris	Dorgan	Klobuchar
Cantwell	Durbin	Kohl

Landrieu	Murkowski	Snowe
Lautenberg	Murray	Specter
Leahy	Nelson (NE)	Tester
Levin	Nelson (FL)	Udall (CO)
Lieberman	Pryor	Udall (NM)
Lincoln	Reed	Warner
Lugar	Reid	Webb
McCaskill	Rockefeller	Whitehouse
Menendez	Sanders	Wyden
Merkley	Schumer	
Mikulski	Shaheen	

NAYS—30

Alexander	DeMint	Martinez
Barrasso	Ensign	McCain
Bennett	Enzi	McConnell
Bond	Graham	Risch
Brownback	Hagan	Sessions
Bunning	Hatch	Shelby
Burr	Inhofe	Thune
Chambliss	Isakson	Vitter
Coburn	Johanns	Voinovich
Corker	Kyl	Wicker

NOT VOTING—8

Byrd	Gregg	Roberts
Crapo	Hutchison	Stabenow
Gillibrand	Kennedy	

The PRESIDING OFFICER. On this vote, the yeas are 61, the nays are 30. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. DODD. Madam President, I move to reconsider the vote by which the motion was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. COLLINS. Madam President, I rise as a cosponsor of a bipartisan amendment that will provide targeted reforms to the Federal Employee Retirement System in order to be more effective and equitable for our past, current, and future Federal employees. I am joining Senators LIEBERMAN, AKAKA, and VOINOVICH in this effort.

First, I would like to highlight a provision that I was pleased to introduce earlier this year as a bipartisan standalone measure with Senators VOINOVICH, KOHL, and MCCASKILL.

This portion of the amendment would establish a 5-year pilot project allowing agencies to hire back Federal retirees for a limited period of time without having to offset their salaries by the amount of their annuities. This will strengthen the Federal Government's ability to serve the public, particularly at a time when agencies face a wave of retirement of highly experienced employees and there exists a critical need for these skilled employees.

Across the government, our agencies face a host of challenging missions that require focused leadership and vigilant oversight. In Afghanistan, our government faces an increasing demand for development experts. As the government implements the Recovery Act, experienced auditors are in high demand to ensure funds are spent wisely.

On average, however, retirements from the Federal workforce have exceeded 50,000 a year for a decade. The numbers will certainly rise in the near future. The Office of Personnel Management calculates that 60 percent of the current Federal workforce, whose civilian component approaches 3 million people, will be eligible to retire during the coming 10 years.

This baby boom retirement wave will have another impact. It will cause a sudden acceleration in the loss of accumulated skills and mentoring capabilities that experienced workers possess.

The amendment we offer today would provide a limited, but vital, measure of relief to agencies who could benefit from the skills, knowledge, and productivity of federal retirees. It provides an opportunity for Federal agencies to reemploy retirees without requiring them to take pay cuts based on the amount of their annuity payment.

With some exceptions, retirees can currently return to work without having their salaries reduced only if OPM grants a waiver for the reemployment. This creates a disincentive for experienced Federal retirees to return to Federal service—preventing their knowledge and experience from filling critical agency needs.

The cumbersome waiver process also dissuades agencies from considering annuitants when evaluating their overall workforce strategy.

Congress has already provided exceptions to this rule. Both GAO and the Department of Defense have utilized this authority to rehire skilled annuitants to meet important mission requirements.

Other agencies, especially those charged with overseeing the stimulus and TARP funds, need the same ability to hire back experienced workers. Acting Comptroller General Gene Dodaro has indicated that the ability to reemploy annuitants without salary offset is a critical authority that GAO uses whenever a surge in staffing is necessary.

This amendment would grant the opportunity for Federal agencies, on a limited basis, to reemploy retirees without requiring them to take pay cuts based on their annuity payment or to wait for OPM to grant a waiver.

While providing needed flexibility for agencies to meet mission critical responsibilities, the amendment would also strictly prescribe the periods of time for which retirees can be rehired, thereby preventing agencies from relying solely on retirees instead of hiring a new crop of employees to fill the ranks behind our seasoned employees as they retire.

According to the Congressional Budget Office, this provision will not cost the Federal Government any additional money. The returning annuitants' health and life insurance benefits would be unaffected by their part-time work, and the government would not need to make any additional contributions to the annuitant's retirement plan. Thus, even without making any allowance for the positive effects of these returning employees' organizational knowledge, commitment, productivity, and mentoring potential, their reemployment may actually produce a net savings for taxpayers.

This reform would also provide some much needed hiring flexibilities for agencies, given the expertise the Federal Government will need to effectively implement and oversee the American Recovery and Reinvestment Act of 2009. The Chair of the Council of Inspectors General on Integrity and Efficiency, in testimony before the Homeland Security and Governmental Affairs Committee, agreed with this point, and the council has sent a letter endorsing this authority.

The ability to rehire Federal retirees would also help strengthen the Federal acquisition workforce. The Federal Government has entered the 21st century with 22 percent fewer Federal civilian acquisition personnel than it had at the start of the 1990s. Moreover, as early as 2012, 50 percent of the entire Federal acquisition workforce will be eligible to retire. This amendment will help shore up this workforce at a critical time.

The bill I originally introduced with this provision has been endorsed by the Partnership for Public Service, National Active and Retired Federal Employees Association, Federally Employed Women, the Government Managers Coalition, and the National Council on Aging.

Beyond this provision, the amendment also corrects an inequity between the two Federal retirement systems—FERS and CSRS. Current law compensates CSRS employees at the time of their retirement for the unused portion of the sick leave that they accrued over the course of their Federal careers. Employees under FERS are not provided similar compensation. This creates an unfair disparity within the Federal workforce which this amendment would rectify.

This amendment includes many provisions that would help to strengthen the Federal workforce, attracting highly skilled and talented employees at a time when they are desperately needed. I urge my colleagues to support this amendment.

Mr. AKAKA. Madam President, I rise today to support the Family Smoking Prevention and Tobacco Control Act. Tobacco products kill approximately 400,000 people each year. The Food and Drug Administration must be provided with the authority to regulate deadly tobacco products, limit advertising, and further restrict children's access to tobacco.

I commend my friend from Massachusetts, Senator TED KENNEDY, for his long-term commitment to advancing this vital public health legislation, and I want to thank my friend from Connecticut, Senator CHRIS DODD, for managing this bill. I am proud to support their efforts.

Included in the bill are a number of Federal retirement provisions that go a long way to support retirement security and provide more options for Federal employees. The provisions in the managers' amendment would make four changes to enhance the Thrift Savings Plan, TSP.

First, automatic enrollment in the TSP would encourage Federal workers

to plan for their retirement. Federal employees would be automatically enrolled in the TSP with the option of opting out of the program. The Federal Retirement Thrift Investment Board—FRTIB—indicated that raising TSP participation by just 1 percent would mean approximately 21,000 participants will have an improved ability to live comfortably in retirement.

Second, Federal employees also will be eligible for immediate matching TSP contributions from their employing agency. A recent survey from the profit sharing—401k Council of America shows that 65 percent of large employers now provide immediate matching retirement contributions. The amendment would allow the Federal Government to catch up to the practices of other large employers.

Third, FRTIB will have the option to create a ''mutual fund window'' in which major mutual funds will be available to TSP participants. Employees will be able to select mutual funds that are appropriate for their investment needs.

The final TSP component is the addition of a Roth individual retirement account option for participants. The Department of Defense strongly supports the inclusion of a Roth option because it is advantageous for uniformed servicemembers who would benefit more from posttax contributions than from traditional pretax contributions.

I also am proud to support my other good friend from Connecticut, Senator JOSEPH LIEBERMAN in offering an amendment to address a number of other Federal employee retirement issues. As chairman of the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, I believe we have an opportunity to provide critical support to the tobacco bill and correct certain retirement inequities.

Most important to my home State of Hawaii, the amendment provides needed retirement equity to Federal employees in Hawaii, Alaska, and the territories. Nearly 20,000 Federal employees in Hawaii, and another 30,000 Federal employees in Alaska and the territories, currently receive a cost-of-living allowance, COLA, which is not taxed and does not count for retirement purposes. Because of this, workers in the nonforeign areas retire with significantly lower annuities than their counterparts in the 48 States and DC. COLA rates are scheduled to go down later this year along with the pay of nearly 50,000 Federal employees if we do not provide this fix.

In 2007, the Office of Personnel Management, OPM, offered a proposal to correct this retirement inequity. After soliciting input from the affected employees, I introduced the Non-Foreign Area Retirement Equity Assurance Act. The bill passed the Senate by unanimous consent in October 2008. Unfortunately, the House did not have time to consider the bill before adjournment.

I reintroduced S. 507, which is included in the amendment, with Senators LISA MURKOWSKI, DANIEL INOUYE, and MARK BEGICH. It is nearly identical to the bill that passed the Senate last year. It is a bipartisan effort to transition employees in Hawaii, Alaska, and the territories to the same locality pay system used in the rest of the United States, while protecting employees' take-home pay. In this current economic climate we must be careful not to reduce employees' pay.

The measure passed unanimously through the Homeland Security and Governmental Affairs Committee on April 1, 2009. OPM recently sent Congress a letter asking for prompt and favorable action on this measure. Retirement equity is one of the most important issues facing Federal workers in Hawaii, Alaska, and the territories. I urge my colleagues to support this change.

One of the other provisions in the amendment corrects how employees' annuities are calculated for part-time service under the Civil Service Retirement System, CSRS. This provision treats Federal employees under CSRS the same way they are treated under the newer Federal Employee Retirement System, FERS. Eliminating this unnecessary disparity is a matter of fairness and correction.

Similarly, this amendment includes a provision to treat unused sick leave the same under the new retirement system as under the old system. The Congressional Research Service , CRS, found that FERS employees within 2 years of retirement eligibility used 25 percent more sick leave than CSRS employees within 2 years of retirement. OPM also found that the disparity in sick leave usage costs the Federal Government approximately $68 million in productivity each year. This solution was proposed by the managers who wanted additional tools to build a more efficient and productive workplace and to provide employees with an incentive Congress should have retained years ago.

This amendment also will make good on the recruitment promise made to a small group of Secret Service agents. Approximately 180 Secret Service agents and officers hired during 1984 through 1986 were promised access to the DC Police and Firefighter Retirement and Disability System. This amendment is meant to provide narrow and specific relief only to this small group of agents and officers by allowing them to access the retirement system they were promised at the time they were hired.

The majority of these retirement reform provisions have the endorsement of all the major Federal employee groups including: the American Federation of Government Employees, the National Treasury Employees Union, the National Active and Retired Federal Employee Association, the Senior Executives Association, the Federal Managers Association, the Government Managers Coalition, the International Federation of Professional and Technical Engineers, and the list goes on.

I strongly encourage my colleagues to support this amendment, the Federal retirement reform provisions, and the bill.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, let me express my gratitude to my colleagues on both sides. This was a bipartisan effort to allow us to get to more votes. I promise my good friend Senator BURR if I have to vote against a point of order to make sure he gets his amendment up, I will do so.

Tomorrow afternoon, we will set a time for that, and there are other germane amendments, and the leadership will describe how that will work so the germane amendments can be offered and these matters can be considered fully so that we can get to final passage after that.

But I am very grateful to my colleagues on both sides who made this possible. It has been 10 years in waiting to get to this bill that allows us finally to deal with the marketing of tobacco products to children. That is more than 400,000 deaths a year, with 3,000 to 4,000 kids starting to smoke every day. This bill, for the first time, will allow us to step up and require FDA regulation of tobacco products. That is a great accomplishment for the people of our country, and I am very grateful to my colleagues.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withdraw his request for a quorum call?

Mr. DODD. I will withdraw the request.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I ask unanimous consent that the Senator from Illinois, Senator DURBIN, be recognized following my presentation.

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

Mr. DORGAN. Madam President, I wanted to compliment Senator DODD for his work on this bill, as well as Senator ENZI and others. I want the RECORD to reflect something we agreed to today. Some will wonder what has happened to the legislation that I indicated I would offer on the bill we just had a cloture vote on—the importation of prescription drugs. I intended to offer it on this bill. I have received from the majority leader a commitment that it will be put on the calendar under rule XIV and brought to the Senate for a vote, and he will do that very soon. On that basis, I voted for cloture.

I know my colleagues, Senator SNOWE, Senator MCCAIN, Senator STABENOW, and many others feel very strongly about this, as do I. We have been at this for 8 or 10 years. It has been a long time, and the support for allowing the importation of FDA-approved prescription drugs is very broad

in the Senate. Senators MCCAIN, GRASSLEY, KENNEDY, STABENOW, myself—in fact, President Obama was a cosponsor of our legislation last year. He has included in his budget a provision for this kind of legislation. We had over 30 Senators—Republicans and Democrats—who believed the same thing, and that is we ought to allow the American consumer to access FDA-approved prescription drugs from other countries—not because we want them to shop in other countries but because we believe the ability to do so will put downward pressure on prescription drug prices in our country.

Madam President, if I might, I ask unanimous consent to display these two pill bottles to show exactly what we are talking about.

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

Mr. DORGAN. This is Lipitor, produced in Ireland by the same company, shipped in two different directions. Even the bottle is identical, except one has a blue label and one has a red label. One of these went to Canada and one of them went to the United States. The American people get the pleasure of paying twice the price for Lipitor than the Canadians do. But it is not just Canada, it is virtually every other industrialized country that is able to pay a fraction of the price for prescription drugs our consumers are required to pay. Why? Because there is a law in our country that says the only entity that can import prescription drugs is the manufacturer of the drug itself.

The legislation we have put together on a bipartisan basis is very straightforward and it provides substantially greater protections with pedigree and batch lots, and so on, substantially greater protection than now exists. So don't anybody tell me there is a safety issue. This is about whether the American people should continue to be paying the highest prices in the world for prescription drugs.

At last—at long last—we ought to have a vote on this and get it through the Congress and signed by a President who was a cosponsor when he served in this body. So the majority leader has committed to giving us the opportunity to get this on the floor, and that commitment we will exchange by letter in the morning. I expect that to happen in the very near future, within a matter of a couple of weeks, and I believe that finally we will be able to dispose of this on the floor of the Senate. I believe that we have more than sufficient votes to pass this importation of prescription drugs legislation in order to put downward pressure on drug prices in this country.

What is happening in this country with drug pricing is unfair to the American people. It is as simple as that, and we aim to correct it.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is to be recognized.

Mr. DURBIN. Madam President, I will be happy to yield to the Senator from Arizona and then reclaim the floor after he has spoken.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Arizona.

Mr. MCCAIN. Madam President, I thank the Senator from Illinois. I will be brief.

I thank the Senator from North Dakota for his outstanding work, and I thank also the majority leader, who assured us that he would give consideration to this issue. He has. He has agreed to bring it to the floor. And when the majority leader gave that assurance, frankly, I was a little skeptical about our ability to do so. I am happy he is bringing it forth for a vote, and I appreciate it very much. And I again thank Senator DORGAN for his outstanding work. It has been a lot of years we have been working on this, but I think we can move forward.

I yield the floor, and I thank my colleague from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

GUANTANAMO

Mr. DURBIN. Madam President, over the course of the last several weeks, the minority leader—the Republican leader, Senator MCCONNELL—has come to the floor repeatedly to raise the issue of the closing of Guantanamo. Day after day after day he raised the question as to whether we should close the Guantanamo facility and, if we did close such facility, where these detainees would be sent and whether they could be securely incarcerated and detained. These questions were raised repeatedly, and little was said on this side of the aisle, in deference to the President, who was coming forward with his plan and dealing with this problem, and it was a problem he inherited.

When President Obama was sworn into office, he inherited about 240 Guantanamo detainees, some of whom had been held in Guantanamo for a lengthy period of time, some had been interrogated, many had been considered for trial or military tribunal, or even released, but President Obama inherited these 240 detainees. He made a statement in one of his first days in office as President that two things would happen under his administration: First, we would not engage in torture as a nation; and second, we would close Guantanamo.

After making that announcement, he made it clear he would have to come back with a specific set of proposals, which he did 2 weeks ago, in a historic speech at the National Archives. Until that speech was made, Senator MCCONNELL, and some other Republicans in support of his position, came to the floor and continued to question whether we could or should close Guantanamo. Today, earlier this afternoon, the assistant minority leader, Senator KYL of Arizona, came to the floor and made remarks about my views on the issue as well as President Obama's views on closing the Guantanamo Bay detention facility.

It is true that I believe, as President Obama does, that closing Guantanamo is an important national security priority for America. But Senator KYL did not mention the others who support closing Guantanamo. It is not just the President and his former Illinois colleague Senator DURBIN who support the closing of Guantanamo. Many security and military leaders have said that closing Guantanamo will make America safer, and here are a few examples. Leading the list of those who agree with President Obama in closing Guantanamo, General Colin Powell, the former chairman of the Joint Chiefs of Staff and former Secretary of State under President George W. Bush; Republican Senators JOHN MCCAIN of Arizona and LINDSEY GRAHAM of South Carolina have both publicly stated they favor the closing of Guantanamo; former Republican Secretaries of State James Baker, Henry Kissinger, and Condoleezza Rice, ADM Mike Mullen, the Chairman of the Joint Chiefs of Staff, and GEN David Petraeus.

So for Senator KYL to come to the floor and suggest this notion of closing Guantanamo is not one shared by military and security leaders is not accurate. The list I have given you is not complete. Many others agree with the President's position. According to the experts, Guantanamo has been a recruiting tool for al-Qaida that is actually hurting America's security. In his remarks this afternoon, Senator KYL challenged the notion of closing Guantanamo, saying:

> An idea that's been floated by the President, Senator Durbin, and others.

But Senator KYL didn't mention who these nameless ''others'' are who agree with the closing of Guantanamo or who agree it is a recruiting tool for terrorists. Let's take one for example: Chairman of the Joint Chiefs of Staff Mike Mullen said:

> The concern I've had about Guantanamo is that it has been a recruiting symbol for those extremists and jihadists who would fight us. That's the heart of the concern for Guantanamo's continued existence.

That was a quote from the Chairman of the Joint Chiefs of Staff, ADM Mike Mullen.

Retired Air Force MAJ Matthew Alexander led the interrogation team that tracked down Abu Musab Al-Zarqawi, the leader of al-Qaida in Iraq. Here is what he said:

> I listened time and time again to foreign fighters, and Sunni Iraqis, state that the number one reason they had decided to pick up arms and join Al Qaeda was the abuses at Abu Ghraib and the authorized torture and abuse at Guantanamo Bay. . . . It's no exaggeration to say that at least half of our losses and casualties in that country have come at the hands of foreigners who joined the fray because of our program of detainee abuse.

Alberto Mora, former Navy General Counsel, testified to the Senate Armed

Services Committee about Guantanamo. Here is what he said:

Serving U.S. flag-rank officers . . . maintain that the first and second identifiable causes of U.S. combat deaths in Iraq—as judged by their effectiveness in recruiting insurgent fighters into combat—are, respectively the symbols of Abu Ghraib and Guantanamo.

So it is not accurate to suggest that President Obama and I dreamed up the notion that Guantanamo is a recruiting poster. It is our military who have told us that, based on their experiences fighting the war in Iraq and Afghanistan.

Senator KYL also claims that no one has been abused at Guantanamo. He said:

This idea that prisoners are treated badly is patently false. The insinuation directly or indirectly that torture has occurred at Guantanamo must stop.

That is Senator KYL's opinion. But others have a different view. The Senate Armed Services Committee issued a bipartisan report which reached a different conclusion. They found:

Secretary of Defense Donald Rumsfeld's authorization of aggressive interrogation techniques for use at Guantanamo Bay was a direct cause of detainee abuse there.

Let's take another example. Susan Crawford was the top Bush administration official dealing with military commissions at Guantanamo Bay. She was general counsel of the Army during the Reagan administration and Pentagon inspector general when Dick Cheney was the Defense Secretary. She is a lifelong Republican.

Susan Crawford reached the conclusion that Mohammad Al-Qahtani, the so-called 20th hijacker, could not be prosecuted for his role in the 9/11 attacks because he was tortured at Guantanamo Bay. Here is what she said:

We tortured Qahtani. . . . If we tolerate this and allow it, then how can we object when our servicemen and women, or others in the foreign service, are captured and subjected to the same techniques? How can we complain? Where is our moral authority to complain? Well, we may have lost it.

This is one reason that President Obama is closing Guantanamo and has put an end to the abusive interrogation techniques that were used at Guantanamo—because they put our troops at risk of being abused if they are captured.

Senator KYL also claimed that there is no connection between the abuse that took place at Abu Ghraib and Guantanamo Bay. That is Senator KYL's view.

But the Senate Armed Services Committee reached a different conclusion. Here is what they found:

The abuse of detainees at Abu Ghraib in late 2003 was not simply the result of a few soldiers acting on their own. Interrogation techniques such as stripping detainees of their clothes, placing them in stress positions, and using military working dogs to intimidate them appeared in Iraq only after they had been approved for use in Afghanistan and at GITMO.

Senator KYL said those of us who advocate closing Guantanamo should be thankful for the service of our soldiers and sailors at Guantanamo rather than, quote, ''slapping them in the face and insinuating they have done something wrong.''

Let me be very clear. I visited Guantanamo in 2006. I left with a feeling of great pride and admiration for the soldiers and sailors who are serving in Guantanamo. They are doing a great job, but they are being asked to carry a heavy burden created by the previous administration's policies. It is no favor to the men and women who serve there to have them continue their service if, in fact it is a recruiting tool for terrorists who are putting the lives of other servicemen and women of America at risk around the world.

President Obama is closing Guantanamo because it will make America, and our troops, safer. What is a slap in the face is to continue policies from the previous administration that recruit more terrorists and put our troops at greater risk of being abused if they are captured.

Senator KYL said there are ''serious concerns about the safety of Americans'' if Guantanamo is closed and detainees are transferred to the United States to be held in supermax prisons.

But Republican Senator LINDSEY GRAHAM, who is a military lawyer said:

I do believe we can handle 100 or 250 prisoners and protect our national security interests, because we had 450,000 German and Japanese prisoners in the United States. So, this idea that they cannot be housed somewhere safely, I disagree.

People who suggest that we cannot detain terrorists in our prisons should show more respect for the brave corrections officers who put their lives on the line every day to keep us safe.

Just the week before last I went to Marion Federal Prison in southern Illinois. It was once our maximum security prison in the United States before the supermax facility was opened at Florence, CO. It was interesting. As I met with the corrections officers in the lockup of the Marion Federal Prison, and after a little bit of a tour, I asked him: What do you think of this notion that we hear from Senators on the floor, such as Senator KYL and Senator MCCONNELL, that we cannot safely incarcerate Guantanamo detainees in the prisons of the United States?

The one corrections officer said to me: Senator, I am insulted by that comment. At this facility we are now incarcerating members of Colombian drug terrorist gangs. We have had serial murderers here. We have incarcerated John Gotti. We have incarcerated some of the most dangerous people convicted, brought into this country from overseas where they are posing a threat to America. In the United States, we brought them here. We know how to handle these prisoners. We are up to this task. We have proven it over and over again.

The very Senators who are questioning whether we can safely incarcerate our prisoners in our maximum and supermax facilities should acknowledge one obvious fact: No one, literally no one, has ever escaped from a supermax facility in the United States. For those on the Republican side to argue that putting these prisoners from Guantanamo into a supermax facility endangers us in the community—it is not supported by history and experience.

Senator KYL said: ''No one has ever escaped from Guantanamo.'' That is true. But it is also true no prisoner has ever escaped from a Federal supermaximum security facility. I said before, and I will repeat because Senator KYL made reference to it, at the base of this argument made by Senator MCCONNELL and Senator KYL is fear—not just fear of extremists and terrorists and violence but fear that this great country of America cannot stand by the values which we have honored for generations and still be safe; fear that we can't stand for the constitutional principles we swear to uphold and still be safe; fear that we cannot trust Americans and our court system, the best in the world, to, in fact, try these prisoners and, if they are guilty, incarcerate them—fear that we cannot do that and be safe; fear that we cannot trust the men and women working at prisons around America, the supermax facilities, to safely incarcerate Guantanamo detainees.

That kind of fear, which is what we hear on a regular basis, the regular diet fed to us by the Republican Senators, is no basis for a sound American foreign policy. If we are going to have a policy which protects us abroad and at home, we should recognize threats for what they are, understand our strengths and our weaknesses, and be prepared. This idea of cowering in fear—which is what the Republican Senators offer us as a daily regimen from their speeches on the floor—is not what America has ever been about.

Just this last Saturday we celebrated the 65th anniversary of that miraculous invasion of D-day. I got on the phone and called one of my great friends in Springfield, IL, Joe Kelly. Joe Kelly came in on the seventh day after D-day with the Artillery, spent 18 months with the Army, and fought in the Battle of the Bulge. He is a great fellow. He talked about volunteering.

I want to tell you something. When Joe Kelly and his four brothers volunteered in Chicago to fight in World War II, it wasn't because they were afraid. They volunteered because they believed they could only keep this country safe by being prepared to stand up for it and fight. They did it and did it successfully.

That spirit, that patriotic spirit of D-day, of Joe Kelly and so many others, is what will keep America safe, and President Obama knows it. Senator MCCONNELL and Senator KYL can come to the Senate floor and express their fears over and over again, the latest fears that they have about the safety of this country, but they are not borne

out by the facts. I will stand by GEN Colin Powell and others, people I admire, who have given so many years of their lives in service to this country who agree with President Obama to close the Guantanamo facility, trust our supermax facilities to hold these detainees if that is necessary, and be aware of the fact that if we should ship these detainees to some other country to be tried or for some other purpose, there is a serious question as to whether they will treat them the way they should be treated for the safety of the United States.

For many years, incidentally, President George W. Bush said he wanted to close Guantanamo. There were not any complaints from the Republican side of the aisle then. President George W. Bush could not get the job done. President Obama has said he will try to finish that job.

I hope some of these who are critical of President Obama and his position will not make a political issue about Guantanamo. If President George W. Bush and President Obama agree it should be closed, it is pretty clear to me that at the highest level of our government there is a bipartisan consensus. Our colleagues on the other side of the aisle are criticizing President Obama when it comes to Guantanamo, but the fact is, they have no plan but to leave that facility open and continue to see it being used around the world against the United States and as a recruiting tool for terrorists.

I urge my Republican colleagues to join with GEN Colin Powell and join with those on their side of the aisle who understand that closing Guantanamo will make America safer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. KAUFMAN. I ask unanimous consent to proceed as in morning business and the time to count against cloture.

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

(The remarks of Mr. KAUFMAN pertaining to the introduction of S. 1210 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.)''

Mr. KAUFMAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak for up to 10 minutes each.

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

COMMENCEMENT ADDRESS OF PRESIDENT BARACK OBAMA

Mr. BAYH. Madam President, on May 17, 2009, the President of the United States, the Honorable Barack Obama, delivered the commencement address at the University of Notre Dame, in South Bend, IN, the State I have the honor of representing in the U.S. Senate where I for a time served with then-Senator Obama.

Although I was not able myself to be present at this ceremony, my friend and former colleague, Dr. John Brademas, who for 22 years served as the U.S. Representative from the district centered in South Bend, was at Notre Dame for this occasion and has told me what a brilliant address President Obama offered.

Here I note that since 1981, John Brademas has been president or president emeritus of New York University where, as he did while a Member of Congress, he continues to give outstanding leadership to the field of education in our country.

President Obama was awarded the honorary degree of doctor of laws on this occasion by the Reverend John I. Jenkins, C.S.C., president of the University of Notre Dame, and was greeted as well by the Reverend Theodore M. Hesburgh, C.S.C., president emeritus of Notre Dame.

Because I believe my colleagues in Congress—and others—will be interested in reading President Obama's remarks at Notre Dame, I ask unanimous consent to have the address printed in the RECORD.

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

The PRESIDENT: Well, first of all, congratulations, Class of 2009. Congratulations to all the parents, the cousins, the aunts, the uncles—all the people who helped to bring you to the point that you are here today. Thank you so much to Father Jenkins for that extraordinary introduction, even though you said what I want to say much more elegantly. You are doing an extraordinary job as president of this extraordinary institution. Your continued and courageous—and contagious—commitment to honest, thoughtful dialogue is an inspiration to us all.

Good afternoon. To Father Hesburgh, to Notre Dame trustees, to faculty, to family: I am honored to be here today. And I am grateful to all of you for allowing me to be a part of your graduation.

And I also want to thank you for the honorary degree that I received. I know it has not been without controversy. I don't know if you're aware of this, but these honorary degrees are apparently pretty hard to come by. So far I'm only 1 for 2 as President. Father Hesburgh is 150 for 150. I guess that's better. So, Father Ted, after the ceremony, maybe you can give me some pointers to boost my average.

I also want to congratulate the Class of 2009 for all your accomplishments. And since this is Notre Dame—we're following Brennan's adage that we don't do things easily. We're not going to shy away from things that are uncomfortable sometimes.

Now, since this is Notre Dame I think we should talk not only about your accomplishments in the classroom, but also in the competitive arena. No, don't worry, I'm not going to talk about that. We all know about this university's proud and storied football team, but I also hear that Notre Dame holds the largest outdoor 5-on-5 basketball tournament in the world—Bookstore Basketball.

Now this excites me. I want to congratulate the winners of this year's tournament, a team by the name of ''Hallelujah Holla Back.'' Congratulations. Well done. Though I have to say, I am personally disappointed that the ''Barack O'Ballers'' did not pull it out this year. So next year, if you need a 6′2″ forward with a decent jumper, you know where I live.

Every one of you should be proud of what you have achieved at this institution. One hundred and sixty-three classes of Notre Dame graduates have sat where you sit today. Some were here during years that simply rolled into the next without much notice or fanfare—periods of relative peace and prosperity that required little by way of sacrifice or struggle.

You, however, are not getting off that easy. You have a different deal. Your class has come of age at a moment of great consequence for our nation and for the world—a rare inflection point in history where the size and scope of the challenges before us require that we remake our world to renew its promise; that we align our deepest values and commitments to the demands of a new age. It's a privilege and a responsibility afforded to few generations—and a task that you're now called to fulfill.

This generation, your generation is the one that must find a path back to prosperity and decide how we respond to a global economy that left millions behind even before the most recent crisis hit—an economy where greed and short-term thinking were too often rewarded at the expense of fairness, and diligence, and an honest day's work.

Your generation must decide how to save God's creation from a changing climate that threatens to destroy it. Your generation must seek peace at a time when there are those who will stop at nothing to do us harm, and when weapons in the hands of a few can destroy the many. And we must find a way to reconcile our ever-shrinking world with its ever-growing diversity—diversity of thought, diversity of culture, and diversity of belief.

In short, we must find a way to live together as one human family.

And it's this last challenge that I'd like to talk about today, despite the fact that Father John stole all my best lines. For the major threats we face in the 21st century—whether it's global recession or violent extremism; the spread of nuclear weapons or pandemic disease—these things do not discriminate. They do not recognize borders. They do not see color. They do not target specific ethnic groups.

Moreover, no one person, or religion, or nation can meet these challenges alone. Our very survival has never required greater cooperation and greater understanding among all people from all places than at this moment in history.

Unfortunately, finding that common ground—recognizing that our fates are tied up, as Dr. King said, in a ''single garment of destiny''—is not easy. And part of the problem, of course, lies in the imperfections of man—our selfishness, our pride, our stubbornness, our acquisitiveness, our insecurities, our egos; all the cruelties large and small that those of us in the Christian tradition understand to be rooted in original sin. We too often seek advantage over others. We cling to outworn prejudice and fear those who are unfamiliar. Too many of us view life only through the lens of immediate self-interest and crass materialism; in which the

world is necessarily a zero-sum game. The strong too often dominate the weak, and too many of those with wealth and with power find all manner of justification for their own privilege in the face of poverty and injustice. And so, for all our technology and scientific advances, we see here in this country and around the globe violence and want and strife that would seem sadly familiar to those in ancient times.

We know these things; and hopefully one of the benefits of the wonderful education that you've received here at Notre Dame is that you've had time to consider these wrongs in the world; perhaps recognized impulses in yourself that you want to leave behind. You've grown determined, each in your own way, to right them. And yet, one of the vexing things for those of us interested in promoting greater understanding and cooperation among people is the discovery that even bringing together persons of good will, bringing together men and women of principle and purpose—even accomplishing that can be difficult.

The soldier and the lawyer may both love this country with equal passion, and yet reach very different conclusions on the specific steps needed to protect us from harm. The gay activist and the evangelical pastor may both deplore the ravages of HIV/AIDS, but find themselves unable to bridge the cultural divide that might unite their efforts. Those who speak out against stem cell research may be rooted in an admirable conviction about the sacredness of life, but so are the parents of a child with juvenile diabetes who are convinced that their son's or daughter's hardships can be relieved.

The question, then—the question then is how do we work through these conflicts? Is it possible for us to join hands in common effort? As citizens of a vibrant and varied democracy, how do we engage in vigorous debate? How does each of us remain firm in our principles, and fight for what we consider right, without, as Father John said, demonetizing those with just as strongly held convictions on the other side?

And of course, nowhere do these questions come up more powerfully than on the issue of abortion.

As I considered the controversy surrounding my visit here, I was reminded of an encounter I had during my Senate campaign, one that I describe in a book I wrote called ''The Audacity of Hope.'' A few days after I won the Democratic nomination, I received an e-mail from a doctor who told me that while he voted for me in the Illinois primary, he had a serious concern that might prevent him from voting for me in the general election. He described himself as a Christian who was strongly pro-life—but that was not what was preventing him potentially from voting for me.

What bothered the doctor was an entry that my campaign staff had posted on my website—an entry that said I would fight ''right-wing ideologues who want to take away a woman's right to choose.'' The doctor said he had assumed I was a reasonable person, he supported my policy initiatives to help the poor and to lift up our educational system, but that if I truly believed that every pro-life individual was simply an ideologue who wanted to inflict suffering on women, then I was not very reasonable. He wrote, ''I do not ask at this point that you oppose abortion, only that you speak about this issue in fair-minded words.'' Fair-minded words.

After I read the doctor's letter, I wrote back to him and I thanked him. And I didn't change my underlying position, but I did tell my staff to change the words on my website. And I said a prayer that night that I might extend the same presumption of good faith to others that the doctor had extended to me. Because when we do that—when we open up our hearts and our minds to those who may not think precisely like we do or believe precisely what we believe—that's when we discover at least the possibility of common ground.

That's when we begin to say, ''Maybe we won't agree on abortion, but we can still agree that this heart-wrenching decision for any woman is not made casually, it has both moral and spiritual dimensions.''

So let us work together to reduce the number of women seeking abortions, let's reduce unintended pregnancies. Let's make adoption more available. Let's provide care and support for women who do carry their children to term. Let's honor the conscience of those who disagree with abortion, and draft a sensible conscience clause, and make sure that all of our health care policies are grounded not only in sound science, but also in clear ethics, as well as respect for the equality of women. Those are things we can do.

Now, understand—understand, Class of 2009, I do not suggest that the debate surrounding abortion can or should go away. Because no matter how much we may want to fudge it—indeed, while we know that the views of most Americans on the subject are complex and even contradictory—the fact is that at some level, the views of the two camps are irreconcilable. Each side will continue to make its case to the public with passion and conviction. But surely we can do so without reducing those with differing views to caricature.

Open hearts. Open minds. Fair-minded words. It's a way of life that has always been the Notre Dame tradition. Father Hesburgh has long spoken of this institution as both a lighthouse and a crossroads. A lighthouse that stands apart, shining with the wisdom of the Catholic tradition, while the crossroads is where ''differences of culture and religion and conviction can co-exist with friendship, civility, hospitality, and especially love.'' And I want to join him and Father John in saying how inspired I am by the maturity and responsibility with which this class has approached the debate surrounding today's ceremony. You are an example of what Notre Dame is about.

This tradition of cooperation and understanding is one that I learned in my own life many years ago—also with the help of the Catholic Church.

You see, I was not raised in a particularly religious household, but my mother instilled in me a sense of service and empathy that eventually led me to become a community organizer after I graduated college. And a group of Catholic churches in Chicago helped fund an organization known as the Developing Communities Project, and we worked to lift up South Side neighborhoods that had been devastated when the local steel plant closed.

And it was quite an eclectic crew—Catholic and Protestant churches, Jewish and African American organizers, working-class black, white, and Hispanic residents—all of us with different experiences, all of us with different beliefs. But all of us learned to work side by side because all of us saw in these neighborhoods other human beings who needed our help—to find jobs and improve schools. We were bound together in the service of others.

And something else happened during the time I spent in these neighborhoods—perhaps because the church folks I worked with were so welcoming and understanding; perhaps because they invited me to their services and sang with me from their hymnals; perhaps because I was really broke and they fed me. Perhaps because I witnessed all of the good works their faith inspired them to perform, I found myself drawn not just to the work with the church; I was drawn to be in the church. It was through this service that I was brought to Christ.

And at the time, Cardinal Joseph Bernardin was the Archbishop of Chicago. For those of you too young to have known him or known of him, he was a kind and good and wise man. A saintly man. I can still remember him speaking at one of the first organizing meetings I attended on the South Side. He stood as both a lighthouse and a crossroads—unafraid to speak his mind on moral issues ranging from poverty and AIDS and abortion to the death penalty and nuclear war. And yet, he was congenial and gentle in his persuasion, always trying to bring people together, always trying to find common ground. Just before he died, a reporter asked Cardinal Bernardin about this approach to his ministry. And he said, ''You can't really get on with preaching the Gospel until you've touched hearts and minds.''

My heart and mind were touched by him. They were touched by the words and deeds of the men and women I worked alongside in parishes across Chicago. And I'd like to think that we touched the hearts and minds of the neighborhood families whose lives we helped change. For this, I believe, is our highest calling.

Now, you, Class of 2009, are about to enter the next phase of your life at a time of great uncertainty. You'll be called to help restore a free market that's also fair to all who are willing to work. You'll be called to seek new sources of energy that can save our planet; to give future generations the same chance that you had to receive an extraordinary education. And whether as a person drawn to public service, or simply someone who insists on being an active citizen, you will be exposed to more opinions and ideas broadcast through more means of communication than ever existed before. You'll hear talking heads scream on cable, and you'll read blogs that claim definitive knowledge, and you will watch politicians pretend they know what they're talking about. Occasionally, you may have the great fortune of actually seeing important issues debated by people who do know what they're talking about—by well-intentioned people with brilliant minds and mastery of the facts. In fact, I suspect that some of you will be among those brightest stars.

And in this world of competing claims about what is right and what is true, have confidence in the values with which you've been raised and educated. Be unafraid to speak your mind when those values are at stake. Hold firm to your faith and allow it to guide you on your journey. In other words, stand as a lighthouse.

But remember, too, that you can be a crossroads. Remember, too, that the ultimate irony of faith is that it necessarily admits doubt. It's the belief in things not seen. It's beyond our capacity as human beings to know with certainty what God has planned for us or what He asks of us. And those of us who believe must trust that His wisdom is greater than our own.

And this doubt should not push us away our faith. But it should humble us. It should temper our passions, cause us to be wary of too much self-righteousness. It should compel us to remain open and curious and eager to continue the spiritual and moral debate that began for so many of you within the walls of Notre Dame. And within our vast democracy, this doubt should remind us even as we cling to our faith to persuade through reason, through an appeal whenever we can to universal rather than parochial principles, and most of all through an abiding example of good works and charity and kindness and service that moves hearts and minds.

For if there is one law that we can be most certain of, it is the law that binds people of all faiths and no faith together. It's no coincidence that it exists in Christianity and Judaism; in Islam and Hinduism; in Buddhism and humanism. It is, of course, the Golden Rule—the call to treat one another as we wish to be treated. The call to love. The call to serve. To do what we can to make a difference in the lives of those with whom we share the same brief moment on this Earth.

So many of you at Notre Dame—by the last count, upwards of 80 percent—have lived this law of love through the service you've performed at schools and hospitals; international relief agencies and local charities. Brennan is just one example of what your class has accomplished. That's incredibly impressive, a powerful testament to this institution.

Now you must carry the tradition forward. Make it a way of life. Because when you serve, it doesn't just improve your community, it makes you a part of your community. It breaks down walls. It fosters cooperation. And when that happens—when people set aside their differences, even for a moment, to work in common effort toward a common goal; when they struggle together, and sacrifice together, and learn from one another—then all things are possible.

After all, I stand here today, as President and as an African American, on the 55th anniversary of the day that the Supreme Court handed down the decision in Brown v. Board of Education. Now, Brown was of course the first major step in dismantling the ''separate but equal'' doctrine, but it would take a number of years and a nationwide movement to fully realize the dream of civil rights for all of God's children. There were freedom rides and lunch counters and Billy clubs, and there was also a Civil Rights Commission appointed by President Eisenhower. It was the 12 resolutions recommended by this commission that would ultimately become law in the Civil Rights Act of 1964.

There were six members of this commission. It included five whites and one African American; Democrats and Republicans; two Southern governors, the dean of a Southern law school, a Midwestern university president, and your own Father Ted Hesburgh, President of Notre Dame. So they worked for two years, and at times, President Eisenhower had to intervene personally since no hotel or restaurant in the South would serve the black and white members of the commission together. And finally, when they reached an impasse in Louisiana, Father Ted flew them all to Notre Dame's retreat in Land O'Lakes, Wisconsin—where they eventually overcame their differences and hammered out a final deal.

And years later, President Eisenhower asked Father Ted how on Earth he was able to broker an agreement between men of such different backgrounds and beliefs. And Father Ted simply said that during their first dinner in Wisconsin, they discovered they were all fishermen. And so he quickly readied a boat for a twilight trip out on the lake. They fished, and they talked, and they changed the course of history.

I will not pretend that the challenges we face will be easy, or that the answers will come quickly, or that all our differences and divisions will fade happily away—because life is not that simple. It never has been.

But as you leave here today, remember the lessons of Cardinal Bernardin, of Father Hesburgh, of movements for change both large and small. Remember that each of us, endowed with the dignity possessed by all children of God, has the grace to recognize ourselves in one another; to understand that we all seek the same love of family, the same fulfillment of a life well lived. Remember that in the end, in some way we are all fishermen.

If nothing else, that knowledge should give us faith that through our collective labor, and God's providence, and our willingness to shoulder each other's burdens, America will continue on its precious journey towards that more perfect union. Congratulations, Class of 2009. May God bless you, and may God bless the United States of America.

CHILDHOOD OBESITY

Mr. GRASSLEY. Madam President, please allow me to take a few minutes today to discuss childhood obesity, and one way in which we can prevent the most common diseases that face our country. Obesity is an issue that must be addressed—not just by the Federal Government, but by individuals, parents, schools, and health professionals across the country. Given the high cost of health care, we must all look at ways we can reduce the risks of obesity and the many diseases that come with it.

I bring this up today because a constituent of mine made me realize that there is an easy and cost-effective way to address the problem. We all know that childhood obesity can be prevented if we motivate young people to eat better and exercise more. There are many fad diets, surgeries, strategies and pills that claim to help reduce obesity. Americans are always looking for the next big breakthrough, and they are willing to pay any price to do it easily and simply. But, nothing is as simple or as cost effective as helping kids learn and maintain the ability to do pull ups.

Kids can immunize themselves against obesity, and they can do that by learning to do pull ups. It's been acknowledged that pull ups counteract a child's tendency to obesity. In the context of a of a four year study at Jefferson Elementary School in Davenport, Iowa, my constituent demonstrated that if you start children young, most young people can learn to do pull ups. And, as long as young people maintain the ability to do pull ups, most can naturally immunize themselves against obesity for a lifetime without ever having to resort to pills, shots, or special diets.

Due to the rising prevalence of obesity in children and its many adverse health effects. Obesity has been recognized as a serious public health concern. The adverse health effects of obesity do not just include physical conditions like high blood pressure, heart disease, sleep problems, and other life-threatening disorders. The threat of obesity includes emotional and psychological problems, depression and low self-esteem.

Aside from doing pull-ups, we must also encourage other lessons for our youth. We must stress goal setting, diligence, diet, rest, and education. The goal is not only to beat physical obesity for life but also to overcome the psychological and emotional problems as a result of low self-esteem. Building confidence is at the heart of pulling people out of obesity.

Childhood obesity is an issue we must all take seriously. I thank my constituent for bringing this simple solution to my attention and commend people like him who are concerned about the health of our future generations.

WORLD ENVIRONMENT DAY

Mrs. BOXER. Madam President, I would like to recognize World Environment Day, which takes place every year on June 5. This day was established by the United Nations General Assembly in 1972 and has been a reminder each year that protecting our planet is a global issue.

As countries around the world work toward the historic global warming negotiations in Copenhagen later this year, it is fitting that the theme for World Environment Day 2009 is ''Your Planet Needs You—Unite to Combat Climate Change.''

As chairman of the Senate Environment and Public Works Committee, I am working with my colleagues to address global warming here in the United States. The world is looking for American leadership, and they are watching closely what we are doing here in Congress.

We must demonstrate our commitment to take real action to cut our own greenhouse gas emissions. When we act, we will renew our leadership on this issue in the international community. Legislation to curb U.S. global warming pollution will also put us on a path toward a new clean energy economy that creates millions of American jobs and breaks our dangerous dependence on foreign oil. It's time to harness the greatest source of power we have in this country—American ingenuity. This country can and should be a leader of the clean energy revolution.

I am proud to say that for the second year in a row, a student from California has been selected as the winner of the United Nations' Environment Programme's International Children's Painting Competition on the Environment. This year, Alice Fuzi Wang, from Palo Alto, was honored for her creative and moving work of art, which will be recognized on World Environment Day at the North American celebration in Omaha. I met Alice when she was here in Washington to receive her award on April 22, Earth Day.

It is wonderful to see people of all ages, from all over the world, participating in the festivities honoring World Environment Day. I want to thank the organizers of World Environment Day for their important contribution in working to combat one of the greatest challenges of our generation—global warming.

ADDITIONAL STATEMENTS

COMMENDING THE CABOT CREAMERY COOPERATIVE

• Mr. SANDERS. Madam President, today I honor a renowned Vermont business, Cabot Creamery, which is celebrating its 90th anniversary on June 13, 2009.

From its humble beginnings in 1919, when 94 farmers founded Cabot Creamery for $5 per cow plus a cord of wood each, Cabot has grown into one of the strongest and proudest symbols of Vermont. With its cheeses distributed internationally, Cabot is the fastest growing cheddar supplier in the country. Naturally aged from two to 36 months, a process which gives these cheeses their superb taste, Cabot cheddar has won every award, including ''Best Cheddar in the World'' at the 22nd Biennial Cheese Championship. In fact, no other cheese company can make this claim.

For all its successes, the Cabot Cooperative remains firmly grounded in its history and tradition, using time-honored techniques to produce a superior product with no additives or preservatives that is enjoyed across the country; indeed around the world. Family farms remain the backbone of Cabot Creamery Cooperative, much as they have since its founding. As owners of Cabot, every cooperative member has a stake in its success and a say in its governance. Cabot has always valued democratic ideals, civic virtue, and a high-quality product.

Presently, Vermont's dairy farms are experiencing difficult times, with destabilized milk prices and a near monopoly control of milk distribution. For the members of the Cabot Cooperative, however, the milk market that Cabot makes available to its farmers continues to serve as a valuable return on their years of investment in the cooperative.

As Vermonters, we are deeply proud of our tradition of creating exceptional cheddar cheese. Therefore, I wish Cabot Creamery Cooperative continued success on its 90th birthday, and thank them for being an exemplary symbol of our State's commitment to quality and local democracy.•

COMMENDING RHONDA GOFF

• Mr. VITTER. Madam President, I wish to honor and recognize a fellow Louisianan, Deputy Rhonda Goff, for showing courage and authority when she apprehended three suspects involved in a shooting and burglary last October. She received the National Association of Police Organization's TOP COP Awards for her efforts, and I would like to take a few moments to recognize her actions.

On October 20, 2008, Deputy Goff noticed three men, one of whom was covered in blood, leaving a bar. She immediately stopped and had witnesses identify the men as having robbed the bar. Without hesitation, she ran after the men. Although outnumbered by three to one, she apprehended and handcuffed the suspects, and when she searched them found numerous stolen wallets. When back up arrived, they found four more wounded victims inside the bar and discovered that three more men had been involved in the robbery. Deputy Goff obtained a license plate from a witness and was able to air the information over the radio, enabling detectives to track down the remaining suspects.

Deputy Goff was honored for her coolness under pressure, as well as her quick and decisive action in getting a lead on the additional felons. Her actions exemplify what it means to go above the call of duty. Thus today, I congratulate Deputy Goff as being named one of 2009 TOP COPS and thank her for her bravery and courageous work in keeping the State of Louisiana safe.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:03 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 626. An act to provide that 4 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes.

H.R. 1817. An act to designate the facility of the United States Postal Service located at 116 North West Street in Somerville, Tennessee, as the ''John S. Wilder Post Office Building''.

H.R. 2200. An act to authorize the Transportation Security Administration's programs relating to the provision of transportation security, and for other purposes.

ENROLLED BILLS SIGNED

At 2:19 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 663. An act to designate the facility of the United States Postal Service located at 12877 Broad Street in Sparta, Georgia, as the ''Yvonne Ingram-Ephraim Post Office Building''.

H.R. 918. An act to designate the facility of the United States Postal Service located at 300 East 3rd Street in Jamestown, New York, as the ''Stan Lundine Post Office Building''.

H.R. 1284. An act to designate the facility of the United States Postal Service located at 103 West Main Street in McLain, Mississippi, as the ''Major Ed W. Freeman Post Office''.

H.R. 1595. An act to designate the facility of the United States Postal Service located at 3245 Latta Road in Rochester, New York, as the ''Brian K. Schramm Post Office Building''.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. WARNER).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 626. An act to provide that 4 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 1817. An act to designate the facility of the United States Postal Service located at 116 North West Street in Somerville, Tennessee, as the ''John S. Wilder Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 2200. An act to authorize the Transportation Security Administration's programs relating to the provision of transportation security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 31. An act to provide for the recognition of the Lumbee Tribe of North Carolina, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1847. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65)(74 FR 18152)) received in the Office of the President of the Senate on June 3, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1848. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 634) (74 FR 21267)) received in the Office of the President of the Senate on June 3, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1849. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' (944 CFR Part 67)(74 FR 23117)) received in the Office of the President of the Senate on June 3, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1850. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64)(74 FR 18149)) received in the Office of the President of the Senate on June 3, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1851. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65)(74 FR 18154)) received in the Office of the President of the Senate on June 3, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1852. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64)(74 FR 23115)) received in the Office of the President of the Senate on June 3, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1853. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65)(74 FR 21271)) received in the Office of the President of the Senate on June 3, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1854. A communication from the Legal Information Assistant, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rules of Practice and Procedure in Adjudicatory Proceedings; Civil Money Penalty Inflation Adjustment'' (RIN 1550–AC27) received in the Office of the President of the Senate on June 3, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1855. A communication from the Assistant to the Board, Board of Governors, Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Regulations D and I; Reserve Requirements of Depository Institutions'' (Docket No. R-1307) received in the Office of the President of the Senate on June 3, 2009 to the Committee on Banking, Housing, and Urban Affairs.

EC–1856. A communication from the Assistant to the Board, Board of Governors, Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Regulation D; Reserve Requirements for Depository Institutions'' (Docket Nos. R-1334 and R-1350) received in the Office of the President of the Senate on June 3, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1857. A communication from the Secretary, Department of the Treasury, transmitting, pursuant to law, a report relative to a six-month periodic report on the national emergency with respect to Belarus; to the Committee on Banking, Housing, and Urban Affairs.

EC–1858. A communication from the Acting Chief Human Capital Officer, Department of Energy, transmitting, pursuant to law, the report of a nomination in the position of Deputy Secretary; to the Committee on Energy and Natural Resources.

EC–1859. A communication from the Acting Chief Human Capital Officer, Department of Energy, transmitting, pursuant to law, the report of a nomination in the position of Under Secretary; to the Committee on Energy and Natural Resources.

EC–1860. A communication from the Acting Chief Human Capital Officer, Department of Energy, transmitting, pursuant to law, the report of a nomination in the position of Under Secretary for Science; to the Committee on Energy and Natural Resources.

EC–1861. A communication from the Acting Chief Human Capital Officer, Department of Energy, transmitting, pursuant to law, the report of a nomination in the position of General Counsel; to the Committee on Energy and Natural Resources.

EC–1862. A communication from the Acting Chief Human Capital Officer, Department of Energy, transmitting, pursuant to law, the report of a nomination in the position of Assistant Secretary for Policy and International Affairs; to the Committee on Energy and Natural Resources.

EC–1863. A communication from the Acting Chief Human Capital Officer, Department of Energy, transmitting, pursuant to law, the report of a nomination in the position of Assistant Secretary for Environmental Management; to the Committee on Energy and Natural Resources.

EC–1864. A communication from the Chief of the Endangered Species Listing Branch, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Alabama Sturgeon (Scaphirhynchus suttkusi)'' (RIN 1018-AV51) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Environment and Public Works.

EC–1865. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report entitled ''Report to Congress on Abnormal Occurrences: Fiscal Year 2008''; to the Committee on Environment and Public Works.

EC–1866. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Carbon Monoxide Limited Maintenance Plan for Providence, Rhode Island'' (FRL 8785–6) received in the Office of the President June 3, 2009; to the Committee on Environment and Public Works.

EC–1867. A communication from the Chief of Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice—Work Opportunity Tax Credit for Disconnected Youth and Unemployed Veterans'' (Notice 2009-28) received in the Office of the President June 2, 2009; to the Committee on Finance.

EC–1868. A communication from the Chief of Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Substantiating Business Use of Employer-Provided Cell Phones'' (Notice 2009–46) received in the Office of the President June 2, 2009; to the Committee on Finance.

EC–1869. A communication from the Chief of Publications, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Information Reporting for Lump-Sum Timber Sales'' ((RIN1545–BE73)(TD9450)) received in the Office of the President May 28, 2009; to the Committee on Finance.

EC–1870. A communication from the Office Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Revisions to FY 2009 Medicare Severity—Long-term Care Diagnosis-Related Group (MS–LTC–DRG) Weights'' (CMS–1337–IFC) received in the Office of the President June 3, 2009; to the Committee on Finance.

EC–1871. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of major defense equipment in the amount of $25,000,000 or more with Australia; to the Committee on Foreign Relations.

EC–1872. A joint communication from the Acting Administrator of the Substance Abuse and Mental Health Services Administration and the Director of the Center for Substance Abuse Treatment, Department of Health and Human Services, transmitting a report entitled ''Join the Voices for Recovery: Together We Learn, Together We Heal''; to the Committee on Health, Education, Labor, and Pensions.

EC–1873. A communication from the Director, Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Time-in-Grade Eliminated, Delay of Effective Date'' (RIN3206–AL18) received in the Office of the President of the Senate on June 3, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–1874. A communication from the Director, Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Determining Rate of Basic Pay; Collection by Offset From Indebted Government Employees'' (RIN3206–AL61) received in the Office of the President June 3, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–1875. A communication from the Director, Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Prevailing Rate Systems; Redefinition of the Fresno and Stockton, CA, Appropriated Fund Federal Wage System Wage Areas'' (RIN3206–AL79) received in the Office of the President June 3, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–1876. A communication from the Broadcasting Board of Governors, transmitting, pursuant to law, the Semiannual Report of the Board's Inspector General for the period from October 1, 2008, through March 31, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–1877. A communication from the Secretary, Department of Education, transmitting, pursuant to law, the Inspector General's Semiannual Report for the period of October 1, 2008, through March 31, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–1878. A communication from the Federal Co-Chair, Appalachian Regional Commission, transmitting, pursuant to law, the Semiannual Report of the Inspector General for the period from October 1, 2008, through March 31, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–1879. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, a report entitled ''College Scholarship Fraud Prevention Act of 2000 Annual Report to Congress''; to the Committee on the Judiciary.

EC–1880. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Diamond Aircraft Industries GmbH Model DA 40 and 40 F Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0240)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1881. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule

entitled ''Standard Instrument Approach Procedures (34); Amdt No. 3321'' ((RIN2120–AA65)(Docket No. 30666)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1882. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments'' ((RIN2120–AA65)(Docket No. 30665)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1883. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Rushville, NE'' ((RIN2120–AA66)(Docket No. FAA–2009–0120)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1884. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace Fulton, MO'' ((RIN2120–AA646)(Docket No. FAA–2008–1230)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1885. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments'' ((RIN2120–AA65)(Docket No. 30667)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1886. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747–400 and 747–400D Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0135)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1887. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus A380–841, –842, and –861 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0433)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1888. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 and 440) Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0428)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1889. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments'' ((RIN2120–AA65) (Docket No. 30668)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1890. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Air Tractor, Inc. Models AT–400, AT–400A, AT–402, AT–402A, AT–402B, AT–502, AT–502A, AT–502B, AT–503A, AT–602, AT–802, and AT–802A Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2009–0473)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1891. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''IFR Altitudes; Miscellaneous Amendments'' ((RIN2120–AA63) (Docket No. 30662)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1892. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Communication and Area Navigation Equipment (RNAV) Operations in Remote Locations and Mountainous Terrain'' ((RIN2120–AJ46) (Docket No. FAA–2002–14002)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1893. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pratt & Whitney Models PW2037, PW2037(M), and PW2040 Turbofan Engines'' ((RIN2120–AA64) (Docket No. FAA–2008–1131)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1894. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce Corporation (RRC) AE 3007A Series Turbofan Engines'' ((RIN2120–AA64) (Docket No. FAA–2008–0975)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1895. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model DHC–8–400 Series Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2009–0361)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1896. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A318, A319, A320 and A321 Series Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2009–0360)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1897. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model CL–600–2C10 (Regional Jet Series 700, 701 and 702), CL–600–2D15 (Regional Jet Series 705, and CL–600–2D24 (Regional Jet Series 900) Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2009–0448)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1898. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Saab AB Aerosystems Model 340A (SAAB/SF340A) and SAAB 340B Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2009–035)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1899. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; CFM International S.A. Model CFM56 Turbofan Engines'' ((RIN2120–AA64) (Docket No. FAA–2008–1245)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1900. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pratt & Whitney (PW) JT9D07R4 Series Turbofan Engines; Correction'' ((RIN2120–AA64) (Docket No. FAA–2006–23742)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1901. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Lockheed Model 382, 382B, 382E, 382F, and 382G Series Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2009-0462)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1902. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Hartzell Propeller Inc. Stell Hub Turbine Propellers'' ((RIN2120-AA64)(Docket No. FAA-2009-0114)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1903. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A330-300, A340-200 Series Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2009-10-11)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1904. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747 Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2009-0450)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1905. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Air Tractor, Inc. Models AT-400, AT-400A, AT-402, AT-402A, AT-402B, AT-502, AT-502A, AT-502B,

AT-503A, AT-602, AT-802, and AT-802A Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2009-0473)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1906. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Security Related Considerations in the Design and Operation of Transport Category Airplanes'' ((RIN2120-AI66)(Docket No. FAA-2006-26722)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1907. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drug Enforcement Assistance; OMB Approval of Information Collection'' ((RIN2120-AI43)(Docket No. FAA-2006-26714)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1908. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Robinson R-22/R-44 Special Training and Experience Requirements'' ((RIN2120-AJ27)(Docket No. FAA-2002-13744)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1909. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drug and Alcohol Testing Program'' ((RIN2120-AJ37)(Docket No. FAA-2008-0937)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1910. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hours of Service of Railroad Employees; Amended Recordkeeping and Reporting Regulations'' ((RIN2130-AB85)(Docket No. FRA-2006-26176)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1911. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendments Updating the Address for the Federal Railroad Administration and Reflecting the Migration to the Federal Docket Management System'' ((RIN2130-AB99)(Docket No. FRA-2008-0128)) received in the Office of the President of the Senate on June 2, 2009; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES DURING ADJOURNMENT OF THE SENATE

Under the authority of the order of the Senate of June 4, 2009, the following reports of committees were submitted on June 5, 2009:

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1023. A bill to establish a non-profit corporation to communicate United States entry policies and otherwise promote leisure, business, and scholarly travel to the United States (Rept. No. 111–25).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LIEBERMAN for the Committee on Homeland Security and Governmental Affairs.

*Rand Beers, of the District of Columbia, to be Under Secretary, Department of Homeland Security.

*Martha N. Johnson, of Maryland, to be Administrator of General Services.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. LANDRIEU:

S. 1196. A bill to amend the Small Business Act to improve the Office of International Trade, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. VOINOVICH (for himself and Mr. BROWN):

S. 1197. A bill to establish a grant program for automated external defibrillators in elementary and secondary schools; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALEXANDER (for himself, Mr. BENNETT, Mr. MCCONNELL, Mr. KYL, Mr. VITTER, Mr. CORNYN, Mr. ISAKSON, Mr. ROBERTS, Mr. GREGG, and Mr. WICKER):

S. 1198. A bill to limit disbursement of additional funds under the Troubled Asset Relief Program to certain automobile manufacturers, to impose fiduciary duties on the Secretary of the Treasury with respect to shareholders of such automobile manufacturers, to require the issuance of shares of common stock to eligible taxpayers which represent the common stock holdings of the United States Government in such automobile manufacturers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. CANTWELL:

S. 1199. A bill to increase the safety of the crew and passengers in air ambulances; to the Committee on Commerce, Science, and Transportation.

By Mrs. FEINSTEIN (for herself, Ms. COLLINS, Mr. SCHUMER, and Mr. CARPER):

S. 1200. A bill to establish a temporary vehicle trade-in program through which the Secretary of Transportation shall provide financial incentives for consumers to replace fuel inefficient vehicles with vehicles that have above average fuel efficiency; to the Committee on the Budget.

By Mr. BINGAMAN (for himself, Mr. BEGICH, and Ms. STABENOW):

S. 1201. A bill to amend title XVIII of the Social Security Act to include costs incurred by the Indian Health Service, a Federally qualified health center, an AIDS drug assistance program, certain hospitals, or a pharmaceutical manufacturer patient assistance program in providing prescription drugs toward the annual out of pocket threshold under part D of the Medicare program; to the Committee on Finance.

By Mr. NELSON of Nebraska:

S. 1202. A bill to provide for the apportionment of funds to airports for fiscal years 2011 and 2012 based on passenger boardings during calendar year 2008 to prevent additional harm to airports already harmed by the financial crisis, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BAUCUS (for himself, Mr. HATCH, Mr. KERRY, Mrs. LINCOLN, Mr. WYDEN, Mr. SCHUMER, Ms. CANTWELL, Mr. MENENDEZ, Mr. ENSIGN, and Mr. CORNYN):

S. 1203. A bill to amend the Internal Revenue Code of 1986 to extend the research credit through 2010 and to increase and make permanent the alternative simplified research credit, and for other purposes; to the Committee on Finance.

By Mrs. MURRAY:

S. 1204. A bill to amend the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 to require the provision of chiropractic care and services to veterans at all Department of Veterans Affairs medical centers, and for other purposes; to the Committee on Veterans' Affairs.

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

S. 1205. A bill to exempt guides for hire and other operators of uninspected vessels on Lake Texoma from Coast Guard and other regulations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

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

S. 1206. A bill to establish and carry out a pediatric specialty loan repayment program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WARNER:

S. 1207. A bill to authorize the Secretary of the Interior to study the suitability and feasibility of designating the National D-Day Memorial in Bedford, Virginia, as a unit of the National Park System; to the Committee on Energy and Natural Resources.

By Ms. SNOWE:

S. 1208. A bill to amend the Small Business Act to improve export growth opportunities for small businesses, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. ENSIGN (for himself, Mrs. BOXER, Mr. SPECTER, Mr. COBURN, Mr. KYL, Mr. MCCAIN, and Mr. DEMINT):

S. 1209. A bill to allow for additional flights beyond the perimeter restriction application to Ronald Reagan Washington National Airport; to the Committee on Commerce, Science, and Transportation.

By Mr. KAUFMAN (for himself and Mr. BROWN):

S. 1210. A bill to establish a committee under the National Science and Technology Council with the responsibility to coordinate science, technology, engineering, and mathematics education activities and programs of all Federal agencies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CASEY (for himself, Mr. DODD, Mr. BROWN, Mr. WHITEHOUSE, and Mr. SANDERS):

S. Res. 170. A resolution expressing the sense of the Senate that children should benefit, and in no case be worse off, as a result

of reform of the Nation's health care system; to the Committee on Finance.

By Mr. INHOFE (for himself, Mr. BROWN, Mr. GRAHAM, Mr. KYL, Mr. COBURN, Mr. LIEBERMAN, Mr. MENENDEZ, Mr. VITTER, Mr. WEBB, Mr. BROWNBACK, Mr. MARTINEZ, Mr. BUNNING, Mr. UDALL of Colorado, and Mr. CARDIN):

S. Res. 171. A resolution commending the people who have sacrificed their personal freedoms to bring about democratic change in the People's Republic of China and expressing sympathy for the families of the people who were killed, wounded, or imprisoned, on the occasion of the 20th anniversary of the Tiananmen Square Massacre in Beijing, China from June 3 through 4, 1989; considered and agreed to.

By Mr. JOHNSON:

S. Res. 172. A resolution designating June 2009 as ''National Aphasia Awareness Month'' and supporting efforts to increase awareness of aphasia; considered and agreed to.

ADDITIONAL COSPONSORS

S. 46

At the request of Mr. ENSIGN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 46, a bill to amend title XVIII of the Social Security Act to repeal the Medicare outpatient rehabilitation therapy caps.

S. 213

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 213, a bill to amend title 49, United States Code, to ensure air passengers have access to necessary services while on a grounded air carrier, and for other purposes.

S. 354

At the request of Mr. WEBB, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 354, a bill to provide that 4 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes.

S. 434

At the request of Mr. KERRY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 434, a bill to amend title XIX of the Social Security Act to improve the State plan amendment option for providing home and community-based services under the Medicaid program, and for other purposes.

S. 451

At the request of Ms. MIKULSKI, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 451, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of the Girl Scouts of the United States of America.

At the request of Ms. COLLINS, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 451, supra.

S. 455

At the request of Mr. ROBERTS, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 455, a bill to require the Secretary of the Treasury to mint coins in recognition of 5 United States Army Five-Star Generals, George Marshall, Douglas MacArthur, Dwight Eisenhower, Henry ''Hap'' Arnold, and Omar Bradley, alumni of the United States Army Command and General Staff College, Fort Leavenworth, Kansas, to coincide with the celebration of the 132nd Anniversary of the founding of the United States Army Command and General Staff College.

S. 484

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 484, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 515

At the request of Mr. LEAHY, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 515, a bill to amend title 35, United States Code, to provide for patent reform.

S. 653

At the request of Mr. CARDIN, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 661

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 661, a bill to strengthen American manufacturing through improved industrial energy efficiency, and for other purposes.

S. 683

At the request of Mr. HARKIN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 683, a bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes.

S. 730

At the request of Mr. ENSIGN, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 730, a bill to amend the Harmonized Tariff Schedule of the United States to modify the tariffs on certain footwear, and for other purposes.

S. 749

At the request of Mr. COCHRAN, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 749, a bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education.

S. 812

At the request of Mr. BAUCUS, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from New Mexico (Mr. UDALL) were added as cosponsors of S. 812, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 832

At the request of Mr. NELSON of Florida, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 832, a bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes.

S. 833

At the request of Mr. SCHUMER, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 833, a bill to amend title XIX of the Social Security Act to permit States the option to provide Medicaid coverage for low-income individuals infected with HIV.

S. 866

At the request of Mr. REED, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 866, a bill to amend the Elementary and Secondary Education Act of 1965 regarding environmental education, and for other purposes.

S. 881

At the request of Ms. MURKOWSKI, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 881, a bill to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes.

S. 891

At the request of Mr. BROWNBACK, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 891, a bill to require annual disclosure to the Securities and Exchange Commission of activities involving columbite-tantalite, cassiterite, and wolframite from the Democratic Republic of Congo, and for other purposes.

S. 935

At the request of Mr. CONRAD, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 935, a bill to extend subsections (c) and (d) of section 114 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173) to provide for regulatory stability during the development of facility and patient criteria for long-term care hospitals under the Medicare program, and for other purposes.

S. 943

At the request of Mr. THUNE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 943, a bill to amend the Clean Air Act to permit the Administrator of the Environmental Protection Agency to waive the lifecycle greenhouse gas emission reduction requirements for renewable fuel production, and for other purposes.

S. 956

At the request of Mr. TESTER, the name of the Senator from Kansas (Mr.

BROWNBACK) was added as a cosponsor of S. 956, a bill to amend title XVIII of the Social Security Act to exempt unsanctioned State-licensed retail pharmacies from the surety bond requirement under the Medicare Program for suppliers of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS).

S. 984

At the request of Mrs. BOXER, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 984, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 990

At the request of Ms. STABENOW, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 990, a bill to amend the Richard B. Russell National School Lunch Act to expand access to healthy afterschool meals for school children in working families.

S. 1023

At the request of Mr. DORGAN, the names of the Senator from Kansas (Mr. BROWNBACK), the Senator from Hawaii (Mr. AKAKA), the Senator from Oregon (Mr. WYDEN), the Senator from New Jersey (Mr. MENENDEZ), the Senator from Maryland (Mr. CARDIN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 1023, a bill to establish a non-profit corporation to communicate United States entry policies and otherwise promote leisure, business, and scholarly travel to the United States.

S. 1026

At the request of Mr. CORNYN, the names of the Senator from South Dakota (Mr. THUNE) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 1026, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of marked absentee ballots of absent overseas uniformed service voters, and for other purposes.

S. 1034

At the request of Ms. STABENOW, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 1034, a bill to amend titles XIX and XXI of the Social Security Act to ensure payment under Medicaid and the State Children's Health Insurance Program for covered items and services furnished by school-based health clinics.

S. 1050

At the request of Mr. ROCKEFELLER, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was withdrawn as a cosponsor of S. 1050, a bill to amend title XXVII of the Public Health Service Act to establish Federal standards for health insurance forms, quality, fair marketing, and honesty in out-of-network coverage in the group and individual health insurance markets, to improve transparency and accountability in those markets, and to establish a Federal Office of Health Insurance Oversight to monitor performance in those markets, and for other purposes.

S. 1110

At the request of Mr. ROCKEFELLER, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1110, a bill to amend title XVIII of the Social Security Act to create a sensible infrastructure for delivery system reform by renaming the Medicare Payment Advisory Commission, making the Commission an executive branch agency, and providing the Commission new resources and authority to implement Medicare payment policy.

S. 1147

At the request of Mr. KOHL, the names of the Senator from Virginia (Mr. WARNER) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 1147, a bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

S. 1163

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1163, a bill to add 1 member with aviation safety expertise to the Federal Aviation Administration Management Advisory Council.

S. 1184

At the request of Mr. VITTER, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1184, a bill to amend the National Labor Relations Act to permit employers to pay higher wages to their employees.

S.J. RES. 15

At the request of Mr. VITTER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S.J. Res. 15, a joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

S. CON. RES. 14

At the request of Mrs. LINCOLN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution supporting the Local Radio Freedom Act.

S. CON. RES. 23

At the request of Mr. CARDIN, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. Con. Res. 23, a concurrent resolution supporting the goals and objectives of the Prague Conference on Holocaust Era Assets.

AMENDMENT NO. 1230

At the request of Mr. JOHANNS, the names of the Senator from Nevada (Mr. ENSIGN), the Senator from Idaho (Mr. CRAPO), the Senator from Utah (Mr. BENNETT), the Senator from South Carolina (Mr. GRAHAM), the Senator from Iowa (Mr. GRASSLEY) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of amendment No. 1230 intended to be proposed to H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

AMENDMENT NO. 1270

At the request of Mr. CORKER, the names of the Senator from Kentucky (Mr. MCCONNELL) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of amendment No. 1270 intended to be proposed to H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

AMENDMENT NO. 1271

At the request of Mr. KOHL, the names of the Senator from Virginia (Mr. WARNER), the Senator from New York (Mr. SCHUMER) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of amendment No. 1271 intended to be proposed to H. R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. LANDRIEU:

S. 1196. A bill to amend the Small Business Act to improve the Office of International Trade, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. LANDRIEU. Mr. President, as I come to the floor today, America's Main Street businesses are suffering. With cash registers not ringing like they used to, exporting has become a practical solution for entrepreneurs looking to survive and grow.

What helps our entrepreneurs helps our entire economy. Every $1 billion of exports creates more than 14,000 high-paying American jobs. By creating jobs, as well as lessening the trade deficit, an increase in small business exporting will lead us out of this recession and make our Nation better able to compete in the global marketplace.

Small businesses already play a vital role in America's trade and commerce,

representing 97 percent of all exporters. Yet, with only one percent of small firms exporting their goods—making up slightly more than a quarter of the country's export volume—trade remains dominated by larger businesses.

A December 2008 report released by the U.S. Census Bureau and the Bureau of Economic Analysis noted that U.S. exports of goods and services grew by 12 percent in 2008 to $1.84 trillion. However, this same data showed that during the same time period imports increased 7.4 percent to $2.52 trillion. More involvement of our small businesses in exporting would be an enormous catalyst in reducing the country's trade deficit.

As Chair of the Committee on Small Business and Entrepreneurship, I have heard from small exporters across the country. They have told me that the programs and services we have now at the Small Business Administration, SBA, are just adequate, but improvements are needed. With a few key changes to some of the export assistance and trade programs offered by the SBA, as well as a higher level of advocacy, I believe we can dramatically improve the tools available to small exporters while simultaneously increasing exporting opportunities for all entrepreneurs.

That is why today I am introducing the Small Business International Trade Enhancements Act of 2009. With this important legislation, small firms will have more opportunities to grow their businesses by expanding into international markets, creating jobs and strengthening our economy.

Like many small businesses, one of the biggest hurdles faced by small exporters is access to capital. The current economic conditions exacerbate this problem for small firms. The SBA offers several loan programs to help small exporters, but years of neglect under the previous administration have sometimes rendered these valuable tools both unattractive and impractical for borrowers and lenders alike.

One of the SBA's signature trade assistance products, the International Trade Loan, ITL, program, is a perfect example of this. This program allows exporters to borrow up to $2 million with $1,750,000 guaranteed by the SBA. Exporters can then use this money to help develop and expand overseas markets, upgrade equipment and facilities, or provide an infusion of capital if they are being hurt by import competition.

While the original goal of this program is still very much on target with the needs of larger exporters, it has not evolved to meet the financing needs of small exporters in an ever-changing global economy. The volume of loans made through this program has dropped by more than 63 percent since 2003. The SBA's other signature trade financing products—the Export Working Capital Program and the Export Express program—have also seen significant drop-offs in their loan volume, 26 percent and 23 percent respectively.

With a few small but significant changes to these programs, the SBA will be able to once again provide a user-friendly and attractive financing option that makes sense for both borrowers and lenders. One of the biggest problems with the ITL program, for example, is that a discrepancy between the loan cap and the guarantee often forces borrowers to take out a second loan to take full advantage of the guarantee. Additionally, ITL's can only be used to acquire fixed assets, rather than working capital, a common need for exporters. ITL's also do not have the same collateral or refinancing terms as SBA 7(a) loans.

The provisions in this legislation create a more commonsense product by addressing these concerns. The bill raises the loan guarantee to $2,750,000 and the loan cap to $3,670,000, to make it consistent with the 7(a) loan program. Further, it makes the ITL program more flexible by allowing working capital to become an eligible use for loan proceeds and extends the same terms for collateral and refinancing as with the 7(a) loan program. The end result is a relevant and more practical tool for small exporters.

Making these simple changes to this program will go a long way towards helping small businesses find adequate export financing. The SBA International Trade Loan and other export financing programs, however, leave borrowers without any assistance in identifying which loans are right for them. Local lenders that specialize in export financing can help get these products into the hands of the small exporters that need them the most, but they are not always the most effective means of doing so.

The SBA currently has 17 financial specialists posted throughout the country at one-stop assistance centers operated by the Department of Commerce. These specialists, at a minimal cost to the taxpayer, have facilitated well over $10 billion in exports in the last 10 years, helping to create 140,000 new and higher-paying jobs. Unfortunately, under the previous administration, this program suffered as well. My legislation would restore the staffing levels to what they were in 2002, establishing a floor of 22 financial specialists with priority staffing going to those centers—including one in my home, New Orleans—who have been without a finance specialist since 2003.

With more than 19 Federal agencies involved in export and trade promotion, small exporters often do not know where to turn for help. My legislation would help bring small business trade to the forefront in two ways.

First, it gives the SBA's Office of International Trade, OIT, more resources and a higher profile within the Agency, making it directly accountable to the Administrator instead of part of the Office of Capital Access, OCA, where it is currently held. OIT is doing an adequate job now, but with my proposed changes, the office would have the potential to become a much more valuable partner and visible advocate for small exporters.

In addition to raising the level of advocacy within the SBA, my legislation reasserts the call for a special small business advocate within the Office of the U.S. Trade Representative USTR. The USTR plays an important role in every aspect of trade in this country. While the Office claims to make small businesses a central focus, I believe more can be done to address the needs of our entrepreneurs during trade negotiations. I, along with my Ranking Member on the Small Business Committee, Senator SNOWE, and Senator SCHUMER, reached out to Ambassador Kirk earlier this year asking him to create an Assistant Trade Representative focused on small exporters. Such a move would not be unprecedented. In fact, this very chamber called on the Office of the U.S. Trade Representative to create such a position more than 20 years ago.

The Small Business International Trade Enhancements Act of 2009 is an important first step towards ensuring that small firms will have more opportunities to grow. By increasing exporting opportunities for small businesses, we will help them expand into international markets, create new and higher-paying jobs and strengthen the economy. I have heard from some of the members of my Committee, and I know how important this issue is to many of them, including Ranking Member SNOWE.

The 111th Congress will be the third consecutive Congress that I have introduced this particular legislation. I introduced it in the 109th Congress as S. 3663 and in the 110th Congress as S. 738. In these previous Congresses we have had some success in moving the bill through committee—a similar version of this bill passed the Senate Small Business Committee twice in the last two Congresses. However, as with other SBA reauthorization legislation, it stalled in the full Senate. As the new Chair of the Small Business Committee this Congress, I have made increasing small business export opportunities one of my top priorities. With this in mind, I will work closely with Ranking Member SNOWE and the other Committee members in the coming months to get this legislation to the President's desk.

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

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

S. 1196

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business International Trade Enhancements Act of 2009''.

SEC. 2. SMALL BUSINESS ADMINISTRATION ASSOCIATE ADMINISTRATOR FOR INTERNATIONAL TRADE.

(a) ESTABLISHMENT.—Section 22 of the Small Business Act (15 U.S.C. 649) is amended—

(1) by striking ''SEC. 22. (a) There'' and inserting the following:

''SEC. 22. OFFICE OF INTERNATIONAL TRADE.

''(a) ESTABLISHMENT.—

''(1) OFFICE.—There''; and

(2) in subsection (a), by adding at the end the following:

''(2) ASSOCIATE ADMINISTRATOR.—The head of the Office shall be the Associate Administrator for International Trade, who shall be responsible to the Administrator.''.

(b) AUTHORITY FOR ADDITIONAL ASSOCIATE ADMINISTRATOR.—Section 4(b)(1) of the Small Business Act (15 U.S.C. 633(b)(1)) is amended—

(1) in the fifth sentence, by striking ''five Associate Administrators'' and inserting ''Associate Administrators''; and

(2) by adding at the end the following: ''One such Associate Administrator shall be the Associate Administrator for International Trade, who shall be the head of the Office of International Trade established under section 22.''.

(c) DISCHARGE OF INTERNATIONAL TRADE RESPONSIBILITIES OF ADMINISTRATION.—Section 22 of the Small Business Act (15 U.S.C. 649) is amended by adding at the end the following:

''(h) DISCHARGE OF INTERNATIONAL TRADE RESPONSIBILITIES OF ADMINISTRATION.—The Administrator shall ensure that—

''(1) the responsibilities of the Administration regarding international trade are carried out by the Associate Administrator;

''(2) the Associate Administrator has sufficient resources to carry out such responsibilities; and

''(3) the Associate Administrator has direct supervision and control over—

''(A) the staff of the Office; and

''(B) any employee of the Administration whose principal duty station is an Export Assistance Center, or any successor entity.''.

(d) ROLE OF ASSOCIATE ADMINISTRATOR IN CARRYING OUT INTERNATIONAL TRADE POLICY.—Section 2(b)(1) of the Small Business Act (15 U.S.C. 631(b)(1)) is amended in the matter preceding subparagraph (A)—

(1) by inserting ''the Administrator of'' before ''the Small Business Administration''; and

(2) by inserting ''through the Associate Administrator for International Trade, and'' before ''in cooperation with''.

(e) IMPLEMENTATION DATE.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall appoint an Associate Administrator for International Trade under section 22(a) of the Small Business Act (15 U.S.C. 649(a)), as added by this section.

SEC. 3. OFFICE OF INTERNATIONAL TRADE.

(a) AMENDMENTS TO SECTION 22.—Section 22 of the Small Business Act (15 U.S.C. 649) is amended—

(1) in subsection (b)—

(A) by striking ''(b) The Office'' and inserting the following:

''(b) TRADE DISTRIBUTION NETWORK.—The Associate Administrator'';

(B) in the matter preceding paragraph (1), by inserting ''Export Assistance Centers,'' after ''export promotion efforts,''; and

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

''(1) assist in maintaining a distribution network, using regional and local offices of the Administration, the small business development center network, networks of women's business centers, and Export Assistance Centers for programs relating to—

''(A) trade promotion;

''(B) trade finance;

''(C) trade adjustment assistance;

''(D) trade remedy assistance; and

''(E) trade data collection;'';

(2) in subsection (c)—

(A) by striking ''(c) The Office'' and inserting the following:

''(c) PROMOTION OF SALES OPPORTUNITIES.—The Associate Administrator'';

(B) by redesignating paragraphs (1) through (8) as paragraphs (2) through (9), respectively;

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

''(1) establish annual goals for the Office relating to—

''(A) enhancing the exporting capability of small business concerns and small manufacturers;

''(B) facilitating technology transfers;

''(C) enhancing programs and services to assist small business concerns and small manufacturers to compete effectively and efficiently against foreign entities;

''(D) increasing the ability of small business concerns to access capital;

''(E) disseminating information concerning Federal, State, and private programs and initiatives; and

''(F) ensuring that the interests of small business concerns are adequately represented in trade negotiations;'';

(D) in paragraph (2), as so redesignated, by striking ''mechanism for'' and all that follows through ''(D) assisting'' and inserting the following: ''mechanism for—

''(A) identifying subsectors of the small business community with strong export potential;

''(B) identifying areas of demand in foreign markets;

''(C) prescreening foreign buyers for commercial and credit purposes; and

''(D) assisting'';

(E) in paragraph (5)(A), as so redesignated, by striking ''Gross State Produce'' and inserting ''Gross State Product'';

(F) in paragraph (6), as so redesignated, by striking the period at the end and inserting a semicolon; and

(G) in paragraph (9), as so redesignated—

(i) in the matter preceding subparagraph (A)—

(I) by striking ''full-time export development specialists to each Administration regional office and assigning''; and

(II) by striking ''office. Such specialists'' and inserting ''office and providing each Administration regional office with a full-time export development specialist, who'';

(ii) in subparagraph (D), by striking ''and'' at the end;

(iii) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(iv) by adding at the end the following:

''(F) participate, jointly with employees of the Office, in an annual training program that focuses on current small business needs for exporting; and

''(G) develop and conduct training programs for exporters and lenders, in cooperation with the Export Assistance Centers, the Department of Commerce, small business development centers, and other relevant Federal agencies.'';

(3) in subsection (d)—

(A) by redesignating paragraphs (1) through (5) as clauses (i) through (v), respectively, and adjusting the margins accordingly;

(B) by striking ''(d) The Office'' and inserting the following:

''(d) EXPORT FINANCING PROGRAMS.—

''(1) IN GENERAL.—The Associate Administrator'';

(C) by striking ''To accomplish this goal, the Office shall work'' and inserting the following:

''(2) TRADE FINANCE SPECIALIST.—To accomplish the goal established under paragraph (1), the Associate Administrator shall—

''(A) designate at least 1 individual within the Administration as a trade finance specialist to oversee international loan programs and assist Administration employees with trade finance issues; and

''(B) work'';

(4) in subsection (e), by striking ''(e) The Office'' and inserting the following:

''(e) TRADE REMEDIES.—The Associate Administrator'';

(5) by amending subsection (f) to read as follows:

''(f) REPORTING REQUIREMENT.—The Associate Administrator shall submit an annual report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives that contains—

''(1) a description of the progress of the Office in implementing the requirements of this section;

''(2) for any travel by the staff of the Office, the destination of such travel and the benefits to the Administration and to small business concerns resulting from such travel; and

''(3) a description of the participation by the Office in trade negotiations.'';

(6) in subsection (g), by striking (g) The Office and inserting the following:

''(g) STUDIES.—The Associate Administrator''; and

(7) by adding after subsection (h), as addded by section 2 of this Act, the following:

''(i) EXPORT ASSISTANCE CENTERS.—

''(1) IN GENERAL.—During the period beginning on October 1, 2009, and ending on September 30, 2012, the Administrator shall ensure that the number of full-time equivalent employees of the Office assigned to the Export Assistance Centers is not less than the number of such employees so assigned on January 1, 2003.

''(2) PRIORITY OF PLACEMENT.—The Administrator shall give priority, to the maximum extent practicable, to placing employees of the Administration at any Export Assistance Center that—

''(A) had an Administration employee assigned to the Export Assistance Center before January 2003; and

''(B) has not had an Administration employee assigned to the Export Assistance Center during the period beginning January 2003, and ending on the date of enactment of this subsection, either through retirement or reassignment.

''(3) NEEDS OF EXPORTERS.—The Administrator shall, to the maximum extent practicable, strategically assign Administration employees to Export Assistance Centers, based on the needs of exporters.

''(4) GOALS.—The Associate Administrator shall work with the Department of Commerce and the Export-Import Bank to establish shared annual goals for the Export Assistance Centers.

''(5) OVERSIGHT.—The Associate Administrator shall designate an individual within the Administration to oversee all activities conducted by Administration employees assigned to Export Assistance Centers.

''(j) DEFINITIONS.—In this section—

''(1) the term 'Associate Administrator' means the Associate Administrator for International Trade described in subsection (a)(2);

''(2) the term 'Export Assistance Center' means a one-stop shop for United States exporters established by the United States and

Foreign Commercial Service of the Department of Commerce pursuant to section 2301(b)(8) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(b)(8)); and

''(3) the term 'Office' means the Office of International Trade established under subsection (a)(1).''.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives on any travel by the staff of the Office of International Trade of the Administration, including the destination of such travel and the benefits to the Administration and to small business concerns resulting from such travel.

SEC. 4. INTERNATIONAL TRADE LOANS.

(a) IN GENERAL.—Section 7(a)(3)(B) of the Small Business Act (15 U.S.C. 636(a)(3)(B)) is amended by striking ''$1,750,000, of which not more than $1,250,000'' and inserting ''$2,750,000 (or if the gross loan amount would exceed $3,670,000), of which not more than $2,000,000''.

(b) WORKING CAPITAL.—Section 7(a)(16)(A) of the Small Business Act (15 U.S.C. 636(a)(16)(A)) is amended—

(1) in the matter preceding clause (i), by striking ''in—'' and inserting ''—'';

(2) in clause (i)—

(A) by inserting ''in'' after ''(i)''; and

(B) by striking ''or'' at the end;

(3) in clause (ii)—

(A) by inserting ''in'' after ''(ii)''; and

(B) by striking the period at the end and inserting '', including any debt that qualifies for refinancing under any other provision of this subsection; or''; and

(4) by adding at the end the following:

''(iii) by providing working capital.''.

(c) COLLATERAL.—Section 7(a)(16)(B) of the Small Business Act (15 U.S.C. 636(a)(16)(B)) is amended—

(1) by striking ''Each loan'' and inserting the following:

''(i) IN GENERAL.—Except as provided in clause (ii), each loan''; and

(2) by adding at the end the following:

''(ii) EXCEPTION.—A loan under this paragraph may be secured by a second lien position on the property or equipment financed by the loan or on other assets of the small business concern, if the Administrator determines the lien provides adequate assurance of the payment of the loan.''.

SEC. 5. SENSE OF CONGRESS RELATING TO ASSISTANT UNITED STATES TRADE REPRESENTATIVE FOR SMALL BUSINESS.

(a) FINDINGS.—Congress finds the following:

(1) According to the Office of Advocacy of the Small Business Administration, small business concerns (as that term is defined in section 3 of the Small Business Act (15 U.S.C. 632)) represent 97 percent of all exporters in the United States and account for 29 percent of the total exporting volume. Despite the overwhelming majority of exporters that are small business concerns, fewer than 1 percent of all small business concerns in the United States are engaged in trade-related business activities.

(2) According to the Office of Advocacy of the Small Business Administration, more than 72 percent of all exporters in the United States employ fewer than 20 employees. Small business concerns often do not have the sales volume or resources to overcome the costs of trade barriers and overhead expenses in international transactions, nor can small business concerns afford to maintain employees with international trade expertise to resolve trade problems.

(3) Small business advocacy groups often lack political influence in foreign countries, which hinders efforts to solve problems outside the legal process. Small business advocates are not as visible or vocal on issues relating to international trade as are the advocates for other issues, due to a lack of resources for advocacy.

(4) In 1988, Congress passed section 8012 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 631 note), which expressed the sense of Congress that the United States Trade Representative should appoint a special trade assistant for small business. As of June 2009, the position has not been established by the United States Trade Representative.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States Trade Representative should establish the position of Assistant United States Trade Representative for Small Business, to—

(1) promote the trade interests of small business concerns;

(2) identify and address foreign trade barriers that impede the exportation of goods by small business concerns;

(3) ensure that small business concerns are adequately represented during trade negotiations by the United States Trade Representative; and

(4) coordinate with other Federal agencies that are responsible for providing information or assistance to small business concerns.

By Mrs. FEINSTEIN (for herself, Ms. COLLINS, Mr. SCHUMER, and Mr. CARPER):

S. 1200. A bill to establish a temporary vehicle trade-in program through which the Secretary of Transportation shall provide financial incentives for consumers to replace fuel inefficient vehicles with vehicles that have above average fuel efficiency; to the Committee on the Budget.

Mrs. FEINSTEIN. Mr. President, I rise today to offer legislation to establish a Cash for Clunkers proposal with my colleagues, Senators SUSAN COLLINS, CHARLES SCHUMER, and THOMAS CARPER.

This proposal would establish a Federal incentive program designed to encourage consumers to turn in their gas guzzling vehicles and buy more fuel efficient vehicles.

It would be authorized for 1 year, and provide for one to two million car or truck purchases. It would be funded with up to $4 billion from the American Recovery and Reinvestment Act, to be identified by the President and approved by Congress under an expedited rescission procedure. There are approximately 47 million vehicles on the road today that could qualify for trade-in under this program.

This proposal will help stimulate auto sales at a time when sales are at historic lows.

U.S. auto sales tumbled by 37 percent from March of last year. Two of the three American auto companies have filed for bankruptcy, GM and Chrysler. Auto dealerships are closing. Tens of thousands of jobs have already been lost—and thousands more hang in the balance.

There is no question that our Nation's auto industry is in trouble, and all of us want to help.

But the whole point of a cash-for-clunkers program is to replace a clunker with a more fuel-efficient vehicle. Otherwise the program replaces a clunker with a guzzler, and destroys a good vehicle for one that is not fuel efficient.

So, the goal of the Feinstein-Collins ''cash for clunkers'' proposal is to require real fuel economy improvements—improvements that are lacking in the Auto Industry proposal.

Unfortunately, the Auto Industry proposal would allow for the scrapping of perfectly adequate vehicles in return for new gas guzzlers, like the 2009 Hummer H3T.

For example: a consumer could trade the 2005 Chevy Silverado 1500 4-wheel drive for a 2009 Hummer 3T 4-wheel drive, even though both vehicles are below size-adjusted CAFE standards for large pick-up trucks.

So this trade would be, in fact, replacing a clunker with a guzzler. The consumer would receive a voucher of $4,500 to make this trade. This is unacceptable.

In contrast, the Feinstein-Collins proposal that I am offering today would save 32 percent more than the Auto Industry proposal in oil use and reduced greenhouse gas emissions.

To be specific, it would save 11,451 barrels of oil per day, versus 8,706 barrels in the industry proposal; save 176 gallons of gas per vehicle per year; versus 133 gallons in the industry proposal; and save 1.91 million metric tons of emissions per year; versus 1.45 million metric tons in the industry proposal.

Our proposal is supported by a coalition of those who care about reducing America's consumption of fossil fuels, including: CarMax, one of the Nation's largest car dealers; evironmental groups, including the Sierra Club; efficiency advocates, including the American Council for an Energy Efficient Economy, ACEEE, the Alliance to Save Energy, and the Union of Concerned Scientists, UCS; and consumer groups, including the Consumer Federation of America.

I believe the Feinstein-Collins bill is a sensible, balanced proposal that achieves better fuel mileage—32 percent more than the Auto Industry proposal—and would result in the rapid exchange of between one to two million vehicles.

Let me take a moment to outline the key differences between our proposal and the other Auto Industry proposal.

First, our bill would require that the newly purchased vehicles under this program have above-average fuel economy for their class.

For newly purchased cars: our proposal requires the vehicle get 24 miles per gallon, the current fleetwide average for cars. Auto proposal requires only 22 mpg.

For midsize SUVs and minivans: our proposal requires 20 mpg, the current fleetwide average for that class of vehicles. Auto proposal requires only 18 mpg.

For large pickups: our proposal requires 17 mpg, the current size adjusted

CAFE standard for this largest class of vehicles. Auto proposal requires only 15 mpg.

So, our bill is 2 miles per gallon better in every category of vehicle.

Second, our proposal targets some of the worst gas guzzling offenders on the road.

Under our proposal, the trade-in vehicle would be required to have a fuel economy of 17 miles per gallon or less—instead of the 18 miles per gallon threshold of the Auto Industry proposal. This would achieve greater oil savings by targeting the least efficient 47 million vehicles on the road today.

Third, our proposal would allow leased vehicles and newer used cars to qualify, in order to encourage greater participation by low-income consumers.

Our program would allow consumers who have signed three to five year leases to qualify for a voucher worth 50 percent of the value of a voucher for a new car. Last year, 18 percent of new vehicles were leased, so this is a sizable part of the auto marketplace and shouldn't be overlooked.

In contrast, the Auto Industry proposal makes no allowance for leased vehicle participation with typical terms, of 3 to 5 years.

Our proposal would also allow newer used cars like the 2007 Ford Escape Hybrid to be purchased through the program. 40 million used cars were sold in the U.S. last year—so I believe it makes sense to include these used cars and increase the rate of participation.

Our proposal creates a three-tier voucher system to provide the most financial payment to the consumer willing to save the most oil: $2,500 for the minimum fuel economy improvement of 7 mpg for cars and 3 mpg for trucks. $3,500 for a moderate fuel economy improvement of 10 mpg for cars, 6 mpg for mid-size SUVs, and 5 mpg for large trucks. $4,500 for the maximum fuel economy improvement of 13 mpg for cars, 9 mpg for midsize SUVs, and 7 mpg for large trucks.

So, the more you improve fuel efficiency, the more money you get.

In contrast, the Auto Industry proposal would scrap perfectly adequate vehicles in return for a voucher to help put more gas guzzling vehicles on the road.

In the SUV category, the Auto Industry proposal would provide consumers with a voucher of $3,500 to increase fuel economy from the traded-in vehicle to the new vehicle by only 2 mpg. For large pick-up trucks, it requires only a 1 mpg improvement.

Over the last 5 years, fuel economy standards for trucks and SUVs have gone up 2.4 mpg—so in many cases the industry proposal would subsidize people for trading in their old truck or SUV for the exact same model.

Let me discuss some examples: $3,500 to trade in the 2002 Jeep Cherokee for the 2009 Jeep Cherokee. $4,500 to trade in a 2005 four-wheel drive Chevy Silverado for a 2009 four-wheel drive Chevy Silverado. $3,500 to trade in a 2003 four-wheel drive Dodge Ram Pick-up for a four-wheel drive Dodge Ram Pick-up. $3,500 to trade in a 2002 Toyota 4–Runner for a 2009 Toyota 4–Runner SUV.

The examples go on and on.

With respect to fuel economy?

I strongly believe that—merely 2 years after passing the Ten-in-Ten Fuel Economy Act—we should not subsidize the purchase of inefficient vehicles.

This could have the effect of bringing down the fleetwide average fuel economy. In other words, it would nullify all we fought for in the passage of the first CAFE bill to improve fuel efficiency in 20 years.

But that is exactly what the Auto proposal would do: 68 percent of all cars sold last year, in 2008, 18 percent of which have below average fuel economy, 24 mpg or less—would qualify for the industry proposal. 28 percent of below-average SUVs and small pick-ups would also qualify for subsidy.

But it is in the large pick up category that the fuel economy threshold—15 miles per gallon—is remarkably weak under the Auto Industry proposal.

Under the other program, 96 percent of all new large pick-ups—not work trucks, but regular large pick-ups—which are the least fuel efficient vehicles on the road today, would qualify for subsidized purchase. More than 90 percent of below average new heavy duty pick-ups would qualify.

Gas guzzlers like these big pick-up trucks simply do not belong in this program.

I recognize that some believe this should be the goal of the program.

But these large pickups make up the least efficient class of all vehicles on the road. So, if there are 1 million more of these vehicles sold through this program—that would not have been sold otherwise—it could dramatically lower the fleetwide average fuel economy for new vehicles sold this year.

That is why I believe these inefficient, big pickup trucks don't belong in the ''cash for clunkers'' proposal.

In contrast, our proposal encourages the purchase of those vehicles that have above average fuel economy for their class.

Finally, I would like to take a few moments to counter one of the arguments from the other side.

There are those who have mistakenly claimed that this bill, which prioritizes fuel efficiency, would give an unfair advantage to foreign automakers.

Nothing could be further from the truth.

In fact, the American auto industry has produced some very popular models of more fuel efficient vehicles, and our bill would incentivize their purchase.

Together, these three firms build 44 to 50 percent of all vehicle models that would qualify for our program's proposal in model year 2009.

According to EPA, in 2008, General Motors sold 1.2 million vehicles that would have met the higher fuel economy thresholds in our bill. And Ford and Chrysler sold more than 465,000 and 593,000 vehicles last year, respectively, that could have met the thresholds in our proposal.

That means that there were 2.2 million fuel efficient vehicles sold last year—manufactured by the Big Three Auto companies—and all of them bought without the incentives in place.

So, just imagine how many could be sold this year with the incentives.

That is the point of this ''cash for clunkers'' bill—to encourage the sale of fuel efficient vehicles.

For many models, GM, Ford and Chrysler can scale up production of their most fuel efficient configurations of their current models in their current factories.

They can make more V–6 trucks, instead of V–8 trucks.

They can use 6-speed automatic transmissions instead of 4-speed.

They can make more 2 wheel-drive trucks.

For example, Ford makes a 15 mpg version and a 17 mpg version of its best selling 2009 F–150. It is the same truck, from the same factory.

This is true for all firms.

Chrysler builds a 17 mpg configuration and a 15 mpg configuration of its 2009 Dodge Dakota pick-up in Warren, MI.

GM builds 17 mpg configurations of the 2009 Chevy Silverado and the GMC Sierra pick-ups in Fort Wayne, IN, as well as less efficient configurations.

Ford builds 17 mpg configurations of its 2009 Ford Explorer Sport Trac pick-up in Louisville, KY, and less efficient versions as well.

But the difference is that our proposal would create an incentive for Ford, GM, and Chrysler to manufacture more of the fuel efficient, 17 mpg models.

Also last year, 100 percent of all large pickups and large vans sold that would have met the higher fuel economy thresholds in our bill were either built by the Detroit Three or in an American factory.

So, I think our bill strikes a better balance.

Contrary to what some may think, I do not believe that greater fuel economy and increased auto sales have to be considered as competing goals, but rather can be understood as complementary.

I think it is evident that our bill would achieve better fuel efficiency for the consumer, and would provide a more sound investment for the taxpayer.

Our program would also allow the vouchers to be used to buy used cars or even lease a more fuel efficient vehicle.

These options are important, especially to lower income Americans who need a new car but cannot afford to buy a new vehicle. The other version of this legislation would deprive many Americans of the opportunity to participate in the program.

Bottom line—we have chosen reasonable fuel economy levels that save more oil and help all firms, including the Detroit three, sell cars at a time when sales are desperately needed.

So, I encourage my colleagues to support the Feinstein-Collins-Schumer-Carper proposal, rather than the Auto Industry proposal.

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

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

S. 1200

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Short Term Accelerated Retirement of Inefficient Vehicles Act of 2009''.

SEC. 2. TEMPORARY VEHICLE TRADE-IN PROGRAM.

(a) ESTABLISHMENT.—There is established in the National Highway Traffic Safety Administration a program, to be known as the ''Cash for Clunkers Temporary Vehicle Trade-In Program'', through which the Secretary, in accordance with this section and the regulations promulgated under subsection (d), shall—

(1) authorize the issuance of a voucher, subject to the specifications set forth in subsection (c), to offset the purchase price or lease price of a fuel efficient automobile upon the transfer of the certificate of title of an eligible trade-in vehicle to a dealer participating in the Program;

(2) register dealers for participation in the Program and require each registered dealer to—

(A) accept vouchers provided under this section as partial payment or down payment for the purchase or lease of any fuel efficient automobile offered for sale or lease by such dealer; and

(B) dispose of each eligible trade-in vehicle in accordance with subsection (c)(2) after the title of such vehicle is transferred to the dealer under the Program;

(3) in consultation with the Secretary of the Treasury, make payments to dealers for eligible transactions by such dealers before the date that is 1 year after regulations are promulgated under subsection (d), in accordance with such regulations; and

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

(b) QUALIFICATIONS FOR AND VALUE OF VOUCHERS.—A voucher issued under the Program shall have a value that may be applied to offset the purchase price or lease price of a fuel efficient automobile as follows:

(1) $1,000 VALUE.—The voucher may be used to offset the purchase price of a previously owned fuel efficient automobile manufactured for model year 2004 or later, by $1,000 if—

(A) the newly purchased fuel efficient automobile is a passenger automobile and the combined fuel economy value of such automobile is at least 7 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(B) the newly purchased fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 3 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

(C) the newly purchased fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 17 miles per gallon and the combined fuel economy value of such truck is at least 3 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle, which is also a category 2 truck.

(2) $2,500 VALUE.—The voucher may be used to offset the purchase price or lease price of the new fuel efficient automobile by $2,500 if—

(A) the new fuel efficient automobile is a passenger automobile and the combined fuel economy value of such automobile is at least 7 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(B) the new fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 3 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(C) the new fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 17 miles per gallon and—

(i) the eligible trade-in vehicle is a category 2 truck and the combined fuel economy value of the new fuel efficient automobile is at least 3 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

(ii) the eligible trade-in vehicle is a category 3 truck manufactured for model year 2001 or earlier; or

(D) the new fuel efficient automobile is a category 3 truck and the eligible trade-in vehicle is a category 3 truck manufactured for model year 1999 or earlier and is of similar size or larger than the new fuel efficient automobile, as determined in a manner prescribed by the Secretary.

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

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

(B) the new fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 6 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

(C) the new fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 17 miles per gallon and the combined fuel economy value of such truck is at least 5 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle, which is also a category 2 truck.

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

(A) the new fuel efficient automobile is a passenger automobile and the combined fuel economy value of such automobile is at least 13 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(B) the new fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 9 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

(C) the new fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 17 miles per gallon and the combined fuel economy value of such truck is 7 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle, which is also a category 2 truck.

(c) PROGRAM SPECIFICATIONS.—

(1) LIMITATIONS.—

(A) GENERAL PERIOD OF ELIGIBILITY.—A voucher issued under the Program may only be used for the purchase or lease of a fuel efficient automobile that occurs between the date on which the regulations promulgated under subsection (d) are implemented and the date that is 1 year after such date.

(B) NUMBER OF VOUCHERS PER PERSON AND PER TRADE-IN VEHICLE.—Not more than 1 voucher may be issued for a single person and not more than 1 voucher may be issued for the joint registered owners of a single eligible trade-in vehicle.

(C) NO COMBINATION OF VOUCHERS.—Only 1 voucher issued under the Program may be applied toward the purchase or lease of a single new fuel efficient automobile.

(D) CAP ON VOUCHERS FOR CATEGORY 3 TRUCKS.—Not more than 7.5 percent of the amounts made available for the Program may be used for vouchers for the purchase or qualifying lease of category 3 trucks.

(E) COMBINATION WITH OTHER INCENTIVES PERMITTED.—The availability or use of a Federal or State tax incentive or a State-issued voucher for the purchase or lease of a new fuel efficient automobile shall not limit the value or issuance of a voucher under the Program.

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

(G) NUMBER AND AMOUNT.—The total number and value of vouchers issued under the Program may not exceed the amounts appropriated for such purpose.

(H) VALUES FOR QUALIFYING SHORTER TERM LEASES.—If a fuel efficient vehicle is leased under a qualifying shorter term lease, the value of the voucher issued under the Program shall be 50 percent of the value otherwise applicable under subsection (b).

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

(A) IN GENERAL.—If the title of an eligible trade-in vehicle is transferred to a dealer under the Program, the dealer shall certify to the Secretary, in such manner as the Secretary shall prescribe by rule, that such vehicle, including the engine and drive train—

(i) has been or will be crushed or shredded within such period and in such manner as the Secretary prescribes, or will be transferred to an entity that will ensure that the vehicle will be crushed or shredded within such period and in such manner as the Secretary prescribes; and

(ii) has not been, and will not be, sold, leased, exchanged, or otherwise disposed of for use as an automobile in the United States or in any other country, or has been or will be transferred, in such manner as the Secretary prescribes, to an entity that will ensure that the vehicle has not been, and will not be, sold, leased, exchanged, or otherwise disposed of for use as an automobile in the United States or in any other country.

(B) SAVINGS PROVISION.—Nothing in subparagraph (A) may be construed to preclude a person who dismantles or disposes of the vehicle from—

(i) purchasing the disposed vehicle from a dealer for the purpose of selling parts other than the engine block and drive train;

(ii) selling any parts of the disposed vehicle other than the engine block and drive train, unless the engine or drive train has been crushed or shredded; or

(iii) retaining the proceeds from such sale.

(C) COORDINATION.—The Secretary shall coordinate with the Attorney General to ensure that the National Motor Vehicle Title Information System and other publicly accessible and commercially available systems are appropriately updated to reflect the crushing or shredding of vehicles under this section and appropriate reclassification of the vehicles' titles.

(d) RULEMAKING.—Notwithstanding the requirements of section 553 of title 5, United States Code, the Secretary shall promulgate final regulations to implement the Program not later than 30 days after the date of the enactment of this Act. Such regulations shall—

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

(2) establish procedures for the electronic reimbursement of dealers participating in the Program, within 10 days after the submission to the Secretary of information supporting the eligible transaction, as determined appropriate by the Secretary, for the appropriate amount under subsection (c) and any reasonable administrative costs incurred by the dealer;

(3) prohibit any dealer from using vouchers to offset any other rebate or discount offered by that dealer or by the manufacturer of the new fuel efficient automobile;

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

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

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

(B) a mechanism for dealers to certify to the Secretary that eligible trade-in vehicles are disposed of, or transferred to an entity that will ensure that the vehicle is disposed of, in accordance with such requirements and procedures and to submit the vehicle identification numbers, mileage, condition, and other appropriate information, as determined by the Secretary, of the vehicles disposed of and the new fuel efficient automobile purchased with each voucher; and

(C) a mechanism for obtaining such other certifications as deemed necessary by the Secretary from entities engaged in vehicle disposal;

(6) establish a mechanism for dealers to determine the scrappage value of the trade-in vehicle; and

(7) provide for the enforcement of the penalties described in subsection (e)(2).

(e) ANTI-FRAUD PROVISIONS.—

(1) VIOLATION.—It shall be unlawful for any person to violate any provision under this section or any regulations issued pursuant to subsection (d).

(2) PENALTIES.—Any person who commits a violation described in paragraph (1) shall be liable to the United States Government for a civil penalty in an amount equal to not more than $25,000 for each such violation.

(f) INFORMATION TO CONSUMERS AND DEALERS.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, and promptly upon the update of any relevant information, the Secretary shall make information about the Program available through an Internet Web site and through other means determined by the Secretary. Such information shall include—

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

(B) how to determine the scrappage value of an eligible trade-in vehicle;

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

(D) a comprehensive list, by make and model, of fuel efficient automobiles meeting the requirements of the Program.

(2) PUBLIC AWARENESS CAMPAIGN.—Upon completing the requirements under paragraph (1), the Secretary shall conduct a public awareness campaign to inform consumers about the Program and the sources for additional information.

(g) RECORDKEEPING AND REPORT.—

(1) DATABASE.—The Secretary shall maintain a database that includes—

(A) the vehicle identification numbers of all fuel efficient vehicles purchased or leased under the Program; and

(B) the vehicle identification numbers, mileage, condition, scrappage value, and other appropriate information, as determined by the Secretary, of all the eligible trade-in vehicles which have been disposed of under the Program.

(2) REPORT.—Not later than June 30, 2010, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that describes the efficacy of the Program and includes—

(A) a description of the results of the Program, including—

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

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

(iii) the location of sale or lease;

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

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

(h) RULE OF CONSTRUCTION.—For purposes of determining Federal or State income tax liability or eligibility for any Federal or State program that bases eligibility, in whole or in part, on income, the value of any voucher issued under the Program to offset the purchase price or lease price of a new fuel efficient automobile shall not be considered income of the person purchasing such automobile.

(i) DEFINITIONS.—In this section:

(1) CATEGORY 1 TRUCK.—The term ''category 1 truck'' means a nonpassenger automobile (as defined in section 32901(a)(17) of title 49, United States Code) that—

(A) has a combined fuel economy value of at least 20 miles per gallon; and

(B) is not a category 2 truck.

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

(3) CATEGORY 3 TRUCK.—The term ''category 3 truck'' has the meaning given the term ''work truck'' in section 32901(a)(19) of title 49, United States Code.

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

(A) with respect to a new fuel efficient automobile, the number, expressed in miles per gallon, centered below the words ''Combined Fuel Economy'' on the label required to be affixed or caused to be affixed on a new automobile pursuant to subpart D of part 600 of title 40 Code of Federal Regulations;

(B) with respect to an eligible trade-in vehicle manufactured after model year 1984, the equivalent number determined on the fueleconomy.gov Web site of the Environmental Protection Agency for the make, model, and year of such vehicle; and

(C) with respect to an eligible trade-in vehicle manufactured between model years 1978 through 1984, the equivalent number determined by the Secretary and posted on the website of the National Highway Traffic Safety Administration, using data maintained by the Environmental Protection Agency for the make, model, and year of such vehicle.

(5) DEALER.—The term ''dealer'' means a person that is licensed by a State and engages in the sale of automobiles to ultimate purchasers.

(6) ELIGIBLE TRADE-IN VEHICLE.—The term ''eligible trade-in vehicle'' means an automobile or a work truck (as such terms are defined in section 32901(a) of title 49, United States Code) that, at the time it is presented for trade-in under this section—

(A) is in drivable condition;

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

(C) has a combined fuel economy value of 17 miles per gallon or less.

(7) FUEL EFFICIENT AUTOMOBILE.—The term ''fuel efficient automobile'' means a vehicle described in paragraph (1), (2), (3), or (9), that was manufactured for any model year after 2003, and, at the time of the original sale to a consumer—

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

(B) complies with the applicable air emission and related requirements under the National Emission Standards Act (42 U.S.C. 7521 et seq.);

(C) qualifies for listing in emission bin 1, 2, 3, 4, or 5 (as defined in section 86.1803–01 of title 40, Code of Federal Regulations), or for work trucks the applicable vehicle and engine standards found under section 86.005–10 and 86.007–11 of title 40, Code of Federal Regulations; and

(D) has a combined fuel economy value of—

(i) 24 miles per gallon, if the vehicle is a passenger automobile;

(ii) 20 miles per gallon, if the vehicle is a category 1 truck; or

(iii) 17 miles per gallon, if the vehicle is a category 2 truck.

(8) NEW FUEL EFFICIENT AUTOMOBILE.—The term ''new fuel efficient automobile'' means a fuel efficient automobile, the equitable or legal title of which has not been transferred to any person other than the ultimate purchaser.

(9) PASSENGER AUTOMOBILE.—The term ''passenger automobile'' means a passenger automobile (as defined in section 32901(a)(18) of title 49, United States Code) that has a combined fuel economy value of at least 24 miles per gallon.

(10) PROGRAM.—The term ''Program'' means the Cash for Clunkers Temporary Vehicle Trade-In Program established under this section.

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

(12) QUALIFYING SHORTER TERM LEASE.—The term ''qualifying shorter term lease'' means a lease of an automobile for a period of not less than 3 years and not more than 5 years.

(13) SCRAPPAGE VALUE.—The term ''scrappage value'' means the amount received by the dealer for an eligible trade-in vehicle upon transferring title of such vehicle to the person responsible for ensuring the dismantling and destruction of the vehicle.

(14) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation, acting through the National Highway Traffic Safety Administration.

(15) ULTIMATE PURCHASER.—The term ''ultimate purchaser'' means, with respect to any new automobile, the first person who in good faith purchases such automobile for purposes other than resale.

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

SEC. 3. EXPEDITED CONSIDERATION OF AMERICAN RECOVERY AND REINVESTMENT ACT RESCISSIONS.

(a) PROPOSED RESCISSION OF DISCRETIONARY BUDGET AUTHORITY.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any discretionary budget authority provided under the American Recovery and Reinvestment Act (Public Law 111–5).

(b) TRANSMITTAL OF SPECIAL MESSAGE.—(1) Not later than 15 days after the date of the enactment of this Act, the President may—

(A) transmit to Congress a special message proposing to rescind amounts of discretionary budget authority provided in the American Recovery and Reinvestment Act; and

(B) include with the special message described in subparagraph (A) a draft bill or joint resolution that, if enacted, would only rescind that discretionary budget authority.

(2) If an Act includes accounts within the jurisdiction of more than 1 subcommittee of the Committee on Appropriations, the President, in proposing to rescind discretionary budget authority under this section, shall send a separate special message and accompanying draft bill or joint resolution for accounts within the jurisdiction of each such subcommittee.

(3) Each special message transmitted to Congress under this subsection shall specify, with respect to the discretionary budget authority proposed to be rescinded—

(A) the amount of budget authority proposed to be rescinded or which is to be so reserved;

(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(C) the reasons why the budget authority should be rescinded or is to be so reserved;

(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed rescission or of the reservation; and

(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission or the reservation and the decision to effect the proposed rescission or the reservation, and to the maximum extent practicable, the estimated effect of the proposed rescission or the reservation upon the objects, purposes, and programs for which the budget authority is provided.

(c) LIMITATION ON AMOUNTS SUBJECT TO RESCISSION.—The amount of discretionary budget authority the President may propose to rescind in a special message under this section for a particular program, project, or activity may not exceed $4,000,000,000.

(d) PROCEDURES FOR EXPEDITED CONSIDERATION.—(1)(A) Before the close of the second day of continuous session of the applicable House of Congress after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Congress in which the Act involved originated shall introduce (by request) the draft bill or joint resolution accompanying that special message. If the bill or joint resolution is not introduced by the third day of continuous session of that House after the date of receipt of that special message, any Member of that House may introduce the bill or joint resolution.

(B) A bill or joint resolution introduced pursuant to subparagraph (A) shall be referred to the Committee on Appropriations of the House in which it is introduced. The bill or joint resolution shall be voted on not later than the seventh day of continuous session of that House after the date of receipt of that special message. If the Committee on Appropriations fails to vote on the bill or joint resolution within that period, that committee shall be automatically discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed on the appropriate calendar.

(C) A vote on final passage of a bill or joint resolution introduced pursuant to subparagraph (A) shall be taken in that House on or before the close of the 10th calendar day of continuous session of that House after the date of the introduction of the bill or joint resolution in that House, except in cases in which the Committee on Appropriations has considered and voted against discharging the bill or joint resolution for further consideration. If the bill or joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the bill or joint resolution to be engrossed, certified, and transmitted to the other House of Congress on the same calendar day on which the bill or joint resolution is agreed to.

(2)(A) A bill or joint resolution transmitted to the Senate or the House of Representatives pursuant to paragraph (1)(C) shall be referred to the Committee on Appropriations of that House. The bill or joint resolution shall be voted on not later than the seventh day of continuous session of that House after it receives the bill or joint resolution. A committee failing to vote on the bill or joint resolution within such period shall be automatically discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed upon the appropriate calendar.

(B) A vote on final passage of a bill or joint resolution transmitted to that House shall be taken on or before the close of the 10th calendar day of continuous session of that House after the date on which the bill or joint resolution is transmitted, except in cases in which the Committee on Appropriations has considered and voted against discharging the bill or joint resolution for further consideration. If the bill or joint resolution is agreed to in that House, the Clerk of the House of Representatives (in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the engrossed bill or joint resolution to be returned to the House in which the bill or joint resolution originated.

(3)(A) A motion in the House of Representatives to proceed to the consideration of a bill or joint resolution under this section shall be highly privileged and not debatable. An amendment to the motion and a motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(B) Debate in the House of Representatives on a bill or joint resolution under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill or joint resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill or joint resolution under this section or to move to reconsider the vote by which the bill or joint resolution is agreed to or disagreed to.

(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill or joint resolution under this section shall be decided without debate.

(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill or joint resolution under this section shall be governed by the Rules of the House of Representatives.

(4)(A) A motion in the Senate to proceed to the consideration of a bill or joint resolution under this section shall be privileged and not debatable. An amendment to the motion and a motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(B) Debate in the Senate on a bill or joint resolution under this section, and all debatable motions and appeals in connection to such bill or joint resolution, shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a bill or joint resolution under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or joint resolution, except that in the event the manager of the bill or joint resolution is in favor of any such motion or appeal, the time in opposition to such motion or appeal shall be controlled by the minority leader or his designee. Either such leader may, from time under their control on the passage of a bill or joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a bill or joint resolution under this section is not debatable. A motion to recommit a bill or joint resolution under this section is not in order.

(e) AMENDMENTS PROHIBITED.—No amendment to a bill or joint resolution considered under this section shall be in order in the Senate or the House of Representatives. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

(f) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—Any amount of discretionary budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House defeats the bill or joint resolution transmitted with that special message.

(g) DEFINITIONS.—For purposes of this section—

(1) continuity of a session of either House of Congress shall be considered as broken only by an adjournment of that House sine die, and the days on which that House is not in session because of an adjournment of more than 3 days to a date certain shall be excluded in the computation of any period; and

(2) the term ''discretionary budget authority'' means the dollar amount of discretionary budget authority and obligation limitations—

(A) specified in the American Recovery and Reinvestment Act (Public Law 111–5), or the dollar amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included;

(B) represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law;

(C) required to be allocated for a specific program, project, or activity in a law (other than an appropriation law) that mandates obligations from or within accounts, programs, projects, or activities for which budget authority or an obligation limitation is provided in an appropriation law;

(D) represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or included in the statement of managers or the governing committee report accompanying such law; or

(E) represented by the product of the estimated procurement cost and the total quantity of items required to be provided in a law (other than an appropriation law) that mandates obligations from accounts, programs, projects, or activities for which dollar amount of discretionary budget authority or an obligation limitation is provided in an appropriation law.

(h) CONFORMING AMENDMENT.—Section 1014(e)(1) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 685(e)(1)) is amended—

(1) in subparagraphs (A) and (B), by striking ''he'' each place such term appears and inserting ''the President'';

(2) in subparagraph (A), by striking ''and'' at the end;

(3) by redesignating subparagraph (B) as subparagraph (C); and

(4) by inserting after subparagraph (A) the following:

''(B) the President has transmitted a special message under section 3 of the Short Term Accelerated Retirement of Inefficient Vehicles Act of 2009 with respect to a proposed rescission; and''.

SEC. 4. SUNSET PROVISION.

Section 3 shall be repealed on the date on which regulations are promulgated under section 2(d).

By Mr. BINGAMAN (for himself, Mr. BEGICH, and Ms. STABENOW):

S. 1201. A bill to amend title XVIII of the Social Security Act to include costs incurred by the Indian Health Service, a Federally qualified health center, an AIDS drug assistance program, certain hospitals, or a pharmaceutical manufacturer patient assistance program in providing prescription drugs toward the annual out of pocket threshold under part D of the Medicare program; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise along with Senators BEGICH and STABENOW today to introduce important legislation that will ensure that low-income seniors have full access to the benefits available to them under the Medicare Drug Benefit. Helping Fill the Medicare Rx Gap Act of 2009 will ensure that low-income seniors and other low-income beneficiaries do not get caught in the Medicare Part D coverage gap, or ''doughnut hole,'' simply because of where they choose to purchase their Part D pharmaceuticals.

Under current regulation and guidance, individuals who are in the doughnut hole and receive Part D drugs from commercial pharmacies are permitted to count waivers or reductions in Part D cost-sharing to count towards their true out of pocket expenses, TrOOP. However, low-income individuals who may receive Part D drugs from safety-net pharmacies and other safety-net providers are not permitted to count similar waivers or reductions in Part D cost-sharing by safety-net providers towards their TrOOP. Thus, current law penalizes low-income individuals and makes it easier for them to get stuck in the doughnut hole—never accessing the catastrophic coverage to which they are entitled.

My legislation would undo this inequity and permit waivers and reductions for beneficiaries receiving care from safety-net providers to count towards beneficiaries' TrOOP. Specifically, the legislation will count waivers and reductions by certain safety-net hospitals and pharmacies, Federally Qualified Health Centers, AIDS Drug Assistance Programs, Pharmacy Assistance Programs and the Indian Health Service toward TrOOP.

I would like to express my gratitude for the assistance of several key senior citizen advocates in crafting this legislation, including: Howard Bedlin from the National Council on Aging, Lena O'Rourke and Marc Steinberg from Families USA, Patricia Nemore and Vicki Gottlich from the Center for Medicare Advocacy and Paul Precht and Rachel Shiffrin, from the Medicare Rights Center.

I urge my colleagues to join me in supporting this important piece of legislation, which will ensure that life saving pharmaceuticals are available to low-income Americans.

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

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

S. 1201

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Helping Fill the Medicare Rx Gap Act of 2009''.

SEC. 2. INCLUDING COSTS INCURRED BY THE INDIAN HEALTH SERVICE, A FEDERALLY QUALIFIED HEALTH CENTER, AN AIDS DRUG ASSISTANCE PROGRAM, CERTAIN HOSPITALS, OR A PHARMACEUTICAL MANUFACTURER PATIENT ASSISTANCE PROGRAM IN PROVIDING PRESCRIPTION DRUGS TOWARD THE ANNUAL OUT OF POCKET THRESHOLD UNDER PART D.

(a) IN GENERAL.—Section 1860D–2(b)(4)(C) of the Social Security Act (42 U.S.C. 1395w–102(b)(4)(C)) is amended—

(1) in clause (i), by striking ''and'' at the end;

(2) in clause (ii)—

(A) by striking ''such costs shall be treated as incurred only if'' and inserting ''subject to clause (iii), such costs shall be treated as incurred if'';

(B) by striking '', under section 1860D–14, or under a State Pharmaceutical Assistance Program'';

(C) by striking ''(other than under such section or such a Program)''; and

(D) by striking the period at the end and inserting ''; and''; and

(3) by inserting after clause (ii) the following new clause:

''(iii) such costs shall be treated as incurred and shall not be considered to be reimbursed under clause (ii) if such costs are borne or paid—

''(I) under section 1860D–14;

''(II) under a State Pharmaceutical Assistance Program;

''(III) by the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act);

''(IV) by a Federally qualified health center (as defined in section 1861(aa)(4));

''(V) under an AIDS Drug Assistance Program under part B of title XXVI of the Public Health Service Act;

''(VI) by a subsection (d) hospital (as defined in section 1886(d)(1)(B)) that meets the requirements of clauses (i) and (ii) of section 340B(a)(4)(L) of the Public Health Service Act; or

''(VII) by a pharmaceutical manufacturer patient assistance program, either directly or through the distribution or donation of covered part D drugs, which shall be valued at the negotiated price of such covered part D drug under the enrollee's prescription drug plan or MA–PD plan as of the date that the drug was distributed or donated.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to costs incurred on or after January 1, 2010.

By Mr. BAUCUS (for himself, Mr. HATCH, Mr. KERRY, Mrs. LINCOLN, Mr. WYDEN, Mr. SCHUMER, Ms. CANTWELL, Mr. MENENDEZ, Mr. ENSIGN, and Mr. CORNYN):

S. 1203. A bill to amend the Internal Revenue Code of 1986 to extend the research credit through 2010 and to increase and make permanent the alternative simplified research credit, and for other purposes; to the Committee on Finance.

Mr. BAUCUS, Mr. President, I am introducing this bill with Senator HATCH and others to move America forward in the 21st Century.

In 2005, the last year for which we have IRS data, over eleven thousand C-corporations claimed the research tax credit. Approximately 70 percent of qualifying expenses are wages. This credit encourages American businesses to keep jobs here.

These jobs are good paying jobs. And when the research is performed in the U.S., then the intangible property stays in this country. And we get to enjoy the fruits of the labor. We need to keep the research jobs here. We cannot lose these jobs. We must make the research and development credit permanent and do everything we can to keep these research jobs here.

The Grow Research Opportunities with Taxcredit's Help Act of 2009 improves and simplifies the credit for applied research in section 41 of the tax code. This credit has grown to be overly complex, both for taxpayers and the IRS. Beginning in 2009, the bill would ramp up the simpler credit for qualifying research expenses that exceed 50 percent of the average expenses for the prior 3 years. This alternative simplified credit increases from 14 percent to 20 percent in 2009.

Second, the bill allows taxpayers to claim the traditional credit in 2009 and 2010. This gives the traditional credit companies time to adjust their accounting and effectively shift to the alternative simplified credit. For tax years beginning after 2010, the alternative simplified credit will be the only tax credit for qualifying research expenses.

The main complaint about the traditional credit is that it is very complex, particularly the reference to the 20-year-old base period. This base period creates problems for the taxpayer in trying to calculate the credit. It creates problems for the IRS in trying to administer and audit those claims.

The alternative simplified credit focuses only on expenses, not gross receipts. It is still an incremental credit, so that companies must continue to increase research spending over time.

A tax credit is a cost-effective way to promote research and development. A report by the Congressional Research Service finds that without government support, investment in research and development would fall short of the socially optimal amount. Thus CRS endorses Government policies to boost private sector research and development.

We are competing in a global economy, and we need to promote research in this country. This bill will pave the way to a robust research and development incentive so that we can continue to lead the way in new technologies and domestic job growth.

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

S. 1205. A bill to exempt guides for hire and other operators of uninspected vessels on Lake Texoma from Coast Guard and other regulations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. INHOFE. Mr. President, today I introduced legislation that will exempt fishing guides and other operators of uninspected vessels on Lake Texoma from Coast Guard regulation. After weeks of discussion with the Coast Guard and thoughtful consideration, many in the Oklahoma delegation have decided that this is the course of action that will best protect an industry that is extremely important to the people of southern Oklahoma.

While the waters on Lake Texoma are considered ''navigable'' and currently subject to Federal regulation, this is inherently a state function and should be regulated at that level. This legislation will cede authority to conduct the licensing of fishing guides to the proper governing entity, which is the State of Oklahoma and not the Federal Government. I applaud Congressman BOREN for introducing companion legislation in the House of Representatives, and thank Senator COBURN for his cosponsorship of this measure.

At the end of the day this is about two things: preserving the fishing guide industry and, most importantly, ensuring safety on Lake Texoma. The State of Oklahoma is better positioned to accomplish both. The Coast Guard has not had an active presence at the lake until recently, whereas the State of Oklahoma's Department of Public Safety has a long history of ensuring safe boating activity there. Day in and day out, the State of Oklahoma will be better able to provide for the safety of individuals at the lake. Federal interference in the daily lives of Oklahomans is ever-increasing, and I believe it is important that we preserve state jurisdiction over activities such as this. This legislation accomplishes that.

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

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

S. 1205

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

SECTION 1. EXEMPTION OF FISHING GUIDES AND OTHER OPERATORS OF UNINSPECTED VESSELS ON LAKE TEXOMA FROM COAST GUARD AND OTHER REGULATIONS.

(a) EXEMPTION.—

(1) EXEMPTION OF STATE LICENSEES FROM COAST GUARD REGULATION.—Residents or nonresidents who assist, accompany, transport, guide, or aid persons in the taking of fish for monetary compensation or other consideration on Lake Texoma who are licensed by the State in which they are operating shall not be subject to any requirement established or administered by the Coast Guard with respect to that operation.

(2) EXEMPTION OF COAST GUARD LICENSEES FROM STATE REGULATION.—Residents or nonresidents who assist, accompany, transport, guide, or aid persons in the taking of fish for monetary compensation or other consideration on Lake Texoma who are currently licensed by the Coast Guard to conduct such activities shall not be subject to State regulation for as long as the Coast Guard license for such activities remains valid.

(b) STATE REQUIREMENTS NOT AFFECTED.—Except as provided in subsection (a)(2), this section does not affect any requirement under State law or under any license issued under State law.

SEC. 2. WAIVER OF BIOMETRIC TRANSPORTATION SECURITY CARD REQUIREMENT FOR CERTAIN SMALL BUSINESS MERCHANT MARINERS.

Section 70105(b)(2) of title 46, United States Code, is amended—

(1) in subparagraph (B), by inserting ''and serving under the authority of such license, certificate of registry, or merchant mariners document on a vessel for which the owner or operator of such vessel is required to submit a vessel security plan under section 70103(c) of this title'' before the semicolon;

(2) by striking subparagraph (D); and

(3) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

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

S. 1206. A bill to establish and carry out a pediatric specialty loan repayment program; to the Committee on Health, Education, Labor, and Pensions.

Mr. BROWN. Mr. President, as Congress moves toward enacting groundbreaking health reform legislation, it is imperative that we pay close attention to the unique developmental needs of children and ensure that we are doing everything possible to meet their growing needs.

Meeting the health care needs of our nation's 80 million infants, children, and adolescents requires a stable and strong pediatrician workforce, comprised of well-trained pediatricians, pediatric medical subspecialists, pediatric surgical specialists, and psychiatric subspecialists.

However, a November 2007 report released by the Maternal and Child Health Bureau's, MCHB, Federal Expert Work Group on Pediatric Subspecialty Capacity concluded that the lack of access to pediatric subspecialty care has reached crisis proportions and that the ratio of pediatric subspecialists and pediatric surgical specialists to children who need care is hazardously low.

The MCHB panel concluded that the lack of access to pediatric subspecialty care is due to several factors, including an insufficient number of pediatric subspecialists, dramatically increased demand for pediatric subspecialty care, a fragmented system of pediatric primary and specialty care, and inadequate financing of medical education.

In the U.S. there are approximately 28,000 pediatric medical subspecialists and surgical specialists responsible for caring for over 80 million children. This is simply not enough.

At a time when we are seeing aging workforce populations and decreasing numbers of physicians being trained in pediatric subspecialties, the demand for pediatric subspecialty care has reached unprecedented levels. In the last 10 years, our Nation's children have experienced dramatic increases in the incidence and prevalence of conditions such as asthma, diabetes, depression, obesity, and increased demand for surgical correction of congenital heart disease and orthopedic anomalies.

The repercussions of this workforce shortage were enumerated during a hearing that I chaired on May 14th in the Committee on Health, Education, Labor, and Pensions.

During that hearing, we were honored to hear the testimony of Dr. Marsha Raulerson, a practicing pediatrician in Brewton, AL. During her testimony, Dr. Raulerson explained how pediatric subspecialist shortages have a life-or-death impact in both rural and urban communities. She emphasized the need to develop initiatives to recruit medical students and residents into specific pediatric disciplines and to underserved geographic regions.

That is why I am introducing the Pediatric Workforce Investment Act. This legislation would help address pediatric workforce shortages, particularly in medically underserved communities, by creating a pediatric specialty loan repayment program to encourage physicians to train and provide pediatric subspecialty care in areas desperately in need.

To improve access to needed medical care for our children, the shortage of pediatric subspecialists must be addressed. Creating a loan repayment program to help defray costs and incentivize care in underserved communities is a good first step.

I would like to thank Senators DODD and CASEY for being original cosponsors of this legislation and for being such strong advocates for children's health issues.

By Mr. WARNER:

S. 1207. A bill to authorize the Secretary of the Interior to study the suitability and feasibility designating the National D-Day Memorial in Bedford, Virginia, as a unit of the National Park System; to the Committee on Energy and Natural Resources.

Mr. WARNER. Mr. President, last month, we honored an American hero, Elisha ''Ray'' Nance of Bedford, VA, who passed away at the age of 94. Mr. Nance was the last surviving member of what has come to be known as ''The Bedford Boys''—members of Company A, 116th Infantry, 29th Division.

For those who do not know the story, Mr. Nance was among 38 National Guardsmen from the close-knit community of Bedford who were called to active service in World War II. On June 6, 1944, 35 young men of Bedford's Company A were in the first wave to hit ''Omaha Beach'' at Normandy. Nineteen young men from Bedford died in the opening battle during the early morning of June 6, and two more Bedford boys died a few days later in the ensuing Normandy campaign.

''We Bedford boys,'' Nance recalled, ''competed to be in the first wave. We wanted to be there. We wanted to be the first on the beach,'' he would write as he recovered from his own severe wounds. The loss of 21 of the 35 soldiers from that small community of 3,200 people designated Bedford as the town that suffered the highest proportional losses on D-Day.

On Saturday, we marked the 65th anniversary of the Allied invasion at Normandy. And as we reflect upon all that was lost on Omaha Beach—and, ultimately, all that was gained as Allied forces successfully liberated Europe during World War II—it is appropriate to reflect for a moment on the heart-wrenching sacrifice made by this small town in the Blue Ridge Mountains of central Virginia.

In 1996, Congress designated Bedford as the most appropriate spot for the National D-Day Memorial. The Memorial, built upon a mixture of sand from Omaha Beach and farm dirt from central Virginia, and dedicated by then-President George W. Bush on June 6, 2001, and it now stands as a striking tribute to the valor, fidelity, and sacrifice of the Allied forces on D-Day. The historical events surrounding the Normandy landing provide the broad context for the story the Memorial attempts to tell, but the National D-Day Memorial is not about war: it is about service to our nation—the duties of citizenship—and subjugating oneself for a greater good. In short, it is about the character and patriotism we find in all of our small communities across America.

The Memorial has attracted over one million visitors since it opened in 2001, with over 50 percent visiting from out of state, and more than 10,000 students participate in the D-Day Memorial's educational programs each year.

However, expenses run just over $2 million each year, and the Memorial takes in less than $600,000 a year in admission fees and gifts. Recently, the non-profit foundation that operates the Memorial announced it does not have adequate resources to remain open through the end of the year. We must take action now, or we risk losing an important landmark that pays tribute to the unbelievable sacrifices our young men and their families during that fateful landing.

Therefore, I am introducing this legislation that would authorize the Secretary of the Interior to study the suitability and feasibility of designating the National D-Day Memorial in Bedford, Virginia, as a unit of the National Park System. This proposal is cosponsored by my esteemed Virginia colleague, Senator WEBB.

I urge you to support this measure, which would protect and preserve this important monument to our D-Day veterans and their families and future generations of Americans.

By Ms. SNOWE:

S. 1208. A bill to amend the Small Business Act to improve export growth opportunities for small businesses, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today to introduce the Small Business Export Opportunity Act of 2009, a measure that would provide improved and expanded support for small businesses, through critical programs and reforms, to help them compete globally and export their goods and services to foreign markets.

As Ranking Member of the Senate Committee on Small Business and Entrepreneurship, and as a senior member of both the Senate Finance and Commerce Committees, one of my top priorities is to ensure that small businesses get the promised benefits of our international trade relationships and are able to compete in the world economy.

While globalization has created opportunities for small businesses to sell their goods and services in new markets, not enough small businesses are taking advantage of these international opportunities. In fact, according to the U.S. Department of Commerce, only 266,457 of the approximately 27 million small businesses, or less than 1 percent, currently sell their products to foreign buyers. Small businesses are a vital source of economic growth and job creation, generating approximately 75 percent of net new jobs each year. Small businesses are essential to our economic recovery, and we must help them take advantage of all potential opportunities, including those in foreign markets.

Small businesses face particular challenges in exporting. It can be difficult for small exporting firms to secure the working capital needed to fulfill foreign purchase orders, for instance, because many lenders will not lend against export orders or export receivables. Small business owners may not know how to connect with foreign buyers, or may not have the time or resources necessary to understand other countries' rules and regulations.

Currently, Federal programs are grossly inadequate at helping small businesses overcome the challenges of exporting. This legislation gives small businesses the resources and assistance needed to explore potential export opportunities, or to expand their current export business.

The bill includes provisions I have supported for many years, during my tenure as both Chair and Ranking Member of the Senate Small Business Committee. For instance, I first introduced legislation in 2001, in the 107th Congress, to establish a U.S. Trade Representative for Small Business, in order to ensure that small business interests are reflected in U.S. trade policy and trade agreement negotiations. The legislation I am introducing today includes this vital provision.

The legislation also includes provisions from bills I have introduced in past Congresses, since the 109th, to elevate the head of the Small Business Administration, SBA, office responsible for trade and export programs to the Associate administrator-level, reporting directly to the administrator. It also includes provisions requiring that the SBA immediately fill its trade specialist positions that have been vacant for years.

The Small Business Export Opportunity Act of 2009 would also bolster the SBA's technical assistance programs, and will improve export financing programs so that small businesses have access to capital needed to support export sales. Furthermore, the legislation increases the coordination among other federal agencies—the Department of Commerce, the Office of the U.S. Trade Representative, and the Export-Import Bank—to ensure that small businesses benefit from all the export assistance the Federal Government offers.

The legislation also provides small businesses with matching grants, of up to $5,000, for expenses relating to activities that help them start or expand export activity. It creates a new Office of Small Business Development and Promotion at the SBA, and it improves the SBA's network of international trade counselors. This legislation increases the maximum size of SBA-guaranteed export working capital and international trade loans, and it establishes a permanent Export Express program. It also establishes a program to provide support for small businesses related to trade disputes and unfair international trade practices.

Small businesses can survive, diversify, and compete effectively in the international marketplace by developing an export business. But, as I mentioned, too few small businesses are expanding into international markets. This legislation will help small business owners take the crucial steps of finding international buyers for their goods and services and will enable small business owners to secure the financing needed to fill orders from foreign buyers.

This investment could yield tremendous returns for our economy. The U.S. spends just ⅙ of the international average among developed countries in promoting small businesses exports. Every additional dollar spent on export promotion results in a 40-fold increase in exports, according to a World Bank study.

We cannot overlook the impact of trade on small businesses. An investment in small business exporting assistance is an investment in our economy. This legislation will help small businesses stay competitive, help them grow, and speed the recovery of our economy as a whole. I ask all of my Senate colleagues to support this vital legislation.

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

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

S. 1208

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Export Opportunity Development Act of 2009''.

SEC. 2. DEFINITIONS.

In this Act—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''Export Assistance Center'' means a one-stop shop referred to in section 2301(b)(8) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(b)(8));

(3) the term ''export loan programs'' means the programs of the Administration under paragraphs (14) and (16) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)) and section 22 of that Act (15 U.S.C. 649), as amended by this Act; and

(4) the term ''small business concern'' has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632).

SEC. 3. OFFICE OF SMALL BUSINESS EXPORT DEVELOPMENT AND PROMOTION.

(a) OFFICE OF SMALL BUSINESS EXPORT DEVELOPMENT AND PROMOTION.—Section 22 of the Small Business Act (15 U.S.C. 649) is amended to read as follows:

''SEC. 22. OFFICE OF SMALL BUSINESS EXPORT DEVELOPMENT AND PROMOTION.

''(a) DEFINITIONS.—In this section—

''(1) the term 'accredited export assistance program' means a program—

''(A) that provides counseling and assistance relating to exporting to small business concerns; and

''(B) in which not less than 20 percent of the technical assistance staff members are certified in providing export assistance under subsection (g)(2);

''(2) the term 'Associate Administrator' means the Associate Administrator for Export Development and Promotion;

''(3) the term 'Export Assistance Center' means a one-stop shop referred to in section 2301(b)(8) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(b)(8));

''(4) the term 'export development officer' means an individual described in subsection (d)(8);

''(5) the term 'Office' means the Office of Export Promotion and Development established under subsection (b)(1); and

''(6) the term 'Service Corps of Retired Executives' means the Service Corps of Retired Executives authorized by section 8(b)(1).

''(b) OFFICE ESTABLISHED.—

''(1) ESTABLISHMENT.—There is established within the Administration an Office of Export Promotion and Development, which shall carry out the programs under this section.

''(2) ASSOCIATE ADMINISTRATOR.—The head of the Office shall be the Associate Administrator for Export Development and Promotion, who shall report directly to the Administrator.

''(c) DUTIES OF OFFICE.—The Associate Administrator, working in close cooperation with the Department of Commerce, the United States Trade Representative, the Export-Import Bank, other relevant Federal agencies, small business development centers, regional and district offices of the Administration, the small business community, and relevant State and local export promotion programs, shall—

''(1) maintain a distribution network for export promotion, export finance, trade adjustment, trade remedy assistance, and export data collection programs through use of the regional and district offices of the Administration, the small business development center network, the network of women's business centers, chapters of the Service Corps of Retired Executives, and Export Assistance Centers;

''(2) aggressively market the programs described in paragraph (1) and disseminate information, including computerized marketing data, to the small business community on exporting trends, market-specific growth, industry trends, and international prospects for exports;

''(3) promote export assistance programs through the district and regional offices of the Administration, the small business development center network, Export Assistance Centers, the network of women's business centers, chapters of the Service Corps of Retired Executives, State and local export promotion programs, and partnerships with people in the private sector; and

''(4) give preference in hiring or approving the transfer of any employee into the Office or to an export development officer position to otherwise qualified applicants who are fluent in a language in addition to English, who shall—

''(A) accompany foreign trade missions, if designated by the Associate Administrator; and

''(B) be available as needed to translate documents, interpret conversations, and facilitate multilingual transactions, including providing referral lists for translation services, if required.

''(d) PROMOTION OF SALES OPPORTUNITIES.—The Associate Administrator shall promote sales opportunities for small business goods and services abroad by—

''(1) in cooperation with the Department of Commerce, other relevant agencies, regional and district offices of the Administration, the small business development center network, and State programs, developing a mechanism for—

''(A) identifying sub-sectors of the small business community with strong export potential;

''(B) identifying areas of demand in foreign markets;

''(C) prescreening foreign buyers for commercial and credit purposes; and

''(D) assisting in increasing international marketing by disseminating relevant information regarding market leads, linking potential sellers and buyers, and catalyzing the formation of joint ventures, where appropriate;

''(2) in cooperation with the Department of Commerce, actively assisting small business concerns in forming and using export trading companies, export management companies and research and development pools authorized under section 9 of this Act;

''(3) working in conjunction with other Federal agencies, regional and district offices of the Administration, the small business development center network, and the private sector to identify and publicize translation services, including those available through colleges and universities participating in the small business development center program;

''(4) working closely with the Department of Commerce and other relevant Federal agencies to—

''(A) collect, analyze, and periodically update relevant data regarding the small business share of United States exports and the nature of State exports (including the production of Gross State Product figures) and disseminate that data to the public and to Congress;

''(B) make recommendations to the Secretary of Commerce and to Congress regarding revision of the North American Industry Classification System codes to encompass industries currently overlooked and to create North American Industry Classification System codes for export trading companies and export management companies;

''(C) improve the utility and accessibility of export promotion programs for small business concerns; and

''(D) increase the accessibility of the Export Trading Company contact facilitation service;

''(5) making available to the small business community information regarding conferences on exporting and international trade sponsored by the public and private sector;

''(6) providing small business concerns with access to up to date and complete export information by—

''(A) making available at the district offices of the Administration, through cooperation with the Department of Commerce, export information, including the worldwide information and trade system and world trade data reports;

''(B) maintaining a list of financial institutions that finance export operations;

''(C) maintaining a directory of all Federal, regional, State and private sector programs that provide export information and assistance to small business concerns; and

''(D) preparing and publishing such reports as it determines to be necessary concerning market conditions, sources of financing, export promotion programs, and other information pertaining to the needs of small business export firms so as to insure that the maximum information is made available to small business concerns in a readily usable form;

''(7) encouraging, in cooperation with the Department of Commerce, greater small business participation in trade fairs, shows, missions, and other domestic and overseas export development activities of the Department of Commerce; and

''(8) facilitating decentralized delivery of export information and assistance to small businesses by assigning primary responsibility for export development to one individual in each district office, who shall—

''(A) assist small business concerns in obtaining export information and assistance from other Federal departments and agencies;

''(B) maintain a directory of all programs which provide export information and assistance to small business concerns in the region;

''(C) encourage financial institutions to develop and expand programs for export financing;

''(D) provide advice to personnel of the Administration involved in making loans, loan guarantees, and extensions and revolving lines of credit, and providing other forms of assistance to small business concerns engaged in exports; and

''(E) not later than 120 days after the date on which the person is appointed as an export development officer, and not less frequently than once each year thereafter, participate in training programs designed by the Administrator, in conjunction with the Department of Commerce and other Federal departments and agencies, to study export programs and to examine the needs of small business concerns for export information and assistance;

''(9) carrying out a nationwide marketing effort to promote exporting as a business development opportunity for small business concerns that uses technology, online resources, training, and other strategies;

''(10) disseminating information to the small business community through regional and district offices of the Administration, the small business development center network, Export Assistance Centers, the network of women's business centers, chapters of the Service Corps of Retired Executives, State and local export promotion programs, and partners in the private sector regarding exporting trends, market-specific growth, industry trends, and prospects for exporting;

''(11) establishing and carrying out training programs for the staff of the district offices of the Administration and resource partners of the Administration on export promotion and providing assistance relating to exports.

''(e) EXPORT FINANCE SPECIALIST PROGRAM.—

''(1) EXPORT FINANCE SPECIALIST PROGRAM.—The Associate Administrator shall work in cooperation with the Export-Import Bank of the United States, the Department of Commerce, other relevant Federal agencies, and the States to develop a program through which export finance specialists in the district offices of the Administration, regional and local loan officers, and small business development center personnel can facilitate the access of small business concerns to relevant export financing programs of the Export-Import Bank of the United States and to export and pre-export financing programs available from the Administration and the private sector.

''(2) PROGRAM ACTIVITIES.—To carry out paragraph (1), the Associate Administrator shall work in cooperation with the Export-Import Bank of the United States and the small business community, including small business trade associations, to—

''(A) aggressively market Administration export financing and pre-export financing programs;

''(B) identify financing available under various programs of the Export-Import Bank of the United States, and aggressively market those programs to small business concerns;

''(C) assist in the development of financial intermediaries and facilitate the access of those intermediaries to financing programs;

''(D) promote greater participation by private financial institutions, particularly those institutions already participating in loan programs under this Act, in export finance; and

''(E) provide for the participation of appropriate Administration personnel in training programs conducted by the Export-Import Bank of the United States.

''(f) COUNSELING FOR SMALL BUSINESS CONCERNS.—The Associate Administrator shall—

''(1) work in cooperation with other Federal agencies and the private sector to counsel small business concerns with respect to initiating and participating in any proceedings relating to the administration of the United States trade laws; and

''(2) work with the Department of Commerce, the Office of the United States Trade Representative, and the International Trade Commission to increase access to trade remedy proceedings for small business concerns.

''(g) EXPORT ASSISTANCE PROGRAMS.—

''(1) IN GENERAL.—The Associate Administrator shall require, as part of the agreement under section 21, that each small business development center has an accredited export assistance program.

''(2) CERTIFICATION.—The Associate Administrator shall certify technical assistance staff members of small business development centers in providing export assistance, in accordance with such criteria as the Associate Administrator may establish.

''(3) TRAINING.—The Associate Administrator shall provide training relating to export assistance programs at the annual conference of small business development centers.

''(4) REPORT.—The Associate Administrator shall submit an annual report to Congress that includes—

''(A) the number of small business concerns assisted by accredited export assistance programs;

''(B) the export revenue generated by small business concerns assisted by accredited export assistance programs; and

''(C) an estimate of the number of jobs created or retained because of assistance provided by accredited export assistance programs.

''(h) EXPORT ASSISTANCE OFFICER.—The Associate Administrator shall—

''(1) assign an export assistance officer with training in export assistance and marketing to each district office of the Administration, who shall—

''(A) conduct training and information sessions for small business concerns interested in exporting; and

''(B) conduct outreach to small business concerns with the potential to export; and

''(2) provide annual training for export assistance officers.

''(i) EXPORT DEVELOPMENT GRANT PROGRAM.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'eligible small-business concern' means a small-business concern—

''(i) that—

''(I) has been in business for not less than 1 year;

''(II) has profitable domestic sales;

''(III) has demonstrated understanding of the costs associated with exporting and doing business with foreign purchasers, including the costs of freight forwarding, customs brokers, packing and shipping, as determined by the Administrator; and

''(IV) has in place a strategic plan for exporting;

''(ii) an employee of which has completed an accredited export assistance program; and

''(iii) that agrees to provide to the Associate Administrator such information and documentation as is necessary for the Associate Administrator to determine that the small-business concern is in compliance with the internal revenue laws of the United States;

''(B) the term 'export initiative' includes—

''(i) participation in a trade mission;

''(ii) a foreign market sales trip;

''(iii) a subscription to services provided by the Department of Commerce;

''(iv) the payment of website translation fees;

''(v) the design of international marketing media;

''(vi) a trade show exhibition; and

''(vii) participation in training workshops; and

''(C) the term 'small-business concern' has the same meaning as in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662).

''(2) GRANT PROGRAM.—The Associate Administrator shall establish an export development grant program, under which the Associate Administrator may make grants to eligible small-business concerns to enhance the capability of the eligible small-business concerns to be globally competitive, increase business internationally, and increase export sales.

''(3) APPLICATION.—An eligible small-business concern that desires a grant under this subsection shall submit to the Associate Administrator at such time and in such manner as the Associate Administrator shall prescribe an application that identifies not less than 1 specific, achievable export initiative that the eligible small-business concern will carry out using a grant under this subsection.

''(4) AMOUNT.—A grant under this subsection may not exceed $5,000.

''(5) MATCHING FUNDS.—The Federal share of the cost of an export initiative carried out with a grant under this subsection shall be not more than 50 percent. The non-Federal share of the cost of an activity carried out

with a grant under this subsection may be in kind or in cash.

''(6) INFORMATION AND DOCUMENTATION.—An eligible small-business concern that receives a grant under this subsection shall provide to the Associate Administrator—

''(A) receipts for all expenditures made with the grant; and

''(B) information relating to any export sales resulting from the grant.

''(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 2010 and each fiscal year thereafter.

''(j) PERFORMANCE MEASURES.—

''(1) IN GENERAL.—The Associate Administrator shall develop performance measures for the Administration to support export growth goals for the activities of the Office under this section that include—

''(A) the number of small business concerns that—

''(i) receive assistance from the Administration;

''(ii) had not exported goods or services before receiving the assistance described in clause (i); and

''(iii) export goods or services;

''(B) the number of small business concerns receiving assistance from the Administration that export goods or services to a market outside the United States into which the small business concern did not export before receiving the assistance;

''(C) export revenues by small business concerns assisted by programs of the Administration;

''(D) the number of small business concerns referred to an Export Assistance Center or a small business development center by the staff of the Office; and

''(E) the number of small business concerns referred to the Administration by an Export Assistance Center or a small business development center.

''(2) CONSISTENCY OF TRACKING.—The Associate Administrator, in coordination with the departments and agencies that are represented on the Trade Promotion Coordinating Committee established under section 2312 of the Export Enhancement Act of 1988 (15 U.S.C. 4727) and the small business development center network, shall develop a system to track exports by small business concerns, including information relating to the performance measures described in paragraph (1), that is consistent with systems used by the departments and agencies and the network.

''(3) REPORTS.—The Associate Administrator shall submit an annual report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives that includes—

''(A) a detailed account of the information relating to the performance measures described in paragraph (1); and

''(B) a description of the export assistance and services provided to small business concerns by the Administration.

''(k) REPORT.—The Associate Administrator shall submit an annual report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives on the progress of the Administration in implementing the requirements under this section.

''(l) DISCHARGE OF ADMINISTRATION EXPORT PROMOTION RESPONSIBILITIES.—The Administrator shall ensure that—

''(1) the responsibilities of the Administration regarding international trade and exporting are carried out through the Associate Administrator;

''(2) the Associate Administrator has sufficient resources to carry out such responsibilities; and

''(3) the Associate Administrator has direct supervision and control over the staff of the Office, and over any employee of the Administration whose principal duty station is an Export Assistance Center or any successor entity.''.

(b) EXPORT DEVELOPMENT OFFICERS.—

(1) APPOINTMENT.—Not later than 90 days after the date of enactment of this Act, the Administrator shall ensure that export development officers are assigned to each district office of the Administration, in accordance with section 22(d)(8) of the Small Business Act, as amended by this section.

(2) DEFINITION.—In this subsection, the term ''export development officer'' has the meaning given that term in section 22 of the Small Business Act (15 U.S.C. 649), as amended by this Act.

(c) EXPORT ASSISTANCE CENTERS.—

(1) VACANT POSITIONS.—Not later than 90 days after the date of enactment of this Act, the Administrator shall ensure that the number of full-time equivalent employees of the Office of Export Development and Promotion assigned to the Export Assistance Centers is not less than the number of such employees so assigned on January 1, 2003.

(2) EXPORT DEVELOPMENT OFFICERS.—Not later than 2 years after the date of enactment of this Act, the Administrator, in coordination with the Secretary of Commerce, shall ensure that export finance specialists are assigned to not fewer than 40 Export Assistance Centers.

(3) STUDY.—Not later than 6 months after the date of enactment of this Act, the Associate Administrator for Export Development and Promotion shall carry out a nationwide study to evaluate where additional export finance specialists are needed.

(4) DEFINITION.—In this subsection, the term ''export finance specialist'' means an export finance specialist described in section 22(e)(1) of the Small Business Act (15 U.S.C. 649(e)(1)), as amended by this section.

(d) APPOINTMENT OF ASSOCIATE ADMINISTRATOR.—Not later than 90 days after the date of enactment of this Act, the Administrator shall appoint an Associate Administrator for Export Development and Promotion under section 22 of the Small Business Act (15 U.S.C. 649), as amended by this section.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) NUMBER OF ASSOCIATE ADMINISTRATORS.—Section 4(b)(1) of the Small Business Act (15 U.S.C. 633(b)(1)) is amended—

(A) in the fifth sentence, by striking ''five''; and

(B) by adding at the end the following: ''One of the Associate Administrators shall be the Associate Administrator for Export Development and Promotion, who shall be the head of the Office of Export Development and Promotion established under section 22.''.

(2) ROLE OF ASSOCIATE ADMINISTRATOR IN CARRYING OUT INTERNATIONAL TRADE AND EXPORT POLICY.—Section 2(b)(1) of the Small Business Act (15 U.S.C. 631(b)(1)) is amended in the matter preceding subparagraph (A) by inserting ''through the Associate Administrator for Export Development and Promotion of'' before ''the Small Business Administration''.

SEC. 4. EXPORT FINANCE PROGRAMS.

(a) EXPORT WORKING CAPITAL PROGRAM.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (2)(D), by striking ''not exceed'' and inserting ''be''; and

(2) in paragraph (14)—

(A) by striking ''(A) The Administration'' and inserting the following: ''EXPORT WORKING CAPITAL PROGRAM.—

''(A) IN GENERAL.—The Administrator'';

(B) by striking ''(B) When considering'' and inserting the following:

''(C) CONSIDERATIONS.—When considering'';

(C) by striking ''(C) The Administration'' and inserting the following:

''(D) MARKETING.—The Administrator''; and

(D) by inserting after subparagraph (A) the following:

''(B) TERMS.—

''(i) LOAN AMOUNT.—The Administrator may not guarantee a loan under this paragraph of more than $5,000,000.

''(ii) FEES.—

''(I) IN GENERAL.—For a loan under this paragraph, the Administrator shall collect the fee assessed under paragraph (23) not more frequently than once each year.

''(II) UNTAPPED CREDIT.—The Administrator may not assess a fee on capital that is not accessed by the small business concern.''.

(b) PARTICIPATION IN PREFERRED LENDERS PROGRAM.—Section 7(a)(2)(C) of the Small Business Act (15 U.S.C. 636(a)(2)(C)) is amended—

(1) by redesignating clause (ii) as clause (iii); and

(2) by inserting after clause (i) the following:

''(ii) EXPORT-IMPORT BANK LENDERS.—Any lender that is participating in the Delegated Authority Lender Program of the Export-Import Bank of the United States (or any successor to the Program) shall be eligible to participate in the Preferred Lenders Program.''.

(c) EXPORT EXPRESS PROGRAM.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) by striking ''(32) INCREASED VETERAN'' and inserting ''(33) INCREASED VETERAN''; and

(2) by adding at the end the following:

''(34) EXPORT EXPRESS PROGRAM.—

''(A) DEFINITIONS.—In this paragraph—

''(i) the term 'export development activity' includes—

''(I) obtaining a standby letter of credit when required as a bid bond, performance bond, or advance payment guarantee;

''(II) participation in a trade show that takes place outside the United States;

''(III) translation of product brochures or catalogues for use in markets outside the United States;

''(IV) obtaining a general line of credit for export purposes;

''(V) performing a service contract from buyers located outside the United States;

''(VI) obtaining transaction-specific financing associated with completing export orders;

''(VII) purchasing real estate or equipment to be used in the production of goods or services for export;

''(VIII) providing term loans or other financing to enable a small business concern, including an export trading company and an export management company, to develop a market outside the United States; and

''(IX) acquiring, constructing, renovating, modernizing, improving, or expanding a production facility or equipment to be used in the United States in the production of goods or services for export; and

''(ii) the term 'express loan' means a loan in which a lender uses to the maximum extent practicable the loan analyses, procedures, and documentation of the lender to provide expedited processing of the loan application.

''(B) AUTHORITY.—The Administrator may guarantee the timely payment of an express

loan to a small business concern made for an export development activity.

''(C) LEVEL OF PARTICIPATION.—

''(i) MAXIMUM AMOUNT.—The maximum amount of an express loan guaranteed under this paragraph shall be $500,000.

''(ii) PERCENTAGE.—For an express loan guaranteed under this paragraph, the Administrator shall guarantee—

''(I) 90 percent of a loan that is not more than $350,000; and

''(II) 75 percent of a loan that is more than $350,000 and not more than $500,000.''.

(d) INTERNATIONAL TRADE LOANS.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (3)(B), by striking ''$1,750,000, of which not more than $1,250,000'' and inserting ''$5,000,000, of which not more than $4,000,000''; and

(2) in paragraph (16)—

(A) in subparagraph (B), by striking ''a first lien position'' and all that follows and inserting ''such collateral as is determined adequate by the Administrator.'';

(B) in subparagraph (D), by striking clauses (i) and (ii) and inserting the following:

''(i) is confronting—

''(I) increased competition with foreign firms in the relevant market; or

''(II) an unfair trade practice by a foreign firm, particularly intellectual property violations; and

''(ii) is injured by the competition or unfair trade practice.''; and

(C) by adding at the end the following:

''(F) GUARANTEE.—For a loan guaranteed under this paragraph, the Administrator shall guarantee 90 percent of the loan.

''(G) DEFINITION.—In this paragraph, the term 'small business concern' has the meaning given the term 'small-business concern' in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662).''.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended—

(1) in subsection (a)—

(A) in paragraph (2)(A), in the matter preceding clause (i), by inserting ''or (D) of this paragraph or in paragraph (16) or (34)'' after ''in subparagraph (B)''; and

(B) in paragraph (3), in the matter preceding subparagraph (A), by striking ''No'' and inserting ''Except as provided in paragraph (14)(B), no''; and

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (D), by striking ''Lender'' and inserting ''Lenders'';

(ii) in subparagraph (E)—

(I) by striking ''Lender'' and inserting ''Lenders''; and

(II) by striking ''subsection (a)(2)(C)(ii)'' and inserting ''subsection (a)(2)(C)(iii)''; and

(B) in paragraph (7)(B)(ii), by striking ''Lender'' and inserting ''Lenders''.

SEC. 5. MARKETING OF EXPORT LOANS.

The Administrator shall make efforts to expand the network of lenders participating in the export loan programs, including by—

(1) conducting outreach to regional and community lenders through the staff of the Administration assigned to Export Assistance Centers or to district offices of the Administration;

(2) developing a lender training program regarding the export loan programs for employees of lenders;

(3) simplifying and streamlining the application, processing, and reporting processes for the export loan programs; and

(4) establishing online, paperless processing and application submission for the export loan programs.

SEC. 6. SMALL BUSINESS TRADE POLICY.

(a) ASSISTANT UNITED STATES TRADE REPRESENTATIVE FOR SMALL BUSINESS.—Section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended—

(1) by adding at the end the following:

''(6)(A) There is established within the Office the position of Assistant United States Trade Representative for Small Business, who shall be appointed by the United States Trade Representative.

''(B) The Assistant United States Trade Representative for Small Business shall—

''(i) promote the trade interests of small-business concerns (as that term is defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662));

''(ii) advocate for the reduction of foreign trade barriers with regard to the trade issues of small-business concerns that are exporters;

''(iii) collaborate with the Administrator of the Small Business Administration with regard to the trade issues of small-business concern trade issues;

''(iv) assist the United States Trade Representative in developing trade policies that increase opportunities for small-business concerns in foreign and domestic markets, including polices that reduce trade barriers for small-business concerns; and

''(v) perform such other duties as the United States Trade Representative may direct.''; and

(2) by moving paragraph (5) 2 ems to the left.

(b) TRADE PROMOTION COORDINATING COMMITTEE.—

(1) DETAILEE.—Section 2312 of the Export Enhancement Act of 1988 (15 U.S.C. 4727) is amended by adding at the end the following:

''(g) SMALL BUSINESS ADMINISTRATION.—The Administrator of the Small Business Administration shall detail an employee of the Small Business Administration having expertise in export promotion to the TPCC to encourage the TPCC to—

''(1) collaborate with the Small Business Administration with regard to trade promotion efforts; and

''(2) consider the interests of small-business concerns (as that term is defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662)) in the development of trade promotion policies and programs.''.

(2) NATIONAL EXPORT STRATEGY.—Section 2312 of the Export Enhancement Act of 1988 (15 U.S.C. 4727) is amended—

(A) in subsection (c)—

(i) in paragraph (5), by striking ''and'' at the end;

(ii) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(7) include an export strategy for small-business concerns (as that term is defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662)), which shall—

''(A) be developed by the Administrator of the Small Business Administration; and

''(B) include strategies to—

''(i) increase export opportunities for small-business concerns;

''(ii) protect small-business concerns from unfair trade practices, including intellectual property violations;

''(iii) assist small-business concerns with international regulatory compliance requirements;

''(iv) coordinate policy and program efforts throughout the United States with the TPCC, the Department of Commerce, and the Export Import Bank of the United States.''; and

(B) in subsection (f), in paragraph (1), by inserting ''(including implementation of the export strategy for small business concerns described in paragraph (7) of that subsection)'' after ''the implementation of such plan''.

(c) RECOMMENDATIONS ON TRADE AGREEMENTS.—

(1) NOTIFICATION BY USTR.—Not later than 90 days before the United States Trade Representative begins a negotiation with regard to any trade agreement, the United States Trade Representative shall notify the Administrator of the date the negotiation will begin.

(2) RECOMMENDATIONS.—Not later than 30 days before the United States Trade Representative begins a negotiation with regard to any trade agreement, the Administrator shall present to the United States Trade Representative recommendations relating to the needs and concerns of small business concerns that are exporters.

(d) TRADE DISPUTES.—The Administrator shall carry out a comprehensive program to provide technical assistance, counseling, and reference materials to small business concerns relating to resources, procedures, and requirements for mechanisms to resolve international trade disputes or address unfair international trade practices under international trade agreements or Federal law, including—

(1) directing the district offices of the Administration to provide referrals, information, and other services to small business concerns relating to the mechanisms;

(2) entering agreements and partnerships with providers of legal services relating to the mechanisms, to ensure small business concerns may affordably use the mechanisms; and

(3) in consultation with the Director of the United States Patent and Trademark Office and the Register of Copyrights, designing counseling services and materials for small business concerns regarding intellectual property protection in other countries.

By Mr. KAUFMAN (for himself and Mr. BROWN):

S. 1210. A bill to establish a committee under the National Science and Technology Council with the responsibility to coordinate science, technology, engineering, and mathematics education activities and programs of all Federal agencies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. KAUFMAN. Mr. President, today I am introducing with Senator BROWN, the STEM Education Coordination Act of 2009. This bill addresses what we call STEM education—science, technology, engineering, and mathematics—which is critical for our competitiveness in the years and generations to come.

This bill is nearly identical to the version of H.R. 1709 reported by the House Committees on Science and Technology and on Education and Labor and which may be approved by the House of Representatives as early as today. It is quite a simple proposal. It would require coordination of Federal STEM education activities.

We can all agree that STEM education is crucial to our future. Technological innovation accounts for more than half of the growth of our economy since the Second World War. The discoveries and innovations of our STEM professionals create whole new opportunities, new industries, new companies, new products and services, and

new ways of delivering old products and services efficiently. To build a clean energy economy, to stay competitive in a globalizing world, to drive the health and science research that will improve our quality of life, we need more people trained in these skills. All too often, though, we are lagging behind other nations in producing these scientists and engineers.

Our ability to keep our lead in technology, which has defined American economic strength for generations, is deteriorating. The need for more STEM education and also particularly to reach women and underrepresented minorities is well recognized. The Congress has acted in recent years to support legislation such as the America COMPETES Act that broadens our competitiveness efforts beyond simply STEM education.

But there is also a concern that we are not using our current STEM education resources as efficiently and effectively as we could. As noted in the House Science Committee report:

For the most part, agencies have developed their programs independently rather than sharing ''best practices'' and collaborating across agencies. Each program has also developed its own methods and criteria for evaluation, making a comparison of effectiveness across the programs impossible.

To get the most out of our efforts, this bill would require coordination of Federal STEM education activities. It would direct the Office of Science and Technology Policy to establish a committee under the National Science and Technology Council that is responsible for coordinating Federal science, technology, engineering, and math education programs and activities. These include Federal programs of the National Science Foundation, the Department of Energy, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the Department of Education, and others. This newly formed committee will have three main responsibilities.

First, the committee will coordinate the Federal STEM education activities and programs.

Second, the committee will develop, implement, and update a 5-year STEM education achievement plan, including objectives and metrics so we can assess how well we are doing.

Third, the committee will maintain an inventory of federally sponsored STEM education programs and activities, including rates of participation by underrepresented minorities.

So that the Congress can make use of this information to advance our STEM education efforts, this bill will require an annual report that includes: One, a description of STEM education programs and activities; two, the level of funding for the programs and activities for each participating Federal agency; three, a description of the progress made in carrying out the implementation of the plan; and, four, a description of how participating Federal agencies disseminate information about available STEM education resources to States and practitioners.

This coordination is among the ideas suggested by then-Senator Obama in a bill he offered in the 110th Congress, S. 3047.

In sum, this bill will do just what its title suggests: coordinate our STEM educational activities. We not only have a duty to this Nation to make sure Federal dollars are spent as efficiently and effectively as possible, but it is also critical to our economy that we succeed in fostering a workforce that can out-discover, out-think, out-innovate, and out-produce our worldwide competition.

This legislation will help us reach these goals. In a world increasingly dominated by technology, I believe our economy, our environment, and our future depend on improving STEM education.

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

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

S. 1210

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''STEM Education Coordination Act of 2009''.

SEC. 2. DEFINITION.

In this Act, the term ''STEM'' means science, technology, engineering, and mathematics.

SEC. 3. COORDINATION OF FEDERAL STEM EDUCATION.

(a) ESTABLISHMENT.—The Director of the Office of Science and Technology Policy shall establish a committee under the National Science and Technology Council with the responsibility to coordinate Federal programs and activities in support of STEM education, including at the National Science Foundation, the Department of Energy, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the Department of Education, and all other Federal agencies that have programs and activities in support of STEM education.

(b) RESPONSIBILITIES.—The committee established under subsection (a) shall—

(1) coordinate the STEM education activities and programs of the Federal agencies;

(2) develop, implement through the participating agencies, and update once every 5 years a 5-year STEM education strategic plan, which shall—

(A) specify and prioritize annual and long-term objectives;

(B) specify the common metrics that will be used to assess progress toward achieving the objectives;

(C) describe the approaches that will be taken by each participating agency to assess the effectiveness of its STEM education programs and activities; and

(D) with respect to subparagraph (A), describe the role of each agency in supporting programs and activities designed to achieve the objectives; and

(3) establish, periodically update, and maintain an inventory of federally sponsored STEM education programs and activities, including documentation of assessments of the effectiveness of such programs and activities and rates of participation by women, underrepresented minorities, and persons in rural areas in such programs and activities.

(c) RESPONSIBILITIES OF OSTP.—The Director of the Office of Science and Technology Policy shall encourage and monitor the efforts of the participating agencies to ensure that the strategic plan under subsection (b)(2) is developed and executed effectively and that the objectives of the strategic plan are met.

(d) REPORT.—The Director of the Office of Science and Technology Policy shall transmit a report annually to Congress at the time of the President's budget request describing the plan required under subsection (b)(2). The annual report shall include—

(1) a description of the STEM education programs and activities for the previous and current fiscal years, and the proposed programs and activities under the President's budget request, of each participating Federal agency;

(2) the levels of funding for each participating Federal agency for the programs and activities described under paragraph (1) for the previous fiscal year and under the President's budget request;

(3) except for the initial annual report, a description of the progress made in carrying out the implementation plan, including a description of the outcome of any program assessments completed in the previous year, and any changes made to that plan since the previous annual report; and

(4) a description of how the participating Federal agencies will disseminate information about federally supported resources for STEM education practitioners, including teacher professional development programs, to States and to STEM education practitioners, including to teachers and administrators in schools that meet the criteria described in subsection (c)(1) (A) and (B) of section 3175 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381j(c)(1) (A) and (B)).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 170—EXPRESSING THE SENSE OF THE SENATE THAT CHILDREN SHOULD BENEFIT, AND IN NO CASE BE WORSE OFF, AS A RESULT, OF REFORM OF THE NATIONS HEALTH CARE SYSTEM

Mr. CASEY (for himself, Mr. DODD, Mr. BROWN, Mr. WHITEHOUSE, and Mr. SANDERS) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 170

Whereas Medicaid is a cornerstone of the Nation's health care infrastructure, providing critical health coverage to Americans who have the greatest needs: children and adults whose financial means are very modest and people who are in poorer health compared to the population at-large, including individuals with significant disabilities and those with multiple chronic illnesses;

Whereas Medicaid provides health coverage to ¼ of the Nation's children and more than ½ of all low-income children;

Whereas because minority children are more likely to be from low-income families, Medicaid has been shown to reduce racial and ethnic disparities in health care, as it provides coverage for 2 out of every 5 African-American and Hispanic children;

Whereas by limiting cost-sharing and premiums, Medicaid provides a comprehensive

benefit package and ensures that children have access to affordable coverage and the health care services they need to stay healthy and meet developmental milestones;

Whereas Medicaid is designed to meet the complex health care needs of low-income and special needs children by including a wide range of essential and comprehensive services that many private insurers do not cover;

Whereas Medicaid provides developmental assessments for infants and young children (including well-child visits, vision and hearing services, and access to a wide range of therapies to manage developmental disorders and chronic illnesses) and coverage for in-home support, long-term care for special needs children, and transportation services;

Whereas Medicaid provides a care coordination benefit that supports at-risk children by coordinating State health services, thereby furthering the ability of States to effectively coordinate medical and social services that are provided by multiple organizations and agencies;

Whereas administrative spending is lower in Medicaid than through private insurance;

Whereas Medicaid is critical for ensuring that children have access to safety-net providers in their local communities and for training health care professionals, including pediatricians; and

Whereas Medicaid provides low-income children with the full complement of services they need to meet their unique health and developmental needs: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Congress should ensure that reform of our Nation's health care system shall benefit all children and that no child shall be worse off, particularly the most vulnerable low-income children and children with disabilities; and

(2) strengthening our Nation's Medicaid program should be a priority and that low-income children should not be moved into a health care exchange system that could disrupt and diminish their benefits, cost-sharing protections, availability of care standards and protections, and access to supports, services, and safety-net providers.

SENATE RESOLUTION 171—COMMENDING THE PEOPLE WHO HAVE SACRIFICED THEIR PERSONAL FREEDOMS TO BRING ABOUT DEMOCRATIC CHANGE IN THE PEOPLE'S REPUBLIC OF CHINA AND EXPRESSING SYMPATHY FOR THE FAMILIES OF THE PEOPLE WHO WERE KILLED, WOUNDED, OR IMPRISONED, ON THE OCCASION OF THE 20TH ANNIVERSARY OF THE TIANANMEN SQUARE MASSACRE IN BEIJING, CHINA, FROM JUNE 3 THROUGH 4, 1989

Mr. INHOFE (for himself, Mr. BROWN, Mr. GRAHAM, Mr. KYL, Mr. COBURN, Mr. LIEBERMAN, Mr. MENENDEZ, Mr. VITTER, Mr. WEBB, Mr. BROWNBACK, Mr. MARTINEZ, Mr. BUNNING, Mr. UDALL of Colorado, and Mr. CARDIN) submitted the following resolution; which was considered and agreed to:

S. RES. 171

Whereas freedom of expression, assembly, association, and religion are fundamental rights that all people should be able to possess and enjoy;

Whereas, in April 1989, in a demonstration of democratic progress, thousands of students took part in peaceful protests against the communist government of the People's Republic of China in the capital city of Beijing;

Whereas, throughout the month of May 1989, the students, in peaceful demonstrations, drew more people, young and old and from all walks of life, into central Beijing to demand better democracy, basic freedoms of speech and assembly, and an end to corruption;

Whereas, from June 3 through 4, 1989, the Government of China ordered members of the People's Liberation Army to enter Beijing and clear Tiananmen Square (located in central Beijing) by lethal force;

Whereas, by June 7, 1989, the Red Cross of China reported that the People's Liberation Army had killed more than 300 people in Beijing, although foreign journalists who witnessed the events estimate that thousands of people were killed and thousands more wounded;

Whereas more than 20,000 people in China were arrested and detained without trial, due to their suspected involvement in the protests at Tiananmen Square;

Whereas, according to the Department of State, the Government of China has worked to censor information about the massacre at Tiananmen Square by blocking Internet sites and other media outlets, along with other sensitive information that would be damaging to the Government of China;

Whereas the Government of China has continued to deny basic human rights, such as freedom of speech and religion;

Whereas, during the 2008 Olympic Games, the Government of China promised to provide the international media covering the Olympic Games with the same access given the media at all the other Olympic Games, but denied access to certain internet sites and media outlets in attempts to censor free speech;

Whereas the Department of State Human Rights Report for 2008 found that the Government of China had increased already severe cultural and religious suppression of ethnic minorities in Tibetan areas and the Xinjiang Uighur Autonomous Region, detained and harassed dissidents and journalists, and maintained tight controls on freedom of speech and the Internet;

Whereas the United States Commission on International Religious Freedom in 2009 stated, ''The Chinese government continues to engage in systematic and egregious violations of the freedom of religion or belief, with religious activities tightly controlled and some religious adherents detained, imprisoned, fined, beaten, and harassed.''; and

Whereas the China Aid Association reported that in 2007, Christians were detained or arrested and Christian house church groups were persecuted by the Government of China: Now, therefore, be it

Resolved, That the Senate—

(1) commends the people who demonstrated at Tiananmen Square and elsewhere in the People's Republic of China in 1989, many of whom sacrificed their lives and freedom to—

(A) bring about democratic change in China; and

(B) gain freedom of expression, assembly, association, and religion for the people of China;

(2) expresses its sympathy for the families of the people who were killed, wounded, or imprisoned due to their involvement in the peaceful protests in Tiananmen Square in Beijing, China from June 3 through 4, 1989;

(3) condemns the ongoing human rights abuses by the Government of China;

(4) calls on the Government of China to—

(A) release all prisoners that are—

(i) still in captivity as a result of their involvement in the events from June 3 through 4, 1989, at Tiananmen Square; and

(ii) imprisoned without cause;

(B) allow freedom of speech and access to information, especially information regarding the events at Tiananmen Square in 1989; and

(C) cease all harassment, intimidation, and unjustified imprisonment of—

(i) members of religious and minority groups; and

(ii) people who disagree with policies of the Government of China;

(5) supports efforts by free speech activists in China and elsewhere who are working to overcome censorship (including censorship of the Internet) and the chilling effect of censorship; and

(6) urges the President to continue to support peaceful advocates of free speech around the world.

SENATE RESOLUTION 172—DESIGNATING JUNE 2009 AS ''NATIONAL APHASIA AWARENESS MONTH'' AND SUPPORTING EFFORTS TO INCREASE AWARENESS OF APHASIA

Mr. JOHNSON submitted the following resolution; which was considered and agreed to:

S. RES. 172

Whereas aphasia is a communication impairment caused by brain damage that typically results from a stroke;

Whereas, while aphasia is most often the result of stroke or brain injury, it can also occur with other neurological disorders, such as a brain tumor;

Whereas many people with aphasia also have weakness or paralysis in the right leg and right arm, usually due to damage to the left hemisphere of the brain, which controls language and movement on the right side of the body;

Whereas the effects of aphasia may include a loss of or reduction in the ability to speak, comprehend, read, and write, but the intelligence of a person with aphasia remains intact;

Whereas, according to the National Institute of Neurological Disorders and Stroke (referred to in this resolution as the ''NINDS''), stroke is the 3rd-leading cause of death in the United States, ranking behind heart disease and cancer;

Whereas stroke is a leading cause of serious, long-term disability in the United States;

Whereas the NINDS estimates that there are about 5,000,000 stroke survivors in the United States;

Whereas the NINDS estimates that people in the United States suffer about 750,000 strokes per year, with approximately ⅓ of the strokes resulting in aphasia;

Whereas, according to the NINDS, aphasia affects at least 1,000,000 people in the United States;

Whereas the NINDS estimates that more than 200,000 people in the United States acquire the disorder each year;

Whereas the National Aphasia Association is a unique organization that provides communication strategies, support, and education for people with aphasia and their caregivers throughout the United States; and

Whereas, as an advocacy organization for people with aphasia and their caregivers, the National Aphasia Association envisions a world that recognizes the ''silent'' disability

of aphasia and provides opportunity and fulfillment for people affected by aphasia: Now, therefore, be it

Resolved, That the Senate—

(1) designates June 2009 as ''National Aphasia Awareness Month'';

(2) supports efforts to increase awareness of aphasia;

(3) recognizes that strokes, a primary cause of aphasia, are the 3rd-largest cause of death and disability in the United States;

(4) acknowledges that aphasia deserves more attention and study in order to find new solutions for serving individuals experiencing aphasia and their caregivers;

(5) supports efforts to make the voices of people with aphasia heard, because people with aphasia are often unable to communicate with others; and

(6) encourages all people in the United States to observe National Aphasia Awareness Month with appropriate events and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1274. Mr. LIEBERMAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table.

SA 1275. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1276. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1277. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1278. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1279. Mr. CORKER submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1280. Mr. VOINOVICH (for himself, Mr. KOHL, and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1281. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1282. Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1283. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1284. Mr. MERKLEY submitted an amendment intended to be proposed to amendment SA 1225 submitted by Mr. COBURN and intended to be proposed to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1285. Mrs. HAGAN submitted an amendment intended to be proposed by her to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1286. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1287. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1288. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1289. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1290. Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1291. Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, Mr. VOINOVICH, Ms. MURKOWSKI, Mr. INOUYE, Mr. BEGICH, Ms. MIKULSKI, and Mr. KOHL) submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1292. Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1293. Mrs. HAGAN submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1294. Mrs. HAGAN submitted an amendment intended to be proposed by her to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1295. Mr. BROWNBACK (for himself, Mr. COCHRAN, and Mr. ROBERTS) submitted an amendment intended to be proposed to amendment SA 1229 submitted by Mr. DORGAN (for himself, Ms. SNOWE, Mr. MCCAIN, Ms. STABENOW, Mr. SANDERS, and Ms. KLOBUCHAR) and intended to be proposed to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1296. Mr. CASEY submitted an amendment intended to be proposed to amendment SA 1255 submitted by Ms. STABENOW (for herself, Mr. BROWNBACK, Ms. MIKULSKI, Mr. VOINOVICH, Mrs. SHAHEEN, Mr. BOND, Mr. BURRIS, Mr. DURBIN, Mr. LEVIN, and Mr. BROWN) and intended to be proposed to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1297. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 1256 proposed by Mr. SCHUMER (for Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mr. VOINOVICH)) to the amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1298. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 1256 proposed by Mr. SCHUMER (for Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mr. VOINOVICH)) to the amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1299. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 1256 proposed by Mr. SCHUMER (for Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mr. VOINOVICH)) to the amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1300. Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, Mr. VOINOVICH, Ms. MURKOWSKI, Mr. INOUYE, Mr. BEGICH, Ms. MIKULSKI, and Mr. KOHL) submitted an amendment intended to be proposed to amendment SA 1256 proposed by Mr. SCHUMER (for Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mr. VOINOVICH)) to the amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1301. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 1256 proposed by Mr. SCHUMER (for Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mr. VOINOVICH)) to the amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, supra; which was ordered to lie on the table.

SA 1302. Mrs. HAGAN submitted an amendment intended to be proposed to amendment SA 1251 submitted by Mrs. HAGAN and intended to be proposed to the bill H.R. 1256, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1274. Mr. LIEBERMAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B, add the following:

TITLE _____—DETAINEE PHOTOGRAPHIC RECORDS PROTECTION

SEC. _____. DETAINEE PHOTOGRAPHIC RECORDS PROTECTION.

(a) SHORT TITLE.—This section may be cited as the ''Detainee Photographic Records Protection Act of 2009''.

(b) DEFINITIONS.—In this section:

(1) COVERED RECORD.—The term ''covered record'' means any record—

(A) that is a photograph that—

(i) was taken during the period beginning on September 11, 2001, through January 22, 2009; and

(ii) relates to the treatment of individuals engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside of the United States; and

(B) for which a certification by the Secretary of Defense under subsection (c) is in effect.

(2) PHOTOGRAPH.—The term ''photograph'' encompasses all photographic images, whether originals or copies, including still photographs, negatives, digital images, films, video tapes, and motion pictures.

(c) CERTIFICATION.—

(1) IN GENERAL.—For any photograph described under subsection (b)(1)(A), the Secretary of Defense shall submit a certification to the President, if the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, determines that the disclosure of that photograph would endanger—

(A) citizens of the United States; or

(B) members of the Armed Forces or employees of the United States Government deployed outside the United States.

(2) CERTIFICATION EXPIRATION.—A certification submitted under paragraph (1) and a renewal of a certification submitted under

paragraph (3) shall expire 3 years after the date on which the certification or renewal, as the case may be, is submitted to the President.

(3) CERTIFICATION RENEWAL.—The Secretary of Defense may submit to the President—

(A) a renewal of a certification in accordance with paragraph (1) at any time; and

(B) more than 1 renewal of a certification.

(4) NOTICE TO CONGRESS.—A timely notice of the Secretary's certification shall be submitted to Congress.

(d) NONDISCLOSURE OF DETAINEE RECORDS.—A covered record shall not be subject to—

(1) disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act); or

(2) disclosure under any proceeding under that section.

(e) RULE OF CONSTRUCTION.—Nothing in ths section shall be construed to preclude the voluntary disclosure of a covered record.

(f) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act and apply to any photograph created before, on, or after that date that is a covered record.

SA 1275. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Saving Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 907 of the Federal Food, Drug, and Cosmetic Act (as added by section 101), add the following:

''(f) COMPLIANCE WITH WTO PROVISIONS.—If the Secretary of Health and Human Services, in consultation with the United States Trade Representative, determines that the prohibition contained in subsection (a)(1)(A) with respect to any artificial or natural flavor or any herb or spice would result in a violation of any trade agreement, the Secretary shall by regulation provide an exception with respect to such artificial or natural flavor or such herb or spice from such prohibition.''.

SA 1276. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Saving Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In section 908 of the Federal Food Drug, and Cosmetic Act (as added by section 101), add at the end the following:

''(d) IMMINENT HAZARDS.—

''(1) IN GENERAL.—If the Secretary finds that the marketing, distribution, or advertising of a tobacco product poses an imminent hazard to the public health, the Secretary may—

''(A) provide for the recall of the product under subsection (c);

''(B) suspend to approval of a label statement for the product under section 903(b);

''(C) suspend the approval of the application of the product under section 910; or

''(D) take any other action with respect to the product under this title to protect the public health.

''(2) NOTICE.—The Secretary shall provide the manufacturer or distributor of a tobacco product (as the case may be) prompt notice of any action taken under paragraph (1) with respect to such product, and afford the manufacturer or distributor the opportunity for an expedited hearing under this subsection.

''(3) STANDARD FOR DETERMINATION.—

''(A) IN GENERAL.—For purposes of this subsection, the marketing, distribution, or advertising or a tobacco product poses an imminent hazard to the public health if the Secretary determines that the evidence is sufficient to demonstrate that the product (or practice involved) creates a public health situation—

''(i) that should be corrected immediately to prevent injury; and

''(ii) that should not be permitted to continue while a hearing or other formal proceeding is being held.

''(B) TIME OF DECLARATION.—An imminent hazard may be declared under this subsection at any point in the chain of events that may ultimately result in harm to the public health. The occurrence of the final anticipated injury is not essential to establish that an imminent hazard of such occurrence exists.

''(C) CONSIDERATIONS.—In exercising the judgment of the Secretary on whether an imminent hazard exists for purposes of this subsection, the Secretary shall consider the number of injuries anticipated and the nature, severity, and duration of the anticipated injury.''.

SA 1277. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Saving Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 919 of the Federal Food, Drug, and Cosmetic Act (as added by section 101) add the following:

''(f) LIMITATION.—Effective for any fiscal year in which the Secretary determines that youth smoking has increased during each of the previous 4 calendar years (according to the Youth Risk Behavior Surveillance System) the Secretary shall not assess or expend fees under this section with respect to such fiscal year. The Secretary may collect and expend such fees upon a subsequent determination that youth smoking has remained unchanged or decreased.''.

SA 1278. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TEMPORARY VEHICLE TRADE-IN PROGRAM.

(a) SHORT TITLE.—This section may be cited as the ''Short Term Accelerated Retirement of Inefficient Vehicles Act of 2009''.

(b) TEMPORARY VEHICLE TRADE-IN PROGRAM.—

(1) ESTABLISHMENT.—There is established in the National Highway Traffic Safety Administration a program, to be known as the ''Cash for Clunkers Temporary Vehicle Trade-In Program'', through which the Secretary, in accordance with this subsection and the regulations promulgated under paragraph (4), shall—

(A) authorize the issuance of a voucher, subject to the specifications set forth in paragraph (3), to offset the purchase price or lease price of a fuel efficient automobile upon the transfer of the certificate of title of an eligible trade-in vehicle to a dealer participating in the Program;

(B) register dealers for participation in the Program and require each registered dealer to—

(i) accept vouchers provided under this subsection as partial payment or down payment for the purchase or lease of any fuel efficient automobile offered for sale or lease by such dealer; and

(ii) dispose of each eligible trade-in vehicle in accordance with paragraph (3)(B) after the title of such vehicle is transferred to the dealer under the Program;

(C) in consultation with the Secretary of the Treasury, make payments to dealers for eligible transactions by such dealers before the date that is 1 year after regulations are promulgated under paragraph (4), in accordance with such regulations; and

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

(2) QUALIFICATIONS FOR AND VALUE OF VOUCHERS.—A voucher issued under the Program shall have a value that may be applied to offset the purchase price or lease price of a fuel efficient automobile as follows:

(A) $1,000 VALUE.—The voucher may be used to offset the purchase price of a previously owned fuel efficient automobile manufactured for model year 2004 or later, by $1,000 if—

(i) the newly purchased fuel efficient automobile is a passenger automobile and the combined fuel economy value of such automobile is at least 7 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(ii) the newly purchased fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 3 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

(iii) the newly purchased fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 17 miles per gallon and the combined fuel economy value of such truck is at least 3 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle, which is also a category 2 truck.

(B) $2,500 VALUE.—The voucher may be used to offset the purchase price or lease price of the new fuel efficient automobile by $2,500 if—

(i) the new fuel efficient automobile is a passenger automobile and the combined fuel economy value of such automobile is at least 7 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(ii) the new fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 3 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(iii) the new fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 17 miles per gallon and—

(I) the eligible trade-in vehicle is a category 2 truck and the combined fuel economy value of the new fuel efficient automobile is at least 3 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

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

(iv) the new fuel efficient automobile is a category 3 truck and the eligible trade-in vehicle is a category 3 truck manufactured for model year 1999 or earlier and is of similar size or larger than the new fuel efficient automobile, as determined in a manner prescribed by the Secretary.

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

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

(ii) the new fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 6 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

(iii) the new fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 17 miles per gallon and the combined fuel economy value of such truck is at least 5 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle, which is also a category 2 truck.

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

(i) the new fuel efficient automobile is a passenger automobile and the combined fuel economy value of such automobile is at least 13 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(ii) the new fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 9 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

(iii) the new fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 17 miles per gallon and the combined fuel economy value of such truck is 7 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle, which is also a category 2 truck.

(3) PROGRAM SPECIFICATIONS.—

(A) LIMITATIONS.—

(i) GENERAL PERIOD OF ELIGIBILITY.—A voucher issued under the Program may only be used for the purchase or lease of a fuel efficient automobile that occurs between the date on which the regulations promulgated under paragraph (4) are implemented and the date that is 1 year after such date.

(ii) NUMBER OF VOUCHERS PER PERSON AND PER TRADE-IN VEHICLE.—Not more than 1 voucher may be issued for a single person and not more than 1 voucher may be issued for the joint registered owners of a single eligible trade-in vehicle.

(iii) NO COMBINATION OF VOUCHERS.—Only 1 voucher issued under the Program may be applied toward the purchase or lease of a single new fuel efficient automobile.

(iv) CAP ON VOUCHERS FOR CATEGORY 3 TRUCKS.—Not more than 7.5 percent of the amounts made available for the Program may be used for vouchers for the purchase or qualifying lease of category 3 trucks.

(v) COMBINATION WITH OTHER INCENTIVES PERMITTED.—The availability or use of a Federal or State tax incentive or a State-issued voucher for the purchase or lease of a new fuel efficient automobile shall not limit the value or issuance of a voucher under the Program.

(vi) NO ADDITIONAL FEES.—A dealer participating in the program may not charge a person purchasing or leasing a new fuel efficient automobile any additional fees associated with the use of a voucher under the Program.

(vii) NUMBER AND AMOUNT.—The total number and value of vouchers issued under the Program may not exceed the amounts appropriated for such purpose.

(viii) VALUES FOR QUALIFYING SHORTER TERM LEASES.—If a fuel efficient vehicle is leased under a qualifying shorter term lease, the value of the voucher issued under the Program shall be 50 percent of the value otherwise applicable under paragraph (2).

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

(i) IN GENERAL.—If the title of an eligible trade-in vehicle is transferred to a dealer under the Program, the dealer shall certify to the Secretary, in such manner as the Secretary shall prescribe by rule, that such vehicle, including the engine and drive train—

(I) has been or will be crushed or shredded within such period and in such manner as the Secretary prescribes, or will be transferred to an entity that will ensure that the vehicle will be crushed or shredded within such period and in such manner as the Secretary prescribes; and

(II) has not been, and will not be, sold, leased, exchanged, or otherwise disposed of for use as an automobile in the United States or in any other country, or has been or will be transferred, in such manner as the Secretary prescribes, to an entity that will ensure that the vehicle has not been, and will not be, sold, leased, exchanged, or otherwise disposed of for use as an automobile in the United States or in any other country.

(ii) SAVINGS PROVISION.—Nothing in clause (i) may be construed to preclude a person who dismantles or disposes of the vehicle from—

(I) purchasing the disposed vehicle from a dealer for the purpose of selling parts other than the engine block and drive train;

(II) selling any parts of the disposed vehicle other than the engine block and drive train, unless the engine or drive train has been crushed or shredded; or

(III) retaining the proceeds from such sale.

(iii) COORDINATION.—The Secretary shall coordinate with the Attorney General to ensure that the National Motor Vehicle Title Information System and other publicly accessible and commercially available systems are appropriately updated to reflect the crushing or shredding of vehicles under this subsection and appropriate reclassification of the vehicles' titles.

(4) RULEMAKING.—Notwithstanding the requirements of section 553 of title 5, United States Code, the Secretary shall promulgate final regulations to implement the Program not later than 30 days after the date of the enactment of this Act. Such regulations shall—

(A) provide for a means of registering dealers for participation in the Program;

(B) establish procedures for the electronic reimbursement of dealers participating in the Program, within 10 days after the submission to the Secretary of information supporting the eligible transaction, as determined appropriate by the Secretary, for the appropriate amount under subsection (c) and any reasonable administrative costs incurred by the dealer;

(C) prohibit any dealer from using vouchers to offset any other rebate or discount offered by that dealer or by the manufacturer of the new fuel efficient automobile;

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

(E) consistent with paragraph (3)(B), establish requirements and procedures for the disposal of eligible trade-in vehicles and provide such information as may be necessary to entities engaged in such disposal to ensure that such vehicles are disposed of in accordance with such requirements and procedures, including—

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

(ii) a mechanism for dealers to certify to the Secretary that eligible trade-in vehicles are disposed of, or transferred to an entity that will ensure that the vehicle is disposed of, in accordance with such requirements and procedures and to submit the vehicle identification numbers, mileage, condition, and other appropriate information, as determined by the Secretary, of the vehicles disposed of and the new fuel efficient automobile purchased with each voucher; and

(iii) a mechanism for obtaining such other certifications as deemed necessary by the Secretary from entities engaged in vehicle disposal;

(F) establish a mechanism for dealers to determine the scrappage value of the trade-in vehicle; and

(G) provide for the enforcement of the penalties described in paragraph (5)(B).

(5) ANTI-FRAUD PROVISIONS.—

(A) VIOLATION.—It shall be unlawful for any person to violate any provision under this subsection or any regulations issued pursuant to paragraph (4).

(B) PENALTIES.—Any person who commits a violation described in subparagraph (A) shall be liable to the United States Government for a civil penalty in an amount equal to not more than $25,000 for each such violation.

(6) INFORMATION TO CONSUMERS AND DEALERS.—

(A) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, and promptly upon the update of any relevant information, the Secretary shall make information about the Program available through an Internet Web site and through other means determined by the Secretary. Such information shall include—

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

(ii) how to determine the scrappage value of an eligible trade-in vehicle;

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

(iv) a comprehensive list, by make and model, of fuel efficient automobiles meeting the requirements of the Program.

(B) PUBLIC AWARENESS CAMPAIGN.—Upon completing the requirements under subparagraph (A), the Secretary shall conduct a public awareness campaign to inform consumers about the Program and the sources for additional information.

(7) RECORDKEEPING AND REPORT.—

(A) DATABASE.—The Secretary shall maintain a database that includes—

(i) the vehicle identification numbers of all fuel efficient vehicles purchased or leased under the Program; and

(ii) the vehicle identification numbers, mileage, condition, scrappage value, and other appropriate information, as determined by the Secretary, of all the eligible trade-in vehicles which have been disposed of under the Program.

(B) REPORT.—Not later than June 30, 2010, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that describes the efficacy of the Program and includes—

(i) a description of the results of the Program, including—

(I) the total number and amount of vouchers issued for purchase or lease of new fuel efficient automobiles by manufacturer (including aggregate information concerning the make, model, model year) and category of automobile;

(II) aggregate information regarding the make, model, model year, mileage, condition, and manufacturing location of vehicles traded in under the Program; and

(III) the location of sale or lease;

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

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

(8) RULE OF CONSTRUCTION.—For purposes of determining Federal or State income tax liability or eligibility for any Federal or State program that bases eligibility, in whole or in part, on income, the value of any voucher issued under the Program to offset the purchase price or lease price of a new fuel efficient automobile shall not be considered income of the person purchasing such automobile.

(9) DEFINITIONS.—In this subsection:

(A) CATEGORY 1 TRUCK.—The term ''category 1 truck'' means a nonpassenger automobile (as defined in section 32901(a)(17) of title 49, United States Code) that—

(i) has a combined fuel economy value of at least 20 miles per gallon; and

(ii) is not a category 2 truck.

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

(C) CATEGORY 3 TRUCK.—The term ''category 3 truck'' has the meaning given the term ''work truck'' in section 32901(a)(19) of title 49, United States Code.

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

(i) with respect to a new fuel efficient automobile, the number, expressed in miles per gallon, centered below the words ''Combined Fuel Economy'' on the label required to be affixed or caused to be affixed on a new automobile pursuant to subpart D of part 600 of title 40 Code of Federal Regulations;

(ii) with respect to an eligible trade-in vehicle manufactured after model year 1984, the equivalent number determined on the fueleconomy.gov Web site of the Environmental Protection Agency for the make, model, and year of such vehicle; and

(iii) with respect to an eligible trade-in vehicle manufactured between model years 1978 through 1984, the equivalent number determined by the Secretary and posted on the website of the National Highway Traffic Safety Administration, using data maintained by the Environmental Protection Agency for the make, model, and year of such vehicle.

(E) DEALER.—The term ''dealer'' means a person that is licensed by a State and engages in the sale of automobiles to ultimate purchasers.

(F) ELIGIBLE TRADE-IN VEHICLE.—The term ''eligible trade-in vehicle'' means an automobile or a work truck (as such terms are defined in section 32901(a) of title 49, United States Code) that, at the time it is presented for trade-in under this subsection—

(i) is in drivable condition;

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

(iii) has a combined fuel economy value of 17 miles per gallon or less.

(G) FUEL EFFICIENT AUTOMOBILE.—The term ''fuel efficient automobile'' means a vehicle described in subparagraph (A), (B), (C), or (I), that was manufactured for any model year after 2003, and, at the time of the original sale to a consumer—

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

(ii) complies with the applicable air emission and related requirements under the National Emission Standards Act (42 U.S.C. 7521 et seq.);

(iii) qualifies for listing in emission bin 1, 2, 3, 4, or 5 (as defined in section 86.1803–01 of title 40, Code of Federal Regulations), or for work trucks the applicable vehicle and engine standards found under section 86.005–10 and 86.007–11 of title 40, Code of Federal Regulations; and

(iv) has a combined fuel economy value of—

(I) 24 miles per gallon, if the vehicle is a passenger automobile;

(II) 20 miles per gallon, if the vehicle is a category 1 truck; or

(III) 17 miles per gallon, if the vehicle is a category 2 truck.

(H) NEW FUEL EFFICIENT AUTOMOBILE.—The term ''new fuel efficient automobile'' means a fuel efficient automobile, the equitable or legal title of which has not been transferred to any person other than the ultimate purchaser.

(I) PASSENGER AUTOMOBILE.—The term ''passenger automobile'' means a passenger automobile (as defined in section 32901(a)(18) of title 49, United States Code) that has a combined fuel economy value of at least 24 miles per gallon.

(J) PROGRAM.—The term ''Program'' means the Cash for Clunkers Temporary Vehicle Trade-In Program established under this subsection.

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

(L) QUALIFYING SHORTER TERM LEASE.—The term ''qualifying shorter term lease'' means a lease of an automobile for a period of not less than 3 years and not more than 5 years.

(M) SCRAPPAGE VALUE.—The term ''scrappage value'' means the amount received by the dealer for an eligible trade-in vehicle upon transferring title of such vehicle to the person responsible for ensuring the dismantling and destruction of the vehicle.

(N) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation, acting through the National Highway Traffic Safety Administration.

(O) ULTIMATE PURCHASER.—The term ''ultimate purchaser'' means, with respect to any new automobile, the first person who in good faith purchases such automobile for purposes other than resale.

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

(c) EXPEDITED CONSIDERATION OF AMERICAN RECOVERY AND REINVESTMENT ACT RESCISSIONS.—

(1) PROPOSED RESCISSION OF DISCRETIONARY BUDGET AUTHORITY.—The President may propose, at the time and in the manner provided in paragraph (2), the rescission of any discretionary budget authority provided under the American Recovery and Reinvestment Act (Public Law 111–5).

(2) TRANSMITTAL OF SPECIAL MESSAGE.—(A) Not later than 15 days after the date of the enactment of this Act, the President may—

(i) transmit to Congress a special message proposing to rescind amounts of discretionary budget authority provided in the American Recovery and Reinvestment Act; and

(ii) include with the special message described in clause (i) a draft bill or joint resolution that, if enacted, would only rescind that discretionary budget authority.

(B) If an Act includes accounts within the jurisdiction of more than 1 subcommittee of the Committee on Appropriations, the President, in proposing to rescind discretionary budget authority under this subsection, shall send a separate special message and accompanying draft bill or joint resolution for accounts within the jurisdiction of each such subcommittee.

(C) Each special message transmitted to Congress under this paragraph shall specify, with respect to the discretionary budget authority proposed to be rescinded—

(i) the amount of budget authority proposed to be rescinded or which is to be so reserved;

(ii) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(iii) the reasons why the budget authority should be rescinded or is to be so reserved;

(iv) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed rescission or of the reservation; and

(v) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission or the reservation and the decision to effect the proposed rescission or the reservation, and to the maximum extent practicable, the estimated effect of the proposed rescission or the reservation upon the objects, purposes, and programs for which the budget authority is provided.

(3) LIMITATION ON AMOUNTS SUBJECT TO RESCISSION.—The amount of discretionary budget authority the President may propose to rescind in a special message under this subsection for a particular program, project, or activity may not exceed $4,000,000,000.

(4) PROCEDURES FOR EXPEDITED CONSIDERATION.—(A)(i) Before the close of the second

day of continuous session of the applicable House of Congress after the date of receipt of a special message transmitted to Congress under paragraph (2), the majority leader or minority leader of the House of Congress in which the Act involved originated shall introduce (by request) the draft bill or joint resolution accompanying that special message. If the bill or joint resolution is not introduced by the third day of continuous session of that House after the date of receipt of that special message, any Member of that House may introduce the bill or joint resolution.

(ii) A bill or joint resolution introduced pursuant to clause (i) shall be referred to the Committee on Appropriations of the House in which it is introduced. The bill or joint resolution shall be voted on not later than the seventh day of continuous session of that House after the date of receipt of that special message. If the Committee on Appropriations fails to vote on the bill or joint resolution within that period, that committee shall be automatically discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed on the appropriate calendar.

(iii) A vote on final passage of a bill or joint resolution introduced pursuant to clause (i) shall be taken in that House on or before the close of the 10th calendar day of continuous session of that House after the date of the introduction of the bill or joint resolution in that House, except in cases in which the Committee on Appropriations has considered and voted against discharging the bill or joint resolution for further consideration. If the bill or joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the bill or joint resolution to be engrossed, certified, and transmitted to the other House of Congress on the same calendar day on which the bill or joint resolution is agreed to.

(B)(i) A bill or joint resolution transmitted to the Senate or the House of Representatives pursuant to subparagraph (A)(iii) shall be referred to the Committee on Appropriations of that House. The bill or joint resolution shall be voted on not later than the seventh day of continuous session of that House after it receives the bill or joint resolution. A committee failing to vote on the bill or joint resolution within such period shall be automatically discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed upon the appropriate calendar.

(ii) A vote on final passage of a bill or joint resolution transmitted to that House shall be taken on or before the close of the 10th calendar day of continuous session of that House after the date on which the bill or joint resolution is transmitted, except in cases in which the Committee on Appropriations has considered and voted against discharging the bill or joint resolution for further consideration. If the bill or joint resolution is agreed to in that House, the Clerk of the House of Representatives (in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the engrossed bill or joint resolution to be returned to the House in which the bill or joint resolution originated.

(C)(i) A motion in the House of Representatives to proceed to the consideration of a bill or joint resolution under this subsection shall be highly privileged and not debatable. An amendment to the motion and a motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(ii) Debate in the House of Representatives on a bill or joint resolution under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill or joint resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill or joint resolution under this subsection or to move to reconsider the vote by which the bill or joint resolution is agreed to or disagreed to.

(iii) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill or joint resolution under this subsection shall be decided without debate.

(iv) Except to the extent specifically provided in clauses (i) through (iii), consideration of a bill or joint resolution under this subsection shall be governed by the Rules of the House of Representatives.

(D)(i) A motion in the Senate to proceed to the consideration of a bill or joint resolution under this subsection shall be privileged and not debatable. An amendment to the motion and a motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(ii) Debate in the Senate on a bill or joint resolution under this subsection, and all debatable motions and appeals in connection to such bill or joint resolution, shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(iii) Debate in the Senate on any debatable motion or appeal in connection with a bill or joint resolution under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or joint resolution, except that in the event the manager of the bill or joint resolution is in favor of any such motion or appeal, the time in opposition to such motion or appeal shall be controlled by the minority leader or his designee. Either such leader may, from time under their control on the passage of a bill or joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(iv) A motion in the Senate to further limit debate on a bill or joint resolution under this subsection is not debatable. A motion to recommit a bill or joint resolution under this subsection is not in order.

(5) AMENDMENTS PROHIBITED.—No amendment to a bill or joint resolution considered under this subsection shall be in order in the Senate or the House of Representatives. No motion to suspend the application of this paragraph shall be in order in either House, nor shall it be in order in either House to suspend the application of this paragraph by unanimous consent.

(6) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—Any amount of discretionary budget authority proposed to be rescinded in a special message transmitted to Congress under paragraph (2) shall be made available for obligation on the day after the date on which either House defeats the bill or joint resolution transmitted with that special message.

(7) DEFINITIONS.—For purposes of this subsection—

(A) continuity of a session of either House of Congress shall be considered as broken only by an adjournment of that House sine die, and the days on which that House is not in session because of an adjournment of more than 3 days to a date certain shall be excluded in the computation of any period; and

(B) the term ''discretionary budget authority'' means the dollar amount of discretionary budget authority and obligation limitations—

(i) specified in the American Recovery and Reinvestment Act (Public Law 111–5), or the dollar amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included;

(ii) represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law;

(iii) required to be allocated for a specific program, project, or activity in a law (other than an appropriation law) that mandates obligations from or within accounts, programs, projects, or activities for which budget authority or an obligation limitation is provided in an appropriation law;

(iv) represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or included in the statement of managers or the governing committee report accompanying such law; or

(v) represented by the product of the estimated procurement cost and the total quantity of items required to be provided in a law (other than an appropriation law) that mandates obligations from accounts, programs, projects, or activities for which dollar amount of discretionary budget authority or an obligation limitation is provided in an appropriation law.

(8) CONFORMING AMENDMENT.—Section 1014(e)(1) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 685(e)(1)) is amended—

(A) in subparagraphs (A) and (B), by striking ''he'' each place such term appears and inserting ''the President'';

(B) in subparagraph (A), by striking ''and'' at the end;

(C) by redesignating subparagraph (B) as subparagraph (C); and

(D) by inserting after subparagraph (A) the following:

''(ii) the President has transmitted a special message under section __(c) of the Short Term Accelerated Retirement of Inefficient Vehicles Act of 2009 with respect to a proposed rescission; and''.

(d) SUNSET PROVISION.—Subection (c) shall be repealed on the date on which regulations are promulgated under subsection (b)(4).

SA 1279. Mr. CORKER submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. AUTHORITY OF THE SECRETARY OF THE TREASURY TO DELEGATE TARP ASSET MANAGEMENT; CREATION OF MANAGEMENT AUTHORITY FOR AUTOMOBILE MANUFACTURERS ASSISTED UNDER TARP.

(a) AUTHORITY TO DESIGNATE MANAGEMENT.—Section 106(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5216(b)) is amended by inserting before the period at the end the following: '', and the Secretary may delegate such management

authority to a private entity, as the Secretary determines appropriate, with respect to any entity assisted under this Act''.

(b) FEDERAL ASSISTANCE LIMITED.—Notwithstanding any provision of the Emergency Economic Stabilization Act of 2008, or any other provision of law, no funds may be expended under the Emergency Economic Stabilization Act of 2008 (Public Law 110-343) or to carry out the Advanced Technology Vehicles Manufacturing Incentive Program established under section 136 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013) on or after the date of enactment of this Act, until the Secretary of the Treasury transfers all voting, nonvoting, and common equity in any designated automobile manufacturer to a limited liability company established by the Secretary for such purpose, to be held and managed in trust on behalf of the United States taxpayers.

(c) APPOINTMENT OF TRUSTEES.—

(1) IN GENERAL.—The President shall appoint 3 independent trustees to manage the equity held in the trust, separate and apart from the United States Government.

(2) CRITERIA.—Trustees appointed under this subsection—

(A) may not be elected or appointed Government officials;

(B) shall serve at the pleasure of the President, and may be removed for just cause in violation of their fiduciary responsibilities only; and

(C) shall serve without compensation for their services under his section.

(d) DUTIES OF TRUST.—Pursuant to protecting the interests and investment of the United States taxpayer, the trust established under this section shall, with the purpose of maximizing the profitability of the designated automobile manufacturers—

(1) exercise the voting rights of the shares of the taxpayer on all core governance issues;

(2) select the representation on the boards of directors of any designated automobile manufacturer; and

(3) have a fiduciary duty to the American taxpayer for the maximization of the return on the investment of the taxpayer made under the Emergency Economic Stabilization Act of 2008, in the same manner and to the same extent that any director of an issuer of securities has with respect to its shareholders under the securities laws and all applications of State law.

(e) LIQUIDATION.—The trustees shall liquidate the trust established under this section, including the assets held by such trust, not later than December 24, 2011.

(f) DEFINITIONS.—As used in this section—

(1) the term ''designated automobile manufacturer'' means an entity organized under the laws of a State, the primary business of which is the manufacture of automobiles, and any affiliate thereof, if such automobile manufacturer—

(A) has received funds under the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), or funds were obligated under that Act, before the date of enactment of this Act; and

(B) has filed for bankruptcy protection under chapter 11 of title 11, United States Code, during the 90-day period preceding the date of enactment of this Act;

(2) the term ''Secretary'' means the Secretary of the Treasury or the designee of the Secretary; and

(3) the terms ''director'', ''issuer'', ''securities'', and ''securities laws'' have the same meanings as in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

SA 1280. Mr. VOINOVICH (for himself, Mr. KOHL, and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. _____. COMPUTATION OF CERTAIN ANNUITIES BASED ON PART-TIME SERVICE.

(a) IN GENERAL.—Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

''(3) In the administration of paragraph (1)—

''(A) subparagraph (A) of such paragraph shall apply with respect to service performed before, on, or after April 7, 1986; and

''(B) subparagraph (B) of such paragraph—

''(i) shall apply with respect to that portion of any annuity which is attributable to service performed on or after April 7, 1986; and

''(ii) shall not apply with respect to that portion of any annuity which is attributable to service performed before April 7, 1986.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SA 1281. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 102, and insert the following:

SEC. 102. REGULATIONS AND APPLICATION OF CERTAIN PROVISIONS.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate interim final regulations to implement this Act (and the amendments made by this Act). Not later than 6 months after the date on which the interim final regulations are promulgated under the preceding sentence, the Secretary shall promulgate final regulations.

(b) APPLICATION OF CERTAIN PROVISIONS.—Notwithstanding any other provision of this Act (or an amendment made by this Act), the provisions of chapter 5 of title 5, Under States Code, shall apply to this Act (and amendments).

SA 1282. Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

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

Subtitle B—Other Retirement-Related Provisions

SEC. 111. CREDIT FOR UNUSED SICK LEAVE.

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (k) and subsection (l) as subsections (l) and (m), respectively; and

(2) in subsection (l) (as so redesignated by paragraph (1))—

(A) by striking ''(l) In computing'' and inserting ''(l)(1) In computing''; and

(B) by adding at the end the following:

''(2) Except as provided in paragraph (1), in computing an annuity under this subchapter, the total service of an employee who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to annuity includes the days of unused sick leave to his credit under a formal leave system and for which days the employee has not received payment, except that these days will not be counted in determining average pay or annuity eligibility under this subchapter. For purposes of this subsection, in the case of any such employee who is excepted from subchapter I of chapter 63 under section 6301(2)(x) through (xiii), the days of unused sick leave to his credit include any unused sick leave standing to his credit when he was excepted from such subchapter.''.

(b) EXCEPTION FROM DEPOSIT REQUIREMENT.—Section 8422(d)(2) of title 5, United States Code, is amended by striking ''section 8415(k)'' and inserting ''paragraph (1) or (2) of section 8415(l)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to annuities computed based on separations occurring on or after the date of enactment of this Act.

SEC. 112. LIMITED EXPANSION OF THE CLASS OF INDIVIDUALS ELIGIBLE TO RECEIVE AN ACTUARIALLY REDUCED ANNUITY UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) IN GENERAL.—Section 8334(d)(2)(A)(i) of title 5, United States Code, is amended by striking ''October 1, 1990'' each place it appears and inserting ''March 1, 1991''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 113. COMPUTATION OF CERTAIN ANNUITIES BASED ON PART-TIME SERVICE.

(a) IN GENERAL.—Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

''(3) In the administration of paragraph (1)—

''(A) subparagraph (A) of such paragraph shall apply with respect to service performed before, on, or after April 7, 1986; and

''(B) subparagraph (B) of such paragraph—

''(i) shall apply with respect to that portion of any annuity which is attributable to service performed on or after April 7, 1986; and

''(ii) shall not apply with respect to that portion of any annuity which is attributable to service performed before April 7, 1986.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which

is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 114. AUTHORITY TO DEPOSIT REFUNDS UNDER FERS.

(a) DEPOSIT AUTHORITY.—Section 8422 of title 5, United States Code, is amended by adding at the end the following:

''(i)(1) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which such employee or Member may be allowed credit under this chapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

''(2) Interest under this subsection shall be computed in accordance with paragraphs (2) and (3) of section 8334(e) and regulations prescribed by the Office. The option under the third sentence of section 8334(e)(2) to make a deposit in one or more installments shall apply to deposits under this subsection.

''(3) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONAL AMENDMENT.—Section 8401(19)(C) of title 5, United States Code, is amended by striking ''8411(f);'' and inserting ''8411(f) or 8422(i);''.

(2) CREDITING OF DEPOSITS.—Section 8422(c) of title 5, United States Code, is amended by adding at the end the following: ''Deposits made by an employee, Member, or survivor also shall be credited to the Fund.''.

(3) SECTION HEADING.—(A) The heading for section 8422 of title 5, United States Code, is amended to read as follows:

''§ 8422. Deductions from pay; contributions for other service; deposits''.

(B) The analysis for chapter 84 of title 5, United States Code, is amended by striking the item relating to section 8422 and inserting the following:

''8422. Deductions from pay; contributions for other service; deposits.''.

(4) RESTORATION OF ANNUITY RIGHTS.—The last sentence of section 8424(a) of title 5, United States Code, is amended by striking ''based.'' and inserting ''based, until the employee or Member is reemployed in the service subject to this chapter.''.

SEC. 115. RETIREMENT CREDIT FOR SERVICE OF CERTAIN EMPLOYEES TRANSFERRED FROM DISTRICT OF COLUMBIA SERVICE TO FEDERAL SERVICE.

(a) RETIREMENT CREDIT.—

(1) IN GENERAL.—Any individual who is treated as an employee of the Federal Government for purposes of chapter 83 or chapter 84 of title 5, United States Code, on or after the date of enactment of this Act who performed qualifying District of Columbia service shall be entitled to have such service included in calculating the individual's creditable service under sections 8332 or 8411 of title 5, United States Code, but only for purposes of the following provisions of such title:

(A) Sections 8333 and 8410 (relating to eligibility for annuity).

(B) Sections 8336 (other than subsections (d), (h), and (p) thereof) and 8412 (relating to immediate retirement).

(C) Sections 8338 and 8413 (relating to deferred retirement).

(D) Sections 8336(d), 8336(h), 8336(p), and 8414 (relating to early retirement).

(E) Section 8341 and subchapter IV of chapter 84 (relating to survivor annuities).

(F) Section 8337 and subchapter V of chapter 84 (relating to disability benefits).

(2) TREATMENT OF DETENTION OFFICER SERVICE AS LAW ENFORCEMENT OFFICER SERVICE.—Any portion of an individual's qualifying District of Columbia service which consisted of service as a detention officer under section 2604(2) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1–626.04(2), D.C. Official Code) shall be treated as service as a law enforcement officer under sections 8331(20) or 8401(17) of title 5, United States Code, for purposes of applying paragraph (1) with respect to the individual.

(3) SERVICE NOT INCLUDED IN COMPUTING AMOUNT OF ANY ANNUITY.—Qualifying District of Columbia service shall not be taken into account for purposes of computing the amount of any benefit payable out of the Civil Service Retirement and Disability Fund.

(b) QUALIFYING DISTRICT OF COLUMBIA SERVICE DEFINED.—In this section, ''qualifying District of Columbia service'' means any of the following:

(1) Service performed by an individual as a nonjudicial employee of the District of Columbia courts—

(A) which was performed prior to the effective date of the amendments made by section 11246(b) of the Balanced Budget Act of 1997; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(2) Service performed by an individual as an employee of an entity of the District of Columbia government whose functions were transferred to the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee under section 11232 of the Balanced Budget Act of 1997—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government under section 11232(f) of such Act; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(3) Service performed by an individual as an employee of the District of Columbia Public Defender Service—

(A) which was performed prior to the effective date of the amendments made by section 7(e) of the District of Columbia Courts and Justice Technical Corrections Act of 1998; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(4) In the case of an individual who was an employee of the District of Columbia Department of Corrections who was separated from service as a result of the closing of the Lorton Correctional Complex and who was appointed to a position with the Bureau of Prisons, the District of Columbia courts, the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee, the United States Parole Commission, or the District of Columbia Public Defender Service, service performed by the individual as an employee of the District of Columbia Department of Corrections—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(c) CERTIFICATION OF SERVICE.—The Office of Personnel Management shall accept the certification of the appropriate personnel official of the government of the District of Columbia or other independent employing entity concerning whether an individual performed qualifying District of Columbia service and the length of the period of such service the individual performed.

TITLE _____—PART-TIME REEMPLOYMENT OF ANNUITANTS

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Part-Time Reemployment of Annuitants Act of 2009''.

SEC. ___2. PART-TIME REEMPLOYMENT.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m);

(2) by inserting after subsection (k) the following:

''(l)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (k)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) or (b) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) or (b) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office of Personnel Management or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for the effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) or (b) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (m) (as so redesignated)—

(A) in paragraph (1), by striking ''(k)'' and inserting ''(l)''; and

(B) in paragraph (2), by striking ''or (k)'' and inserting ''(k), or (l)''.

(b) FEDERAL EMPLOYEE RETIREMENT SYSTEM.—Section 8468 of title 5, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j);

(2) by inserting after subsection (h) the following:

''(i)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (h)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (j) (as so redesignated)—

(A) in paragraph (1), by striking ''(h)'' and inserting ''(i)''; and

(B) in paragraph (2), by striking ''or (h)'' and inserting ''(h), or (i)''.

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section may be construed to authorize the waiver of the hiring preferences under chapter 33 of title 5, United States Code in selecting annuitants to employ in an appointive or elective position.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 1005(d)(2) of title 39, United States Code, is amended—

(1) by striking ''(l)(2)'' and inserting ''(m)(2)''; and

(2) by striking ''(i)(2)'' and inserting ''(j)(2)''.

SEC. ___3. GENERAL ACCOUNTABILITY OFFICE REPORT.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report regarding the use of the authority under the amendments made by section ___2.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) include the number of annuitants for whom a waiver was made under subsection (l) of section 8344 of title 5, United States Code, as amended by this title, or subsection (i) of section 8468 of title 5, United States Code, as amended by this title; and

(2) identify each agency that used the authority described in paragraph (1).

(c) AGENCY DATA.—Each head of an agency (as defined under sections 8344(l)(1) and 8468(i)(1)(A) of title 5, United States Code, as added by section ___2 of this title) shall—

(1) collect and maintain data necessary for purposes of the Comptroller General report submitted under subsection (a); and

(2) submit to the Comptroller General that data as the Comptroller General requires in a timely fashion.

SA 1283. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products,

to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE _____—NON-FOREIGN AREA RETIREMENT EQUITY ASSURANCE

SEC. __01. SHORT TITLE.

This title may be cited as the ''Non-Foreign Area Retirement Equity Assurance Act of 2009'' or the ''Non-Foreign AREA Act of 2009''.

SEC. __02. EXTENSION OF LOCALITY PAY.

(a) LOCALITY-BASED COMPARABILITY PAYMENTS.—Section 5304 of title 5, United States Code, is amended—

(1) in subsection (f)(1), by striking subparagraph (A) and inserting the following:

''(A) each General Schedule position in the United States, as defined under section 5921(4), and its territories and possessions, including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands, shall be included within a pay locality;'';

(2) in subsection (g)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'' after the semicolon;

(ii) in subparagraph (B) by striking the period and inserting ''; and''; and

(iii) by adding after subparagraph (B) the following:

''(C) positions under subsection (h)(1)(C) not covered by appraisal systems certified under section 5382; and''; and

(B) by adding at the end the following:

''(3) The applicable maximum under this subsection shall be level II of the Executive Schedule for positions under subsection (h)(1)(C) covered by appraisal systems certified under section 5307(d).''; and

(3) in subsection (h)(1)—

(A) in subparagraph (B) by striking ''and'' after the semicolon;

(B) by redesignating subparagraph (C) as subparagraph (D);

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

''(C) a Senior Executive Service position under section 3132 or 3151 or a senior level position under section 5376 stationed within the United States, but outside the 48 contiguous States and the District of Columbia in which the incumbent was an individual who on the day before the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009 was eligible to receive a cost-of-living allowance under section 5941; and'';

(D) in clause (iv) in the matter following subparagraph (D), by inserting '', except for members covered by subparagraph (C)'' before the semicolon; and

(E) in clause (v) in the matter following subparagraph (D), by inserting '', except for members covered by subparagraph (C)'' before the semicolon.

(b) ALLOWANCES BASED ON LIVING COSTS AND CONDITIONS OF ENVIRONMENT.—Section 5941 of title 5, United States Code, is amended—

(1) in subsection (a), by adding after the last sentence ''Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) shall be the cost-of-living allowance rate in effect on the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, except as adjusted under subsection (c).'';

(2) by redesignating subsection (b) as subsection (d); and

(3) by inserting after subsection (a) the following:

''(b) This section shall apply only to areas that are designated as cost-of-living allowance areas as in effect on December 31, 2009.

''(c)(1) The cost-of-living allowance rate payable under this section shall be adjusted on the first day of the first applicable pay period beginning on or after—

''(A) January 1, 2010; and

''(B) January 1 of each calendar year in which a locality-based comparability adjustment takes effect under section __04 (2) and (3) of the Non-Foreign Area Retirement Equity Assurance Act of 2009.

''(2)(A) In this paragraph, the term 'applicable locality-based comparability pay percentage' means, with respect to calendar year 2010 and each calendar year thereafter, the applicable percentage under section __04 (1), (2), or (3) of Non-Foreign Area Retirement Equity Assurance Act of 2009.

''(B) Each adjusted cost-of-living allowance rate under paragraph (1) shall be computed by—

''(i) subtracting 65 percent of the applicable locality-based comparability pay percentage from the cost-of-living allowance percentage rate in effect on December 31, 2009; and

''(ii) dividing the resulting percentage determined under clause (i) by the sum of—

''(I) one; and

''(II) the applicable locality-based comparability payment percentage expressed as a numeral.

''(3) No allowance rate computed under paragraph (2) may be less than zero.

''(4) Each allowance rate computed under paragraph (2) shall be paid as a percentage of basic pay (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law).''.

SEC. __03. ADJUSTMENT OF SPECIAL RATES.

(a) IN GENERAL.—Each special rate of pay established under section 5305 of title 5, United States Code, and payable in an area designated as a cost-of-living allowance area under section 5941(a) of that title, shall be adjusted, on the dates prescribed by section __04 of this title, in accordance with regulations prescribed by the Director of the Office of Personnel Management under section __08 of this title.

(b) AGENCIES WITH STATUTORY AUTHORITY.—

(1) IN GENERAL.—Each special rate of pay established under an authority described under paragraph (2) and payable in a location designated as a cost-of-living allowance area under section 5941(a)(1) of title 5, United States Code, shall be adjusted in accordance with regulations prescribed by the applicable head of the agency that are consistent with the regulations issued by the Director of the Office of Personnel Management under subsection (a).

(2) STATUTORY AUTHORITY.—The authority referred to under paragraph (1), is any statutory authority that—

(A) is similar to the authority exercised under section 5305 of title 5, United States Code;

(B) is exercised by the head of an agency when the head of the agency determines it to be necessary in order to obtain or retain the services of persons specified by statute; and

(C) authorizes the head of the agency to increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations.

(c) TEMPORARY ADJUSTMENT.—Regulations issued under subsection (a) or (b) may provide that statutory limitations on the amount of such special rates may be temporarily raised to a higher level during the transition period described in section __04 ending on the first day of the first pay period beginning on or after January 1, 2012, at which time any special rate of pay in excess of the applicable limitation shall be converted to a retained rate under section 5363 of title 5, United States Code.

SEC. __04. TRANSITION SCHEDULE FOR LOCALITY-BASED COMPARABILITY PAYMENTS.

Notwithstanding any other provision of this title or section 5304 or 5304a of title 5, United States Code, in implementing the amendments made by this title, for each non-foreign area determined under section 5941(b) of that title, the applicable rate for the locality-based comparability adjustment that is used in the computation required under section 5941(c) of that title shall be adjusted effective on the first day of the first pay period beginning on or after January 1—

(1) in calendar year 2010, by using ⅓ of the locality pay percentage for the rest of United States locality pay area;

(2) in calendar year 2011, by using ⅔ of the otherwise applicable comparability payment approved by the President for each non-foreign area; and

(3) in calendar year 2012 and each subsequent year, by using the full amount of the applicable comfor each non-foreign area.

SEC. __05. SAVINGS PROVISION.

(b) SAVINGS PROVISIONS.—

(1) IN GENERAL.—During the period described under section __04 of this title, an employee paid a special rate under 5305 of title 5, United States Code, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, and who continues to be officially stationed in an allowance area, shall receive an increase in the employee's special rate consistent with increases in the applicable special rate schedule. For employees in allowance areas, the minimum step rate for any grade of a special rate schedule shall be increased at the time of an increase in the applicable locality rate percentage for the allowance area by not less than the dollar increase in the locality-based comparability payment for a non-special rate employee at the same minimum step provided under section __04 of this title, and corresponding increases shall be provided for all step rates of the given pay range.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE RATE.—If an employee, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, would receive a rate of basic pay and applicable locality-based comparability payment which is in excess of the maximum rate limitation set under section 5304(g) of title 5, United States Code, for his position (but for that maximum rate limitation) due to the operation of this title, the employee shall continue to receive the cost-of-living allowance rate in effect on December 31, 2009 without adjustment until—

(A) the employee leaves the allowance area or pay system; or

(B) the employee is entitled to receive basic pay (including any applicable locality-based comparability payment or similar supplement) at a higher rate,

but, when any such position becomes vacant, the pay of any subsequent appointee thereto shall be fixed in the manner provided by applicable law and regulation.

(3) LOCALITY-BASED COMPARABILITY PAYMENTS.—Any employee covered under paragraph (2) shall receive any applicable locality-based comparability payment extended under section __04 of this title which is not

in excess of the maximum rate set under section 5304(g) of title 5, United States Code, for his position including any future increase to statutory pay limitations under 5318 of title 5, United States Code. Notwithstanding paragraph (2), to the extent that an employee covered under that paragraph receives any amount of locality-based comparability payment, the cost-of-living allowance rate under that paragraph shall be reduced accordingly, as provided under section 5941(c)(2)(B) of title 5, United States Code.

SEC. __06. APPLICATION TO OTHER ELIGIBLE EMPLOYEES.

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection, the term ''covered employee'' means—

(A) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

(II) was not eligible to be paid locality-based comparability payments under 5304 or 5304a of that title; or

(ii) on or after the date of enactment of this Act becomes eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; or

(B) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) was eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) was employed by the Transportation Security Administration of the Department of Homeland Security and was eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) was eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code; or

(ii) on or after the date of enactment of this Act—

(I) becomes eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) becomes eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) is employed by the Transportation Security Administration of the Department of Homeland Security and becomes eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) is eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code.

(2) APPLICATION TO COVERED EMPLOYEES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of this title (including the amendments made by this title) any covered employee shall be treated as an employee to whom section 5941 of title 5, United States Code (as amended by section __02 of this title), and section __04 of this title apply.

(B) PAY FIXED BY STATUTE.—Pay to covered employees under section 5304 or 5304a of title 5, United States Code, as a result of the application of this title shall be considered to be fixed by statute.

(C) PERFORMANCE APPRAISAL SYSTEM.—With respect to a covered employee who is subject to a performance appraisal system no part of pay attributable to locality-based comparability payments as a result of the application of this title including section 5941 of title 5, United States Code (as amended by section __02 of this title), may be reduced on the basis of the performance of that employee.

(b) POSTAL EMPLOYEES IN NON-FOREIGN AREAS.—

(1) IN GENERAL.—Section 1005(b) of title 39, United States Code, is amended—

(A) by inserting ''(1)'' after ''(b)'';

(B) by striking ''Section 5941,'' and inserting ''Except as provided under paragraph (2), section 5941'';

(C) by striking ''For purposes of such section,'' and inserting ''Except as provided under paragraph (2), for purposes of section 5941 of that title,''; and

(D) by adding at the end the following:

''(2) On and after the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009—

''(A) the provisions of that Act and section 5941 of title 5 shall apply to officers and employees covered by section 1003 (b) and (c) whose duty station is in a nonforeign area; and

''(B) with respect to officers and employees of the Postal Service (other than those officers and employees described under subparagraph (A)) of section __06(b)(2) of that Act shall apply.''.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE.—

(A) IN GENERAL.—Notwithstanding any other provision of this title, any employee of the Postal Service (other than an employee covered by section 1003 (b) and (c) of title 39, United States Code, whose duty station is in a nonforeign area) who is paid an allowance under section 1005(b) of that title shall be treated for all purposes as if the provisions of this title (including the amendments made by this title) had not been enacted, except that the cost-of-living allowance rate paid to that employee—

(i) may result in the allowance exceeding 25 percent of the rate of basic pay of that employee; and

(ii) shall be the greater of—

(I) the cost-of-living allowance rate in effect on December 31, 2009 for the applicable area; or

(II) the applicable locality-based comparability pay percentage under section __04.

(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

(i) provide for an employee described under subparagraph (A) to be a covered employee as defined under subsection (a); or

(ii) authorize an employee described under subparagraph (A) to file an election under section __07 of this title.

SEC. __07. ELECTION OF ADDITIONAL BASIC PAY FOR ANNUITY COMPUTATION BY EMPLOYEES.

(a) DEFINITION.—In this section the term ''covered employee'' means any employee—

(1) to whom section __04 applies;

(2) who is separated from service by reason of retirement under chapter 83 or 84 of title 5, United States Code, during the period of January 1, 2010, through December 31, 2012; and

(3) who files an election with the Office of Personnel Management under subsection (b).

(b) ELECTION.—

(1) IN GENERAL.—An employee described under subsection (a) (1) and (2) may file an election with the Office of Personnel Management to be covered under this section.

(2) DEADLINE.—An election under this subsection may be filed not later than December 31, 2012.

(c) COMPUTATION OF ANNUITY.—

(1) IN GENERAL.—Except as provided under paragraph (2), for purposes of the computation of an annuity of a covered employee any cost-of-living allowance under section 5941 of title 5, United States Code, paid to that employee during the first applicable pay period beginning on or after January 1, 2010 through the first applicable pay period ending on or after December 31, 2012, shall be considered basic pay as defined under section 8331(3) or 8401(4) of that title.

(2) LIMITATION.—The amount of the cost-of-living allowance which may be considered basic pay under paragraph (1) may not exceed the amount of the locality-based comparability payments the employee would have received during that period for the applicable pay area if the limitation under section __04 of this title did not apply.

(d) CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

(1) EMPLOYEE CONTRIBUTIONS.—A covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund—

(A) an amount equal to the difference between—

(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during the period described under subsection (c) of this section if the cost-of-living allowances described under that subsection had been treated as basic pay under section 8331(3) or 8401(4) of title 5, United States Code; and

(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period; and

(B) interest as prescribed under section 8334(e) of title 5, United States Code, based on the amount determined under subparagraph (A).

(2) AGENCY CONTRIBUTIONS.—

(A) IN GENERAL.—The employing agency of a covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund an amount for applicable agency contributions based on payments made under paragraph (1).

(B) SOURCE.—Amounts paid under this paragraph shall be contributed from the appropriation or fund used to pay the employee.

(3) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this section.

SEC. __08. REGULATIONS.

(a) IN GENERAL.—The Director of the Office of Personnel Management shall prescribe regulations to carry out this title, including—

(1) rules for special rate employees described under section __03;

(2) rules for adjusting rates of basic pay for employees in pay systems administered by the Office of Personnel Management when such employees are not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, without regard to otherwise applicable statutory pay limitations during the transition period described in section __04 ending on the first day of the first pay period beginning on or after January 1, 2012; and

(3) rules governing establishment and adjustment of saved or retained rates for any employee whose rate of pay exceeds applicable pay limitations on the first day of the first pay period beginning on or after January 1, 2012.

(b) OTHER PAY SYSTEMS.—With the concurrence of the Director of the Office of Personnel Management, the administrator of a pay system not administered by the Office of Personnel Management shall prescribe regulations to carry out this title with respect to employees in such pay system, consistent with the regulations prescribed by the Office under subsection (a). With respect to employees not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, regulations prescribed under this subsection may provide

for special payments or adjustments for employees who were eligible to receive a cost-of-living allowance under section 5941 of that title on the date before the date of enactment of this Act.

SEC. __09. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided by subsection (b), this title (including the amendments made by this title) shall take effect on the date of enactment of this Act.

(b) LOCALITY PAY AND SCHEDULE.—The amendments made by section __02 and the provisions of section __04 shall take effect on the first day of the first applicable pay period beginning on or after January 1, 2010.

SA 1284. Mr. MERKLEY submitted an amendment intended to be proposed to amendment SA 1225 submitted by Mr. COBURN and intended to be proposed to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. IMMEDIATE, MANDATORY EVALUATION OF POTENTIAL VIOLATIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) IMMEDIATE, MANDATORY EVALUATION AND REPORT.—

(1) IMMEDIATE, MANDATORY EVALUATION.—The Secretary of Health and Human Services shall conduct an evaluation of the manufacture, distribution, and use of marijuana in States that have enacted laws legalizing, decriminalizing, or otherwise allowing the use of marijuana for purported medical use to determine—

(A) whether such activity conflicts with any provision of Federal law for which the Department of Health of Human Services is responsible; and

(B) whether such medical marijuana programs conflict with any provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) that is designed to ensure the safety and effectiveness of drugs used by the American public.

(2) REPORT.—Not later than 90 days after the date of enactment of this Act, and after an opportunity for public comment, the Secretary of Health and Human Services shall submit to Congress a report concerning the findings of the evaluation conducted under paragraph (1).

(b) REPORT ON RESEARCH.—The Secretary of Health and Human Services shall report to Congress on efforts to respond to privately-funded research to evaluate marijuana for possible prescription use, after being subjected to the full regulatory processes, evaluations, and requirements of the Food and Drug Administration, including Phase II and III studies, risk evaluation and mitigation strategy, and all other requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) regarding safe and effective reviews, approval, sale, marketing, and use of pharmaceuticals.

SA 1285. Mrs. HAGAN submitted an amendment intended to be proposed by her to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, strike line 24 and insert the following:

''taining domestically grown tobacco; and

''(E) shall require that all tobacco product testing on domestic and foreign manufacturers' products, to determine compliance with standards under this section, be performed in laboratories accredited by the Secretary (or by an accreditation body recognized by the Secretary) for such purpose, in accordance with the procedures established by the Secretary.

SA 1286. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC. ___. IMMEDIATE, MANDATORY EVALUATION OF POTENTIAL VIOLATIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) IMMEDIATE, MANDATORY EVALUATION AND REPORT.—

(1) IMMEDIATE, MANDATORY EVALUATION.—The Secretary of Health and Human Services shall conduct an evaluation of the manufacture, distribution, and use of marijuana in States that have enacted laws legalizing, decriminalizing, or otherwise allowing the use of marijuana for purported medical use to determine—

(A) whether such activity conflicts with any provision of Federal law for which the Department of Health of Human Services is responsible; and

(B) whether such medical marijuana programs conflict with any provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) that is designed to ensure the safety and effectiveness of drugs used by the American public.

(2) REPORT.—Not later than 90 days after the date of enactment of this Act, and after an opportunity for public comment, the Secretary of Health and Human Services shall submit to Congress a report concerning the findings of the evaluation conducted under paragraph (1).

(b) REPORT ON RESEARCH.—The Secretary of Health and Human Services shall report to Congress on efforts to respond to privately-funded research to evaluate marijuana for possible prescription use, after being subjected to the full regulatory processes, evaluations, and requirements of the Food and Drug Administration, including Phase II and III studies, risk evaluation and mitigation strategy, and all other requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) regarding safe and effective reviews, approval, sale, marketing, and use of pharmaceuticals.

SA 1287. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

On page 23, strike lines 4 through 16, and insert the following:

''(3) CIGARETTE.—The term 'cigarette' means a product that is a tobacco product and that—

''(A) meets the definition of the term 'cigarette' in section 3(1) of the Federal Cigarette Labeling and Advertising Act; or

''(B) because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchase by, consumers as a cigarette or as roll-your-own tobacco.''.

SA 1288. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

On page 23, line 8, strike ''section 3(1)'' and insert ''section 3(1)(A) or section 3(1)(B)''.

SA 1289. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

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

Subtitle B—Other Retirement-Related Provisions

SEC. 111. CREDIT FOR UNUSED SICK LEAVE.

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (k) and subsection (l) as subsections (l) and (m), respectively; and

(2) in subsection (l) (as so redesignated by paragraph (1))—

(A) by striking ''(l) In computing'' and inserting ''(l)(1) In computing''; and

(B) by adding at the end the following:

''(2) Except as provided in paragraph (1), in computing an annuity under this subchapter, the total service of an employee who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to annuity includes the days of unused sick leave to his credit under a formal leave system and for which days the employee has not received payment, except that these days will not be counted in determining average pay or annuity eligibility under this subchapter. For purposes of this subsection, in the case of any such employee who is excepted from subchapter I of chapter 63 under section 6301(2)(x) through (xiii), the days of unused

sick leave to his credit include any unused sick leave standing to his credit when he was excepted from such subchapter.''.

(b) EXCEPTION FROM DEPOSIT REQUIREMENT.—Section 8422(d)(2) of title 5, United States Code, is amended by striking ''section 8415(k)'' and inserting ''paragraph (1) or (2) of section 8415(l)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to annuities computed based on separations occurring on or after the date of enactment of this Act.

SEC. 112. LIMITED EXPANSION OF THE CLASS OF INDIVIDUALS ELIGIBLE TO RECEIVE AN ACTUARIALLY REDUCED ANNUITY UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) IN GENERAL.—Section 8334(d)(2)(A)(i) of title 5, United States Code, is amended by striking ''October 1, 1990'' each place it appears and inserting ''March 1, 1991''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 113. COMPUTATION OF CERTAIN ANNUITIES BASED ON PART-TIME SERVICE.

(a) IN GENERAL.—Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

''(3) In the administration of paragraph (1)—

''(A) subparagraph (A) of such paragraph shall apply with respect to service performed before, on, or after April 7, 1986; and

''(B) subparagraph (B) of such paragraph—

''(i) shall apply with respect to that portion of any annuity which is attributable to service performed on or after April 7, 1986; and

''(ii) shall not apply with respect to that portion of any annuity which is attributable to service performed before April 7, 1986.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 114. AUTHORITY TO DEPOSIT REFUNDS UNDER FERS.

(a) DEPOSIT AUTHORITY.—Section 8422 of title 5, United States Code, is amended by adding at the end the following:

''(i)(1) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which such employee or Member may be allowed credit under this chapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

''(2) Interest under this subsection shall be computed in accordance with paragraphs (2) and (3) of section 8334(e) and regulations prescribed by the Office. The option under the third sentence of section 8334(e)(2) to make a deposit in one or more installments shall apply to deposits under this subsection.

''(3) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONAL AMENDMENT.—Section 8401(19)(C) of title 5, United States Code, is amended by striking ''8411(f);'' and inserting ''8411(f) or 8422(i);''.

(2) CREDITING OF DEPOSITS.—Section 8422(c) of title 5, United States Code, is amended by adding at the end the following: ''Deposits made by an employee, Member, or survivor also shall be credited to the Fund.''.

(3) SECTION HEADING.—(A) The heading for section 8422 of title 5, United States Code, is amended to read as follows:

''§ 8422. Deductions from pay; contributions for other service; deposits''.

(B) The analysis for chapter 84 of title 5, United States Code, is amended by striking the item relating to section 8422 and inserting the following:

''8422. Deductions from pay; contributions for other service; deposits.''.

(4) RESTORATION OF ANNUITY RIGHTS.—The last sentence of section 8424(a) of title 5, United States Code, is amended by striking ''based.'' and inserting ''based, until the employee or Member is reemployed in the service subject to this chapter.''.

SEC. 115. RETIREMENT CREDIT FOR SERVICE OF CERTAIN EMPLOYEES TRANSFERRED FROM DISTRICT OF COLUMBIA SERVICE TO FEDERAL SERVICE.

(a) RETIREMENT CREDIT.—

(1) IN GENERAL.—Any individual who is treated as an employee of the Federal Government for purposes of chapter 83 or chapter 84 of title 5, United States Code, on or after the date of enactment of this Act who performed qualifying District of Columbia service shall be entitled to have such service included in calculating the individual's creditable service under sections 8332 or 8411 of title 5, United States Code, but only for purposes of the following provisions of such title:

(A) Sections 8333 and 8410 (relating to eligibility for annuity).

(B) Sections 8336 (other than subsections (d), (h), and (p) thereof) and 8412 (relating to immediate retirement).

(C) Sections 8338 and 8413 (relating to deferred retirement).

(D) Sections 8336(d), 8336(h), 8336(p), and 8414 (relating to early retirement).

(E) Section 8341 and subchapter IV of chapter 84 (relating to survivor annuities).

(F) Section 8337 and subchapter V of chapter 84 (relating to disability benefits).

(2) TREATMENT OF DETENTION OFFICER SERVICE AS LAW ENFORCEMENT OFFICER SERVICE.—Any portion of an individual's qualifying District of Columbia service which consisted of service as a detention officer under section 2604(2) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1–626.04(2), D.C. Official Code) shall be treated as service as a law enforcement officer under sections 8331(20) or 8401(17) of title 5, United States Code, for purposes of applying paragraph (1) with respect to the individual.

(3) SERVICE NOT INCLUDED IN COMPUTING AMOUNT OF ANY ANNUITY.—Qualifying District of Columbia service shall not be taken into account for purposes of computing the amount of any benefit payable out of the Civil Service Retirement and Disability Fund.

(b) QUALIFYING DISTRICT OF COLUMBIA SERVICE DEFINED.—In this section, ''qualifying District of Columbia service'' means any of the following:

(1) Service performed by an individual as a nonjudicial employee of the District of Columbia courts—

(A) which was performed prior to the effective date of the amendments made by section 11246(b) of the Balanced Budget Act of 1997; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(2) Service performed by an individual as an employee of an entity of the District of Columbia government whose functions were transferred to the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee under section 11232 of the Balanced Budget Act of 1997—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government under section 11232(f) of such Act; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(3) Service performed by an individual as an employee of the District of Columbia Public Defender Service—

(A) which was performed prior to the effective date of the amendments made by section 7(e) of the District of Columbia Courts and Justice Technical Corrections Act of 1998; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(4) In the case of an individual who was an employee of the District of Columbia Department of Corrections who was separated from service as a result of the closing of the Lorton Correctional Complex and who was appointed to a position with the Bureau of Prisons, the District of Columbia courts, the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee, the United States Parole Commission, or the District of Columbia Public Defender Service, service performed by the individual as an employee of the District of Columbia Department of Corrections—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(c) CERTIFICATION OF SERVICE.—The Office of Personnel Management shall accept the certification of the appropriate personnel official of the government of the District of Columbia or other independent employing entity concerning whether an individual performed qualifying District of Columbia service and the length of the period of such service the individual performed.

SA 1290. Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

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

Subtitle B—Other Retirement-Related Provisions

SEC. 111. CREDIT FOR UNUSED SICK LEAVE.

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (k) and subsection (l) as subsections (l) and (m), respectively; and

(2) in subsection (l) (as so redesignated by paragraph (1))—

(A) by striking ''(l) In computing'' and inserting ''(l)(1) In computing''; and

(B) by adding at the end the following:

''(2) Except as provided in paragraph (1), in computing an annuity under this subchapter, the total service of an employee who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to annuity includes the days of unused sick leave to his credit under a formal leave system and for which days the employee has not received payment, except that these days will not be counted in determining average pay or annuity eligibility under this subchapter. For purposes of this subsection, in the case of any such employee who is excepted from subchapter I of chapter 63 under section 6301(2)(x) through (xiii), the days of unused sick leave to his credit include any unused sick leave standing to his credit when he was excepted from such subchapter.''.

(b) EXCEPTION FROM DEPOSIT REQUIREMENT.—Section 8422(d)(2) of title 5, United States Code, is amended by striking ''section 8415(k)'' and inserting ''paragraph (1) or (2) of section 8415(l)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to annuities computed based on separations occurring on or after the date of enactment of this Act.

SEC. 112. LIMITED EXPANSION OF THE CLASS OF INDIVIDUALS ELIGIBLE TO RECEIVE AN ACTUARIALLY REDUCED ANNUITY UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) IN GENERAL.—Section 8334(d)(2)(A)(i) of title 5, United States Code, is amended by striking ''October 1, 1990'' each place it appears and inserting ''March 1, 1991''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 113. COMPUTATION OF CERTAIN ANNUITIES BASED ON PART-TIME SERVICE.

(a) IN GENERAL.—Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

''(3) In the administration of paragraph (1)—

''(A) subparagraph (A) of such paragraph shall apply with respect to service performed before, on, or after April 7, 1986; and

''(B) subparagraph (B) of such paragraph—

''(i) shall apply with respect to that portion of any annuity which is attributable to service performed on or after April 7, 1986; and

''(ii) shall not apply with respect to that portion of any annuity which is attributable to service performed before April 7, 1986.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 114. AUTHORITY TO DEPOSIT REFUNDS UNDER FERS.

(a) DEPOSIT AUTHORITY.—Section 8422 of title 5, United States Code, is amended by adding at the end the following:

''(i)(1) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which such employee or Member may be allowed credit under this chapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

''(2) Interest under this subsection shall be computed in accordance with paragraphs (2) and (3) of section 8334(e) and regulations prescribed by the Office. The option under the third sentence of section 8334(e)(2) to make a deposit in one or more installments shall apply to deposits under this subsection.

''(3) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONAL AMENDMENT.—Section 8401(19)(C) of title 5, United States Code, is amended by striking ''8411(f);'' and inserting ''8411(f) or 8422(i);''.

(2) CREDITING OF DEPOSITS.—Section 8422(c) of title 5, United States Code, is amended by adding at the end the following: ''Deposits made by an employee, Member, or survivor also shall be credited to the Fund.''.

(3) SECTION HEADING.—(A) The heading for section 8422 of title 5, United States Code, is amended to read as follows:

''§ 8422. Deductions from pay; contributions for other service; deposits''.

(B) The analysis for chapter 84 of title 5, United States Code, is amended by striking the item relating to section 8422 and inserting the following:

''8422. Deductions from pay; contributions for other service; deposits.''.

(4) RESTORATION OF ANNUITY RIGHTS.—The last sentence of section 8424(a) of title 5, United States Code, is amended by striking ''based.'' and inserting ''based, until the employee or Member is reemployed in the service subject to this chapter.''.

SEC. 115. RETIREMENT CREDIT FOR SERVICE OF CERTAIN EMPLOYEES TRANSFERRED FROM DISTRICT OF COLUMBIA SERVICE TO FEDERAL SERVICE.

(a) RETIREMENT CREDIT.—

(1) IN GENERAL.—Any individual who is treated as an employee of the Federal Government for purposes of chapter 83 or chapter 84 of title 5, United States Code, on or after the date of enactment of this Act who performed qualifying District of Columbia service shall be entitled to have such service included in calculating the individual's creditable service under sections 8332 or 8411 of title 5, United States Code, but only for purposes of the following provisions of such title:

(A) Sections 8333 and 8410 (relating to eligibility for annuity).

(B) Sections 8336 (other than subsections (d), (h), and (p) thereof) and 8412 (relating to immediate retirement).

(C) Sections 8338 and 8413 (relating to deferred retirement).

(D) Sections 8336(d), 8336(h), 8336(p), and 8414 (relating to early retirement).

(E) Section 8341 and subchapter IV of chapter 84 (relating to survivor annuities).

(F) Section 8337 and subchapter V of chapter 84 (relating to disability benefits).

(2) TREATMENT OF DETENTION OFFICER SERVICE AS LAW ENFORCEMENT OFFICER SERVICE.—Any portion of an individual's qualifying District of Columbia service which consisted of service as a detention officer under section 2604(2) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1–626.04(2), D.C. Official Code) shall be treated as service as a law enforcement officer under sections 8331(20) or 8401(17) of title 5, United States Code, for purposes of applying paragraph (1) with respect to the individual.

(3) SERVICE NOT INCLUDED IN COMPUTING AMOUNT OF ANY ANNUITY.—Qualifying District of Columbia service shall not be taken into account for purposes of computing the amount of any benefit payable out of the Civil Service Retirement and Disability Fund.

(b) QUALIFYING DISTRICT OF COLUMBIA SERVICE DEFINED.—In this section, ''qualifying District of Columbia service'' means any of the following:

(1) Service performed by an individual as a nonjudicial employee of the District of Columbia courts—

(A) which was performed prior to the effective date of the amendments made by section 11246(b) of the Balanced Budget Act of 1997; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(2) Service performed by an individual as an employee of an entity of the District of Columbia government whose functions were transferred to the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee under section 11232 of the Balanced Budget Act of 1997—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government under section 11232(f) of such Act; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(3) Service performed by an individual as an employee of the District of Columbia Public Defender Service—

(A) which was performed prior to the effective date of the amendments made by section 7(e) of the District of Columbia Courts and Justice Technical Corrections Act of 1998; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(4) In the case of an individual who was an employee of the District of Columbia Department of Corrections who was separated from service as a result of the closing of the Lorton Correctional Complex and who was appointed to a position with the Bureau of Prisons, the District of Columbia courts, the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee, the United States Parole Commission, or the District of Columbia Public Defender Service, service performed by the individual as an employee of the District of Columbia Department of Corrections—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(c) CERTIFICATION OF SERVICE.—The Office of Personnel Management shall accept the certification of the appropriate personnel official of the government of the District of Columbia or other independent employing entity concerning whether an individual performed qualifying District of Columbia service and the length of the period of such service the individual performed.

SEC. 116. RETIREMENT TREATMENT OF CERTAIN SECRET SERVICE EMPLOYEES.

(a) DEFINITION.—In this section the term ''covered employee'' means an individual who—

(1) was hired as a member of the United States Secret Service Division during the period beginning on January 1, 1984 through December 31, 1986;

(2) has actively performed duties other than clerical for 10 or more years directly related to the protection mission of the United States Secret Service described under section 3056 of title 18, United States Code;

(3) is serving as a member of the United States Secret Service Division or the United

States Secret Service Uniform Division (or any successor entity) on the effective date of this section; and

(4) files an election to be a covered employee under subsection (b)(1).

(b) ELECTION OF COVERAGE.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, an individual described under subsection (a)(1), (2), and (3) may file an election with the United States Secret Service to be a covered employee and to transition to the District of Columbia Police and Fire Fighter Retirement and Disability System.

(2) NOTIFICATION.—Not later than 30 days after the date of enactment of this Act, the Office of Personnel Management and the United States Secret Service shall notify each individual described under subsection (a)(1), (2), and (3) that the individual is qualified to file an election under paragraph (1).

(c) RETIREMENT COVERAGE CONVERSION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and in consultation with the Secretary of Homeland Security and the Thrift Savings Board, the Office of Personnel Management shall prescribe regulations to carry out the responsibilities of the Federal Government under this section. The regulations prescribed under this paragraph shall provide for transition of covered employees from the Federal Employees' Retirement System to the Civil Service Retirement System.

(2) TREATMENT OF COVERED EMPLOYEES.—

(A) ELECTION OF COVERAGE.—

(i) IN GENERAL.—If a covered employee files an election under subsection (b)(1), the covered employee shall, subject to clause (ii), be converted from the Federal Employees' Retirement System to the Civil Service Retirement System.

(ii) COVERAGE IN DISTRICT OF COLUMBIA RETIREMENT SYSTEM.—

(I) IN GENERAL.—Chapter 7 of title 5 of the District of Columbia Code shall apply with respect to a covered employee on the date on which the covered employee transitions to the Civil Service Retirement System.

(II) AUTHORIZATION FOR DISTRICT OF COLUMBIA.—The government of the District of Columbia shall provide for the coverage of covered employees in the District of Columbia Police and Fire Fighter Retirement and Disability System in accordance with this section.

(B) THRIFT SAVINGS PLAN.—A covered employee shall forfeit, under procedures prescribed by the Executive Director of the Federal Retirement Thrift Investment Board, all Thrift Savings Plan contributions and associated earnings made by an employing agency pursuant to section 8432(c) of title 5, United States Code. Any amounts remaining in the Thrift Savings Plan account of the covered employee may be transferred to a private account or the District of Columbia Police and Firefighter Retirement and Disability System.

(C) FORFEITURE OF SOCIAL SECURITY BENEFITS.—

(i) CONTRIBUTIONS.—Upon conversion into the Civil Service Retirement System, a covered employee shall forfeit all contributions made for purposes of title II of the Social Security Act on the basis of the covered employee's employment with the United States Secret Service under sections 3101(a) and 3111(a) of the Internal Revenue Code of 1986. All forfeited funds shall remain in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as applicable. Notwithstanding paragraphs (4) and (5) of section 205(c) of the Social Security Act, the Commissioner of Social Security may change or delete any entry with respect to wages of a covered employee that are forfeited under this clause.

(ii) BENEFITS.—

(I) IN GENERAL.—No individual shall be entitled to any benefit under title II of the Social Security Act based on any contribution forfeited under clause (i).

(II) NO EFFECT ON MEDICARE BENEFITS.—Notwithstanding the forfeiture of contributions by a covered employee under clause (i), such contributions shall continue to be treated as having been made while performing medicare qualified government employment (as defined in section 210(p) of the Social Security Act) for purposes of sections 226 and 226A of that Act.

(3) IMPLEMENTATION.—The Office of Personnel Management, the Department of Homeland Security, the Social Security Administration, and the Thrift Savings Board shall take such actions as necessary to provide for the implementation of this section.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided under paragraph (2), this section shall take effect on the first day of the first applicable pay period that begins 180 days after the date of enactment of this Act.

(2) ELECTIONS AND IMPLEMENTATION.—Subsections (b) and (c)(1) and (3) shall take effect on the date of enactment of this Act.

TITLE _____—NON-FOREIGN AREA RETIREMENT EQUITY ASSURANCE

SEC. __01. SHORT TITLE.

This title may be cited as the ''Non-Foreign Area Retirement Equity Assurance Act of 2009'' or the ''Non-Foreign AREA Act of 2009''.

SEC. __02. EXTENSION OF LOCALITY PAY.

(a) LOCALITY-BASED COMPARABILITY PAYMENTS.—Section 5304 of title 5, United States Code, is amended—

(1) in subsection (f)(1), by striking subparagraph (A) and inserting the following:

''(A) each General Schedule position in the United States, as defined under section 5921(4), and its territories and possessions, including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands, shall be included within a pay locality;'';

(2) in subsection (g)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'' after the semicolon;

(ii) in subparagraph (B) by striking the period and inserting ''; and''; and

(iii) by adding after subparagraph (B) the following:

''(C) positions under subsection (h)(1)(C) not covered by appraisal systems certified under section 5382; and''; and

(B) by adding at the end the following:

''(3) The applicable maximum under this subsection shall be level II of the Executive Schedule for positions under subsection (h)(1)(C) covered by appraisal systems certified under section 5307(d).''; and

(3) in subsection (h)(1)—

(A) in subparagraph (B) by striking ''and'' after the semicolon;

(B) by redesignating subparagraph (C) as subparagraph (D);

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

''(C) a Senior Executive Service position under section 3132 or 3151 or a senior level position under section 5376 stationed within the United States, but outside the 48 contiguous States and the District of Columbia in which the incumbent was an individual who on the day before the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009 was eligible to receive a cost-of-living allowance under section 5941; and'';

(D) in clause (iv) in the matter following subparagraph (D), by inserting '', except for members covered by subparagraph (C)'' before the semicolon; and

(E) in clause (v) in the matter following subparagraph (D), by inserting '', except for members covered by subparagraph (C)'' before the semicolon.

(b) ALLOWANCES BASED ON LIVING COSTS AND CONDITIONS OF ENVIRONMENT.—Section 5941 of title 5, United States Code, is amended—

(1) in subsection (a), by adding after the last sentence ''Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) shall be the cost-of-living allowance rate in effect on the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, except as adjusted under subsection (c).'';

(2) by redesignating subsection (b) as subsection (d); and

(3) by inserting after subsection (a) the following:

''(b) This section shall apply only to areas that are designated as cost-of-living allowance areas as in effect on December 31, 2009.

''(c)(1) The cost-of-living allowance rate payable under this section shall be adjusted on the first day of the first applicable pay period beginning on or after—

''(A) January 1, 2010; and

''(B) January 1 of each calendar year in which a locality-based comparability adjustment takes effect under section __04 (2) and (3) of the Non-Foreign Area Retirement Equity Assurance Act of 2009.

''(2)(A) In this paragraph, the term 'applicable locality-based comparability pay percentage' means, with respect to calendar year 2010 and each calendar year thereafter, the applicable percentage under section __04 (1), (2), or (3) of Non-Foreign Area Retirement Equity Assurance Act of 2009.

''(B) Each adjusted cost-of-living allowance rate under paragraph (1) shall be computed by—

''(i) subtracting 65 percent of the applicable locality-based comparability pay percentage from the cost-of-living allowance percentage rate in effect on December 31, 2009; and

''(ii) dividing the resulting percentage determined under clause (i) by the sum of—

''(I) one; and

''(II) the applicable locality-based comparability payment percentage expressed as a numeral.

''(3) No allowance rate computed under paragraph (2) may be less than zero.

''(4) Each allowance rate computed under paragraph (2) shall be paid as a percentage of basic pay (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law).''.

SEC. __03. ADJUSTMENT OF SPECIAL RATES.

(a) IN GENERAL.—Each special rate of pay established under section 5305 of title 5, United States Code, and payable in an area designated as a cost-of-living allowance area under section 5941(a) of that title, shall be adjusted, on the dates prescribed by section __04 of this title, in accordance with regulations prescribed by the Director of the Office of Personnel Management under section __08 of this title.

(b) AGENCIES WITH STATUTORY AUTHORITY.—

(1) IN GENERAL.—Each special rate of pay established under an authority described under paragraph (2) and payable in a location designated as a cost-of-living allowance area under section 5941(a)(1) of title 5, United States Code, shall be adjusted in accordance with regulations prescribed by the applicable head of the agency that are consistent with the regulations issued by the Director of the Office of Personnel Management under subsection (a).

(2) STATUTORY AUTHORITY.—The authority referred to under paragraph (1), is any statutory authority that—

(A) is similar to the authority exercised under section 5305 of title 5, United States Code;

(B) is exercised by the head of an agency when the head of the agency determines it to be necessary in order to obtain or retain the services of persons specified by statute; and

(C) authorizes the head of the agency to increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations.

(c) TEMPORARY ADJUSTMENT.—Regulations issued under subsection (a) or (b) may provide that statutory limitations on the amount of such special rates may be temporarily raised to a higher level during the transition period described in section __04 ending on the first day of the first pay period beginning on or after January 1, 2012, at which time any special rate of pay in excess of the applicable limitation shall be converted to a retained rate under section 5363 of title 5, United States Code.

SEC. __04. TRANSITION SCHEDULE FOR LOCALITY-BASED COMPARABILITY PAYMENTS.

Notwithstanding any other provision of this title or section 5304 or 5304a of title 5, United States Code, in implementing the amendments made by this title, for each non-foreign area determined under section 5941(b) of that title, the applicable rate for the locality-based comparability adjustment that is used in the computation required under section 5941(c) of that title shall be adjusted effective on the first day of the first pay period beginning on or after January 1—

(1) in calendar year 2010, by using ⅓ of the locality pay percentage for the rest of United States locality pay area;

(2) in calendar year 2011, by using ⅔ of the otherwise applicable comparability payment approved by the President for each non-foreign area; and

(3) in calendar year 2012 and each subsequent year, by using the full amount of the applicable comparability payment approved by the President for each non-foreign area.

SEC. __05. SAVINGS PROVISION.

(a) IN GENERAL.—During the period described under section __04 of this title, an employee paid a special rate under 5305 of title 5, United States Code, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, and who continues to be officially stationed in an allowance area, shall receive an increase in the employee's special rate consistent with increases in the applicable special rate schedule. For employees in allowance areas, the minimum step rate for any grade of a special rate schedule shall be increased at the time of an increase in the applicable locality rate percentage for the allowance area by not less than the dollar increase in the locality-based comparability payment for a non-special rate employee at the same minimum step provided under section __04 of this title, and corresponding increases shall be provided for all step rates of the given pay range.

(b) CONTINUATION OF COST OF LIVING ALLOWANCE RATE.—If an employee, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, would receive a rate of basic pay and applicable locality-based comparability payment which is in excess of the maximum rate limitation set under section 5304(g) of title 5, United States Code, for his position (but for that maximum rate limitation) due to the operation of this title, the employee shall continue to receive the cost-of-living allowance rate in effect on December 31, 2009 without adjustment until—

(1) the employee leaves the allowance area or pay system; or

(2) the employee is entitled to receive basic pay (including any applicable locality-based comparability payment or similar supplement) at a higher rate,

but, when any such position becomes vacant, the pay of any subsequent appointee thereto shall be fixed in the manner provided by applicable law and regulation.

(c) LOCALITY-BASED COMPARABILITY PAYMENTS.—Any employee covered under subsection (b) shall receive any applicable locality-based comparability payment extended under section __04 of this title which is not in excess of the maximum rate set under section 5304(g) of title 5, United States Code, for his position including any future increase to statutory pay limitations under 5318 of title 5, United States Code. Notwithstanding subsection (b), to the extent that an employee covered under that subsection receives any amount of locality-based comparability payment, the cost-of-living allowance rate under that subsection shall be reduced accordingly, as provided under section 5941(c)(2)(B) of title 5, United States Code.

SEC. __06. APPLICATION TO OTHER ELIGIBLE EMPLOYEES.

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection, the term ''covered employee'' means—

(A) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

(II) was not eligible to be paid locality-based comparability payments under 5304 or 5304a of that title; or

(ii) on or after the date of enactment of this Act becomes eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; or

(B) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) was eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) was employed by the Transportation Security Administration of the Department of Homeland Security and was eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) was eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code; or

(ii) on or after the date of enactment of this Act—

(I) becomes eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) becomes eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) is employed by the Transportation Security Administration of the Department of Homeland Security and becomes eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) is eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code.

(2) APPLICATION TO COVERED EMPLOYEES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of this title (including the amendments made by this title) any covered employee shall be treated as an employee to whom section 5941 of title 5, United States Code (as amended by section __02 of this title), and section __04 of this title apply.

(B) PAY FIXED BY STATUTE.—Pay to covered employees under section 5304 or 5304a of title 5, United States Code, as a result of the application of this title shall be considered to be fixed by statute.

(C) PERFORMANCE APPRAISAL SYSTEM.—With respect to a covered employee who is subject to a performance appraisal system no part of pay attributable to locality-based comparability payments as a result of the application of this title including section 5941 of title 5, United States Code (as amended by section __02 of this title), may be reduced on the basis of the performance of that employee.

(b) POSTAL EMPLOYEES IN NON-FOREIGN AREAS.—

(1) IN GENERAL.—Section 1005(b) of title 39, United States Code, is amended—

(A) by inserting ''(1)'' after ''(b)'';

(B) by striking ''Section 5941,'' and inserting ''Except as provided under paragraph (2), section 5941'';

(C) by striking ''For purposes of such section,'' and inserting ''Except as provided under paragraph (2), for purposes of section 5941 of that title,''; and

(D) by adding at the end the following:

''(2) On and after the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009—

''(A) the provisions of that Act and section 5941 of title 5 shall apply to officers and employees covered by section 1003 (b) and (c) whose duty station is in a nonforeign area; and

''(B) with respect to officers and employees of the Postal Service (other than those officers and employees described under subparagraph (A)) of section __06(b)(2) of that Act shall apply.''.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE.—

(A) IN GENERAL.—Notwithstanding any other provision of this title, any employee of the Postal Service (other than an employee covered by section 1003 (b) and (c) of title 39, United States Code, whose duty station is in a nonforeign area) who is paid an allowance under section 1005(b) of that title shall be treated for all purposes as if the provisions of this title (including the amendments made by this title) had not been enacted, except that the cost-of-living allowance rate paid to that employee—

(i) may result in the allowance exceeding 25 percent of the rate of basic pay of that employee; and

(ii) shall be the greater of—

(I) the cost-of-living allowance rate in effect on December 31, 2009 for the applicable area; or

(II) the applicable locality-based comparability pay percentage under section __04.

(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

(i) provide for an employee described under subparagraph (A) to be a covered employee as defined under subsection (a); or

(ii) authorize an employee described under subparagraph (A) to file an election under section __07 of this title.

SEC. __07. ELECTION OF ADDITIONAL BASIC PAY FOR ANNUITY COMPUTATION BY EMPLOYEES.

(a) DEFINITION.—In this section the term ''covered employee'' means any employee—

(1) to whom section __04 applies;

(2) who is separated from service by reason of retirement under chapter 83 or 84 of title 5, United States Code, during the period of

January 1, 2010, through December 31, 2012; and

(3) who files an election with the Office of Personnel Management under subsection (b).

(b) ELECTION.—

(1) IN GENERAL.—An employee described under subsection (a) (1) and (2) may file an election with the Office of Personnel Management to be covered under this section.

(2) DEADLINE.—An election under this subsection may be filed not later than December 31, 2012.

(c) COMPUTATION OF ANNUITY.—

(1) IN GENERAL.—Except as provided under paragraph (2), for purposes of the computation of an annuity of a covered employee any cost-of-living allowance under section 5941 of title 5, United States Code, paid to that employee during the first applicable pay period beginning on or after January 1, 2010 through the first applicable pay period ending on or after December 31, 2012, shall be considered basic pay as defined under section 8331(3) or 8401(4) of that title.

(2) LIMITATION.—The amount of the cost-of-living allowance which may be considered basic pay under paragraph (1) may not exceed the amount of the locality-based comparability payments the employee would have received during that period for the applicable pay area if the limitation under section __04 of this title did not apply.

(d) CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

(1) EMPLOYEE CONTRIBUTIONS.—A covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund—

(A) an amount equal to the difference between—

(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during the period described under subsection (c) of this section if the cost-of-living allowances described under that subsection had been treated as basic pay under section 8331(3) or 8401(4) of title 5, United States Code; and

(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period; and

(B) interest as prescribed under section 8334(e) of title 5, United States Code, based on the amount determined under subparagraph (A).

(2) AGENCY CONTRIBUTIONS.—

(A) IN GENERAL.—The employing agency of a covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund an amount for applicable agency contributions based on payments made under paragraph (1).

(B) SOURCE.—Amounts paid under this paragraph shall be contributed from the appropriation or fund used to pay the employee.

(3) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this section.

SEC. __08. REGULATIONS.

(a) IN GENERAL.—The Director of the Office of Personnel Management shall prescribe regulations to carry out this title, including—

(1) rules for special rate employees described under section __03;

(2) rules for adjusting rates of basic pay for employees in pay systems administered by the Office of Personnel Management when such employees are not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, without regard to otherwise applicable statutory pay limitations during the transition period described in section __04 ending on the first day of the first pay period beginning on or after January 1, 2012; and

(3) rules governing establishment and adjustment of saved or retained rates for any employee whose rate of pay exceeds applicable pay limitations on the first day of the first pay period beginning on or after January 1, 2012.

(b) OTHER PAY SYSTEMS.—With the concurrence of the Director of the Office of Personnel Management, the administrator of a pay system not administered by the Office of Personnel Management shall prescribe regulations to carry out this title with respect to employees in such pay system, consistent with the regulations prescribed by the Office under subsection (a). With respect to employees not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, regulations prescribed under this subsection may provide for special payments or adjustments for employees who were eligible to receive a cost-of-living allowance under section 5941 of that title on the date before the date of enactment of this Act.

SEC. __09. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided by subsection (b), this title (including the amendments made by this title) shall take effect on the date of enactment of this Act.

(b) LOCALITY PAY AND SCHEDULE.—The amendments made by section __02 and the provisions of section __04 shall take effect on the first day of the first applicable pay period beginning on or after January 1, 2010.

TITLE _____—PART-TIME REEMPLOYMENT OF ANNUITANTS

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Part-Time Reemployment of Annuitants Act of 2009''.

SEC. ___2. PART-TIME REEMPLOYMENT.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m);

(2) by inserting after subsection (k) the following:

''(l)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (k)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) or (b) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) or (b) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office of Personnel Management or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for the effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) or (b) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (m) (as so redesignated)—

(A) in paragraph (1), by striking ''(k)'' and inserting ''(l)''; and

(B) in paragraph (2), by striking ''or (k)'' and inserting ''(k), or (l)''.

(b) FEDERAL EMPLOYEE RETIREMENT SYSTEM.—Section 8468 of title 5, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j);

(2) by inserting after subsection (h) the following:

''(i)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (h)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (j) (as so redesignated)—

(A) in paragraph (1), by striking ''(h)'' and inserting ''(i)''; and

(B) in paragraph (2), by striking ''or (h)'' and inserting ''(h), or (i)''.

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section may be construed to authorize the waiver of the hiring preferences under chapter 33 of title 5, United States Code in selecting annuitants to employ in an appointive or elective position.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 1005(d)(2) of title 39, United States Code, is amended—

(1) by striking ''(l)(2)'' and inserting ''(m)(2)''; and

(2) by striking ''(i)(2)'' and inserting ''(j)(2)''.

SEC. ___3. GENERAL ACCOUNTABILITY OFFICE REPORT.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report regarding the use of the authority under the amendments made by section ___2.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) include the number of annuitants for whom a waiver was made under subsection (l) of section 8344 of title 5, United States Code, as amended by this title, or subsection (i) of section 8468 of title 5, United States Code, as amended by this title; and

(2) identify each agency that used the authority described in paragraph (1).

(c) AGENCY DATA.—Each head of an agency (as defined under sections 8344(l)(1) and 8468(i)(1)(A) of title 5, United States Code, as added by section ___2 of this title) shall—

(1) collect and maintain data necessary for purposes of the Comptroller General report submitted under subsection (a); and

(2) submit to the Comptroller General that data as the Comptroller General requires in a timely fashion.

SA 1291. Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, Mr. VOINOVICH, Ms. MURKOWSKI, Mr. INOUYE, Mr. BEGICH, Ms. MIKULSKI, and Mr. KOHL) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

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

Subtitle B—Other Retirement-Related Provisions

SEC. 111. CREDIT FOR UNUSED SICK LEAVE.

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (k) and subsection (l) as subsections (l) and (m), respectively; and

(2) in subsection (l) (as so redesignated by paragraph (1))—

(A) by striking ''(l) In computing'' and inserting ''(l)(1) In computing''; and

(B) by adding at the end the following:

''(2) Except as provided in paragraph (1), in computing an annuity under this subchapter, the total service of an employee who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to annuity includes the days of unused sick leave to his credit under a formal leave system and for which days the employee has not received payment, except that these days will not be counted in determining average pay or annuity eligibility under this subchapter. For purposes of this subsection, in the case of any such employee who is excepted from subchapter I of chapter 63 under section 6301(2)(x) through (xiii), the days of unused sick leave to his credit include any unused sick leave standing to his credit when he was excepted from such subchapter.''.

(b) EXCEPTION FROM DEPOSIT REQUIREMENT.—Section 8422(d)(2) of title 5, United States Code, is amended by striking ''section 8415(k)'' and inserting ''paragraph (1) or (2) of section 8415(l)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to annuities computed based on separations occurring on or after the date of enactment of this Act.

SEC. 112. LIMITED EXPANSION OF THE CLASS OF INDIVIDUALS ELIGIBLE TO RECEIVE AN ACTUARIALLY REDUCED ANNUITY UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) IN GENERAL.—Section 8334(d)(2)(A)(i) of title 5, United States Code, is amended by striking ''October 1, 1990'' each place it appears and inserting ''March 1, 1991''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 113. COMPUTATION OF CERTAIN ANNUITIES BASED ON PART-TIME SERVICE.

(a) IN GENERAL.—Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

''(3) In the administration of paragraph (1)—

''(A) subparagraph (A) of such paragraph shall apply with respect to service performed before, on, or after April 7, 1986; and

''(B) subparagraph (B) of such paragraph—

''(i) shall apply with respect to that portion of any annuity which is attributable to service performed on or after April 7, 1986; and

''(ii) shall not apply with respect to that portion of any annuity which is attributable to service performed before April 7, 1986.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 114. AUTHORITY TO DEPOSIT REFUNDS UNDER FERS.

(a) DEPOSIT AUTHORITY.—Section 8422 of title 5, United States Code, is amended by adding at the end the following:

''(i)(1) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which such employee or Member may be allowed credit under this chapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

''(2) Interest under this subsection shall be computed in accordance with paragraphs (2) and (3) of section 8334(e) and regulations prescribed by the Office. The option under the third sentence of section 8334(e)(2) to make a deposit in one or more installments shall apply to deposits under this subsection.

''(3) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONAL AMENDMENT.—Section 8401(19)(C) of title 5, United States Code, is amended by striking ''8411(f);'' and inserting ''8411(f) or 8422(i);''.

(2) CREDITING OF DEPOSITS.—Section 8422(c) of title 5, United States Code, is amended by adding at the end the following: ''Deposits made by an employee, Member, or survivor also shall be credited to the Fund.''.

(3) SECTION HEADING.—(A) The heading for section 8422 of title 5, United States Code, is amended to read as follows:

''§ 8422. Deductions from pay; contributions for other service; deposits''.

(B) The analysis for chapter 84 of title 5, United States Code, is amended by striking the item relating to section 8422 and inserting the following:

''8422. Deductions from pay; contributions for other service; deposits.''.

(4) RESTORATION OF ANNUITY RIGHTS.—The last sentence of section 8424(a) of title 5, United States Code, is amended by striking ''based.'' and inserting ''based, until the employee or Member is reemployed in the service subject to this chapter.''.

SEC. 115. RETIREMENT CREDIT FOR SERVICE OF CERTAIN EMPLOYEES TRANSFERRED FROM DISTRICT OF COLUMBIA SERVICE TO FEDERAL SERVICE.

(a) RETIREMENT CREDIT.—

(1) IN GENERAL.—Any individual who is treated as an employee of the Federal Government for purposes of chapter 83 or chapter 84 of title 5, United States Code, on or after the date of enactment of this Act who performed qualifying District of Columbia service shall be entitled to have such service included in calculating the individual's creditable service under sections 8332 or 8411 of title 5, United States Code, but only for purposes of the following provisions of such title:

(A) Sections 8333 and 8410 (relating to eligibility for annuity).

(B) Sections 8336 (other than subsections (d), (h), and (p) thereof) and 8412 (relating to immediate retirement).

(C) Sections 8338 and 8413 (relating to deferred retirement).

(D) Sections 8336(d), 8336(h), 8336(p), and 8414 (relating to early retirement).

(E) Section 8341 and subchapter IV of chapter 84 (relating to survivor annuities).

(F) Section 8337 and subchapter V of chapter 84 (relating to disability benefits).

(2) TREATMENT OF DETENTION OFFICER SERVICE AS LAW ENFORCEMENT OFFICER SERVICE.—Any portion of an individual's qualifying District of Columbia service which consisted of service as a detention officer under section 2604(2) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1–626.04(2), D.C. Official Code) shall be treated as service as a law enforcement officer under sections 8331(20) or 8401(17) of title 5, United States Code, for purposes of applying paragraph (1) with respect to the individual.

(3) SERVICE NOT INCLUDED IN COMPUTING AMOUNT OF ANY ANNUITY.—Qualifying District of Columbia service shall not be taken into account for purposes of computing the amount of any benefit payable out of the Civil Service Retirement and Disability Fund.

(b) QUALIFYING DISTRICT OF COLUMBIA SERVICE DEFINED.—In this section, ''qualifying District of Columbia service'' means any of the following:

(1) Service performed by an individual as a nonjudicial employee of the District of Columbia courts—

(A) which was performed prior to the effective date of the amendments made by section 11246(b) of the Balanced Budget Act of 1997; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(2) Service performed by an individual as an employee of an entity of the District of Columbia government whose functions were transferred to the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee under section 11232 of the Balanced Budget Act of 1997—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government under section 11232(f) of such Act; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(3) Service performed by an individual as an employee of the District of Columbia Public Defender Service—

(A) which was performed prior to the effective date of the amendments made by section 7(e) of the District of Columbia Courts and Justice Technical Corrections Act of 1998; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(4) In the case of an individual who was an employee of the District of Columbia Department of Corrections who was separated from service as a result of the closing of the Lorton Correctional Complex and who was appointed to a position with the Bureau of Prisons, the District of Columbia courts, the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee, the United States Parole Commission, or the District of Columbia Public Defender Service, service performed by the individual as an employee of the District of Columbia Department of Corrections—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(c) CERTIFICATION OF SERVICE.—The Office of Personnel Management shall accept the certification of the appropriate personnel official of the government of the District of Columbia or other independent employing entity concerning whether an individual performed qualifying District of Columbia service and the length of the period of such service the individual performed.

SEC. 116. RETIREMENT TREATMENT OF CERTAIN SECRET SERVICE EMPLOYEES.

(a) DEFINITION.—In this section the term ''covered employee'' means an individual who—

(1) was hired as a member of the United States Secret Service Division during the period beginning on January 1, 1984 through December 31, 1986;

(2) has actively performed duties other than clerical for 10 or more years directly related to the protection mission of the United States Secret Service described under section 3056 of title 18, United States Code;

(3) is serving as a member of the United States Secret Service Division or the United States Secret Service Uniform Division (or any successor entity) on the effective date of this section; and

(4) files an election to be a covered employee under subsection (b)(1).

(b) ELECTION OF COVERAGE.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, an individual described under subsection (a)(1), (2), and (3) may file an election with the United States Secret Service to be a covered employee and to transition to the District of Columbia Police and Fire Fighter Retirement and Disability System.

(2) NOTIFICATION.—Not later than 30 days after the date of enactment of this Act, the Office of Personnel Management and the United States Secret Service shall notify each individual described under subsection (a)(1), (2), and (3) that the individual is qualified to file an election under paragraph (1).

(c) RETIREMENT COVERAGE CONVERSION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and in consultation with the Secretary of Homeland Security and the Thrift Savings Board, the Office of Personnel Management shall prescribe regulations to carry out the responsibilities of the Federal Government under this section. The regulations prescribed under this paragraph shall provide for transition of covered employees from the Federal Employees' Retirement System to the Civil Service Retirement System.

(2) TREATMENT OF COVERED EMPLOYEES.—

(A) ELECTION OF COVERAGE.—

(i) IN GENERAL.—If a covered employee files an election under subsection (b)(1), the covered employee shall, subject to clause (ii), be converted from the Federal Employees' Retirement System to the Civil Service Retirement System.

(ii) COVERAGE IN DISTRICT OF COLUMBIA RETIREMENT SYSTEM.—

(I) IN GENERAL.—Chapter 7 of title 5 of the District of Columbia Code shall apply with respect to a covered employee on the date on which the covered employee transitions to the Civil Service Retirement System.

(II) AUTHORIZATION FOR DISTRICT OF COLUMBIA.—The government of the District of Columbia shall provide for the coverage of covered employees in the District of Columbia Police and Fire Fighter Retirement and Disability System in accordance with this section.

(B) THRIFT SAVINGS PLAN.—A covered employee shall forfeit, under procedures prescribed by the Executive Director of the Federal Retirement Thrift Investment Board, all Thrift Savings Plan contributions and associated earnings made by an employing agency pursuant to section 8432(c) of title 5, United States Code. Any amounts remaining in the Thrift Savings Plan account of the covered employee may be transferred to a private account or the District of Columbia Police and Firefighter Retirement and Disability System.

(C) FORFEITURE OF SOCIAL SECURITY BENEFITS.—

(i) CONTRIBUTIONS.—Upon conversion into the Civil Service Retirement System, a covered employee shall forfeit all contributions made for purposes of title II of the Social Security Act on the basis of the covered employee's employment with the United States Secret Service under sections 3101(a) and 3111(a) of the Internal Revenue Code of 1986. All forfeited funds shall remain in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as applicable. Notwithstanding paragraphs (4) and (5) of section 205(c) of the Social Security Act, the Commissioner of Social Security may change or delete any entry with respect to wages of a covered employee that are forfeited under this clause.

(ii) BENEFITS.—

(I) IN GENERAL.—No individual shall be entitled to any benefit under title II of the Social Security Act based on any contribution forfeited under clause (i).

(II) NO EFFECT ON MEDICARE BENEFITS.—Notwithstanding the forfeiture of contributions by a covered employee under clause (i), such contributions shall continue to be treated as having been made while performing medicare qualified government employment (as defined in section 210(p) of the Social Security Act) for purposes of sections 226 and 226A of that Act.

(3) IMPLEMENTATION.—The Office of Personnel Management, the Department of Homeland Security, the Social Security Administration, and the Thrift Savings Board shall take such actions as necessary to provide for the implementation of this section.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided under paragraph (2), this section shall take effect on the first day of the first applicable pay period that begins 180 days after the date of enactment of this Act.

(2) ELECTIONS AND IMPLEMENTATION.—Subsections (b) and (c)(1) and (3) shall take effect on the date of enactment of this Act.

TITLE ____—NON-FOREIGN AREA RETIREMENT EQUITY ASSURANCE

SEC. __01. SHORT TITLE.

This title may be cited as the ''Non-Foreign Area Retirement Equity Assurance Act of 2009'' or the ''Non-Foreign AREA Act of 2009''.

SEC. __02. EXTENSION OF LOCALITY PAY.

(a) LOCALITY-BASED COMPARABILITY PAYMENTS.—Section 5304 of title 5, United States Code, is amended—

(1) in subsection (f)(1), by striking subparagraph (A) and inserting the following:

''(A) each General Schedule position in the United States, as defined under section 5921(4), and its territories and possessions, including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands, shall be included within a pay locality;'';

(2) in subsection (g)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'' after the semicolon;

(ii) in subparagraph (B) by striking the period and inserting ''; and''; and

(iii) by adding after subparagraph (B) the following:

''(C) positions under subsection (h)(1)(C) not covered by appraisal systems certified under section 5382; and''; and

(B) by adding at the end the following:

''(3) The applicable maximum under this subsection shall be level II of the Executive Schedule for positions under subsection (h)(1)(C) covered by appraisal systems certified under section 5307(d).''; and

(3) in subsection (h)(1)—

(A) in subparagraph (B) by striking ''and'' after the semicolon;

(B) by redesignating subparagraph (C) as subparagraph (D);

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

''(C) a Senior Executive Service position under section 3132 or 3151 or a senior level position under section 5376 stationed within the United States, but outside the 48 contiguous States and the District of Columbia in which the incumbent was an individual who on the day before the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009 was eligible to receive a cost-of-living allowance under section 5941; and'';

(D) in clause (iv) in the matter following subparagraph (D), by inserting '', except for members covered by subparagraph (C)'' before the semicolon; and

(E) in clause (v) in the matter following subparagraph (D), by inserting '', except for members covered by subparagraph (C)'' before the semicolon.

(b) ALLOWANCES BASED ON LIVING COSTS AND CONDITIONS OF ENVIRONMENT.—Section 5941 of title 5, United States Code, is amended—

(1) in subsection (a), by adding after the last sentence ''Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) shall be the cost-of-living allowance rate in effect on the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, except as adjusted under subsection (c).'';

(2) by redesignating subsection (b) as subsection (d); and

(3) by inserting after subsection (a) the following:

''(b) This section shall apply only to areas that are designated as cost-of-living allowance areas as in effect on December 31, 2009.

''(c)(1) The cost-of-living allowance rate payable under this section shall be adjusted on the first day of the first applicable pay period beginning on or after—

''(A) January 1, 2010; and

''(B) January 1 of each calendar year in which a locality-based comparability adjustment takes effect under section __04 (2) and (3) of the Non-Foreign Area Retirement Equity Assurance Act of 2009.

''(2)(A) In this paragraph, the term 'applicable locality-based comparability pay percentage' means, with respect to calendar year 2010 and each calendar year thereafter, the applicable percentage under section __04 (1), (2), or (3) of Non-Foreign Area Retirement Equity Assurance Act of 2009.

''(B) Each adjusted cost-of-living allowance rate under paragraph (1) shall be computed by—

''(i) subtracting 65 percent of the applicable locality-based comparability pay percentage from the cost-of-living allowance percentage rate in effect on December 31, 2009; and

''(ii) dividing the resulting percentage determined under clause (i) by the sum of—

''(I) one; and

''(II) the applicable locality-based comparability payment percentage expressed as a numeral.

''(3) No allowance rate computed under paragraph (2) may be less than zero.

''(4) Each allowance rate computed under paragraph (2) shall be paid as a percentage of basic pay (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law).''.

SEC. __03. ADJUSTMENT OF SPECIAL RATES.

(a) IN GENERAL.—Each special rate of pay established under section 5305 of title 5, United States Code, and payable in an area designated as a cost-of-living allowance area under section 5941(a) of that title, shall be adjusted, on the dates prescribed by section __04 of this title, in accordance with regulations prescribed by the Director of the Office of Personnel Management under section __08 of this title.

(b) AGENCIES WITH STATUTORY AUTHORITY.—

(1) IN GENERAL.—Each special rate of pay established under an authority described under paragraph (2) and payable in a location designated as a cost-of-living allowance area under section 5941(a)(1) of title 5, United States Code, shall be adjusted in accordance with regulations prescribed by the applicable head of the agency that are consistent with the regulations issued by the Director of the Office of Personnel Management under subsection (a).

(2) STATUTORY AUTHORITY.—The authority referred to under paragraph (1), is any statutory authority that—

(A) is similar to the authority exercised under section 5305 of title 5, United States Code;

(B) is exercised by the head of an agency when the head of the agency determines it to be necessary in order to obtain or retain the services of persons specified by statute; and

(C) authorizes the head of the agency to increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations.

(c) TEMPORARY ADJUSTMENT.—Regulations issued under subsection (a) or (b) may provide that statutory limitations on the amount of such special rates may be temporarily raised to a higher level during the transition period described in section __04 ending on the first day of the first pay period beginning on or after January 1, 2012, at which time any special rate of pay in excess of the applicable limitation shall be converted to a retained rate under section 5363 of title 5, United States Code.

SEC. __04. TRANSITION SCHEDULE FOR LOCALITY-BASED COMPARABILITY PAYMENTS.

Notwithstanding any other provision of this title or section 5304 or 5304a of title 5, United States Code, in implementing the amendments made by this title, for each non-foreign area determined under section 5941(b) of that title, the applicable rate for the locality-based comparability adjustment that is used in the computation required under section 5941(c) of that title shall be adjusted effective on the first day of the first pay period beginning on or after January 1—

(1) in calendar year 2010, by using ⅓ of the locality pay percentage for the rest of United States locality pay area;

(2) in calendar year 2011, by using ⅔ of the otherwise applicable comparability payment approved by the President for each non-foreign area; and

(3) in calendar year 2012 and each subsequent year, by using the full amount of the applicable comparability payment approved by the President for each non-foreign area.

SEC. __05. SAVINGS PROVISION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the application of this title to any employee should not result in a decrease in the take home pay of that employee;

(2) in calendar year 2012 and each subsequent year, no employee shall receive less than the Rest of the U.S. locality pay rate;

(3) concurrent with the surveys next conducted under the provisions of section 5304(d)(1)(A) of title 5, United States Code, beginning after the date of the enactment of this Act, the Bureau of Labor Statistics should conduct separate surveys to determine the extent of any pay disparity (as defined by section 5302 of that title) that may exist with respect to positions located in the State of Alaska, the State of Hawaii, and the United States territories, including American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the United States Virgin Islands;

(4) if the surveys under paragraph (3) indicate that the pay disparity determined for the State of Alaska, the State of Hawaii, or any 1 of the United States territories including American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the United States Virgin Islands exceeds the pay disparity determined for the locality which (for purposes of section 5304 of that title) is commonly known as the ''Rest of the United States'', the President's Pay Agent should take appropriate measures to provide that each such surveyed area be treated as a separate pay locality for purposes of that section; and

(5) the President's Pay Agent will establish 1 locality area for the entire State of Hawaii and 1 locality area for the entire State of Alaska.

(b) SAVINGS PROVISIONS.—

(1) IN GENERAL.—During the period described under section __04 of this title, an employee paid a special rate under 5305 of title 5, United States Code, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, and who continues to be officially stationed in an allowance area, shall receive an increase in the employee's special rate consistent with increases in the applicable special rate schedule. For employees in allowance areas, the minimum step rate for any grade of a special rate schedule shall be increased at the time of an increase in the applicable locality rate percentage for the allowance area by not less than the dollar increase in the locality-based comparability payment for a non-special rate employee at the same minimum step provided under section __04 of this title, and corresponding increases shall be provided for all step rates of the given pay range.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE RATE.—If an employee, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, would receive a rate of basic pay and applicable locality-based comparability payment which is in excess of the maximum rate limitation set under section 5304(g) of title 5, United States Code, for his position (but for that maximum rate limitation) due to the operation of this title, the employee shall continue to receive the cost-of-living allowance rate in effect on December 31, 2009 without adjustment until—

(A) the employee leaves the allowance area or pay system; or

(B) the employee is entitled to receive basic pay (including any applicable locality-based comparability payment or similar supplement) at a higher rate,

but, when any such position becomes vacant, the pay of any subsequent appointee thereto shall be fixed in the manner provided by applicable law and regulation.

(3) LOCALITY-BASED COMPARABILITY PAYMENTS.—Any employee covered under paragraph (2) shall receive any applicable locality-based comparability payment extended under section __04 of this title which is not in excess of the maximum rate set under section 5304(g) of title 5, United States Code, for his position including any future increase to statutory pay limitations under 5318 of title 5, United States Code. Notwithstanding paragraph (2), to the extent that an employee covered under that paragraph receives any amount of locality-based comparability payment, the cost-of-living allowance rate under that paragraph shall be reduced accordingly, as provided under section 5941(c)(2)(B) of title 5, United States Code.

SEC. __06. APPLICATION TO OTHER ELIGIBLE EMPLOYEES.

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection, the term ''covered employee'' means—

(A) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

(II) was not eligible to be paid locality-based comparability payments under 5304 or 5304a of that title; or

(ii) on or after the date of enactment of this Act becomes eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; or

(B) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) was eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) was employed by the Transportation Security Administration of the Department of Homeland Security and was eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) was eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code; or

(ii) on or after the date of enactment of this Act—

(I) becomes eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) becomes eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) is employed by the Transportation Security Administration of the Department of Homeland Security and becomes eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) is eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code.

(2) APPLICATION TO COVERED EMPLOYEES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of this title (including the amendments made by this title) any covered employee shall be treated as an employee to whom section 5941 of title 5, United States Code (as amended by section __02 of this title), and section __04 of this title apply.

(B) PAY FIXED BY STATUTE.—Pay to covered employees under section 5304 or 5304a of title 5, United States Code, as a result of the application of this title shall be considered to be fixed by statute.

(C) PERFORMANCE APPRAISAL SYSTEM.—With respect to a covered employee who is subject to a performance appraisal system no part of pay attributable to locality-based comparability payments as a result of the application of this title including section 5941 of title 5, United States Code (as amended by section __02 of this title), may be reduced on the basis of the performance of that employee.

(b) POSTAL EMPLOYEES IN NON-FOREIGN AREAS.—

(1) IN GENERAL.—Section 1005(b) of title 39, United States Code, is amended—

(A) by inserting ''(1)'' after ''(b)'';

(B) by striking ''Section 5941,'' and inserting ''Except as provided under paragraph (2), section 5941'';

(C) by striking ''For purposes of such section,'' and inserting ''Except as provided under paragraph (2), for purposes of section 5941 of that title,''; and

(D) by adding at the end the following:

''(2) On and after the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009—

''(A) the provisions of that Act and section 5941 of title 5 shall apply to officers and employees covered by section 1003 (b) and (c) whose duty station is in a nonforeign area; and

''(B) with respect to officers and employees of the Postal Service (other than those officers and employees described under subparagraph (A)) of section __06(b)(2) of that Act shall apply.''.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE.—

(A) IN GENERAL.—Notwithstanding any other provision of this title, any employee of the Postal Service (other than an employee covered by section 1003 (b) and (c) of title 39, United States Code, whose duty station is in a nonforeign area) who is paid an allowance under section 1005(b) of that title shall be treated for all purposes as if the provisions of this title (including the amendments made by this title) had not been enacted, except that the cost-of-living allowance rate paid to that employee—

(i) may result in the allowance exceeding 25 percent of the rate of basic pay of that employee; and

(ii) shall be the greater of—

(I) the cost-of-living allowance rate in effect on December 31, 2009 for the applicable area; or

(II) the applicable locality-based comparability pay percentage under section __04.

(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

(i) provide for an employee described under subparagraph (A) to be a covered employee as defined under subsection (a); or

(ii) authorize an employee described under subparagraph (A) to file an election under section __07 of this title.

SEC. __07. ELECTION OF ADDITIONAL BASIC PAY FOR ANNUITY COMPUTATION BY EMPLOYEES.

(a) DEFINITION.—In this section the term ''covered employee'' means any employee—

(1) to whom section __04 applies;

(2) who is separated from service by reason of retirement under chapter 83 or 84 of title 5, United States Code, during the period of January 1, 2010, through December 31, 2012; and

(3) who files an election with the Office of Personnel Management under subsection (b).

(b) ELECTION.—

(1) IN GENERAL.—An employee described under subsection (a) (1) and (2) may file an election with the Office of Personnel Management to be covered under this section.

(2) DEADLINE.—An election under this subsection may be filed not later than December 31, 2012.

(c) COMPUTATION OF ANNUITY.—

(1) IN GENERAL.—Except as provided under paragraph (2), for purposes of the computation of an annuity of a covered employee any cost-of-living allowance under section 5941 of title 5, United States Code, paid to that employee during the first applicable pay period beginning on or after January 1, 2010 through the first applicable pay period ending on or after December 31, 2012, shall be considered basic pay as defined under section 8331(3) or 8401(4) of that title.

(2) LIMITATION.—The amount of the cost-of-living allowance which may be considered basic pay under paragraph (1) may not exceed the amount of the locality-based comparability payments the employee would have received during that period for the applicable pay area if the limitation under section __04 of this title did not apply.

(d) CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

(1) EMPLOYEE CONTRIBUTIONS.—A covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund—

(A) an amount equal to the difference between—

(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during the period described under subsection (c) of this section if the cost-of-living allowances described under that subsection had been treated as basic pay under section 8331(3) or 8401(4) of title 5, United States Code; and

(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period; and

(B) interest as prescribed under section 8334(e) of title 5, United States Code, based on the amount determined under subparagraph (A).

(2) AGENCY CONTRIBUTIONS.—

(A) IN GENERAL.—The employing agency of a covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund an amount for applicable agency contributions based on payments made under paragraph (1).

(B) SOURCE.—Amounts paid under this paragraph shall be contributed from the appropriation or fund used to pay the employee.

(3) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this section.

SEC. __08. REGULATIONS.

(a) IN GENERAL.—The Director of the Office of Personnel Management shall prescribe regulations to carry out this title, including—

(1) rules for special rate employees described under section __03;

(2) rules for adjusting rates of basic pay for employees in pay systems administered by the Office of Personnel Management when such employees are not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, without regard to otherwise applicable statutory pay limitations during the transition period described in section __04 ending on the first day of the first pay period beginning on or after January 1, 2012; and

(3) rules governing establishment and adjustment of saved or retained rates for any employee whose rate of pay exceeds applicable pay limitations on the first day of the first pay period beginning on or after January 1, 2012.

(b) OTHER PAY SYSTEMS.—With the concurrence of the Director of the Office of Personnel Management, the administrator of a pay system not administered by the Office of Personnel Management shall prescribe regulations to carry out this title with respect to employees in such pay system, consistent with the regulations prescribed by the Office under subsection (a). With respect to employees not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, regulations prescribed under this subsection may provide for special payments or adjustments for employees who were eligible to receive a cost-of-living allowance under section 5941 of that title on the date before the date of enactment of this Act.

SEC. __09. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided by subsection (b), this title (including the amendments made by this title) shall take effect on the date of enactment of this Act.

(b) LOCALITY PAY AND SCHEDULE.—The amendments made by section __02 and the provisions of section __04 shall take effect on the first day of the first applicable pay period beginning on or after January 1, 2010.

TITLE _____—PART-TIME REEMPLOYMENT OF ANNUITANTS

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Part-Time Reemployment of Annuitants Act of 2009''.

SEC. ___2. PART-TIME REEMPLOYMENT.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m);

(2) by inserting after subsection (k) the following:

''(l)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (k)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) or (b) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) or (b) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office of Personnel Management or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for the effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) or (b) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (m) (as so redesignated)—

(A) in paragraph (1), by striking ''(k)'' and inserting ''(l)''; and

(B) in paragraph (2), by striking ''or (k)'' and inserting ''(k), or (l)''.

(b) FEDERAL EMPLOYEE RETIREMENT SYSTEM.—Section 8468 of title 5, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j);

(2) by inserting after subsection (h) the following:

''(i)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (h)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (j) (as so redesignated)—

(A) in paragraph (1), by striking ''(h)'' and inserting ''(i)''; and

(B) in paragraph (2), by striking ''or (h)'' and inserting ''(h), or (i)''.

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section may be construed to authorize the waiver of the hiring preferences under chapter 33 of title 5, United States Code in selecting annuitants to employ in an appointive or elective position.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 1005(d)(2) of title 39, United States Code, is amended—

(1) by striking ''(l)(2)'' and inserting ''(m)(2)''; and

(2) by striking ''(i)(2)'' and inserting ''(j)(2)''.

SEC. ___3. GENERAL ACCOUNTABILITY OFFICE REPORT.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report regarding the use of the authority under the amendments made by section ___2.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) include the number of annuitants for whom a waiver was made under subsection (l) of section 8344 of title 5, United States Code, as amended by this title, or subsection (i) of section 8468 of title 5, United States Code, as amended by this title; and

(2) identify each agency that used the authority described in paragraph (1).

(c) AGENCY DATA.—Each head of an agency (as defined under sections 8344(l)(1) and 8468(i)(1)(A) of title 5, United States Code, as added by section ___2 of this title) shall—

(1) collect and maintain data necessary for purposes of the Comptroller General report submitted under subsection (a); and

(2) submit to the Comptroller General that data as the Comptroller General requires in a timely fashion.

SA 1292. Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

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

Subtitle B—Other Retirement-Related Provisions

SEC. 111. CREDIT FOR UNUSED SICK LEAVE.

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (k) and subsection (l) as subsections (l) and (m), respectively; and

(2) in subsection (l) (as so redesignated by paragraph (1))—

(A) by striking ''(l) In computing'' and inserting ''(l)(1) In computing''; and

(B) by adding at the end the following:

''(2) Except as provided in paragraph (1), in computing an annuity under this subchapter, the total service of an employee who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to annuity includes the days of unused sick leave to his credit under a formal leave system and for which days the employee has not received payment, except that these days will not be counted in determining average pay or annuity eligibility under this subchapter. For purposes of this subsection, in the case of any such employee who is excepted from subchapter I of chapter 63 under section 6301(2)(x) through (xiii), the days of unused sick leave to his credit include any unused sick leave standing to his credit when he was excepted from such subchapter.''.

(b) EXCEPTION FROM DEPOSIT REQUIREMENT.—Section 8422(d)(2) of title 5, United States Code, is amended by striking ''section 8415(k)'' and inserting ''paragraph (1) or (2) of section 8415(l)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to annuities computed based on separations occurring on or after the date of enactment of this Act.

SEC. 112. LIMITED EXPANSION OF THE CLASS OF INDIVIDUALS ELIGIBLE TO RECEIVE AN ACTUARIALLY REDUCED ANNUITY UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) IN GENERAL.—Section 8334(d)(2)(A)(i) of title 5, United States Code, is amended by

striking ''October 1, 1990'' each place it appears and inserting ''March 1, 1991''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 113. COMPUTATION OF CERTAIN ANNUITIES BASED ON PART-TIME SERVICE.

(a) IN GENERAL.—Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

''(3) In the administration of paragraph (1)—

''(A) subparagraph (A) of such paragraph shall apply with respect to service performed before, on, or after April 7, 1986; and

''(B) subparagraph (B) of such paragraph—

''(i) shall apply with respect to that portion of any annuity which is attributable to service performed on or after April 7, 1986; and

''(ii) shall not apply with respect to that portion of any annuity which is attributable to service performed before April 7, 1986.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 114. AUTHORITY TO DEPOSIT REFUNDS UNDER FERS.

(a) DEPOSIT AUTHORITY.—Section 8422 of title 5, United States Code, is amended by adding at the end the following:

''(i)(1) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which such employee or Member may be allowed credit under this chapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

''(2) Interest under this subsection shall be computed in accordance with paragraphs (2) and (3) of section 8334(e) and regulations prescribed by the Office. The option under the third sentence of section 8334(e)(2) to make a deposit in one or more installments shall apply to deposits under this subsection.

''(3) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONAL AMENDMENT.—Section 8401(19)(C) of title 5, United States Code, is amended by striking ''8411(f);'' and inserting ''8411(f) or 8422(i);''.

(2) CREDITING OF DEPOSITS.—Section 8422(c) of title 5, United States Code, is amended by adding at the end the following: ''Deposits made by an employee, Member, or survivor also shall be credited to the Fund.''.

(3) SECTION HEADING.—(A) The heading for section 8422 of title 5, United States Code, is amended to read as follows:

''§ 8422. Deductions from pay; contributions for other service; deposits''.

(B) The analysis for chapter 84 of title 5, United States Code, is amended by striking the item relating to section 8422 and inserting the following:

''8422. Deductions from pay; contributions for other service; deposits.''.

(4) RESTORATION OF ANNUITY RIGHTS.—The last sentence of section 8424(a) of title 5, United States Code, is amended by striking ''based.'' and inserting ''based, until the employee or Member is reemployed in the service subject to this chapter.''.

SEC. 115. RETIREMENT CREDIT FOR SERVICE OF CERTAIN EMPLOYEES TRANSFERRED FROM DISTRICT OF COLUMBIA SERVICE TO FEDERAL SERVICE.

(a) RETIREMENT CREDIT.—

(1) IN GENERAL.—Any individual who is treated as an employee of the Federal Government for purposes of chapter 83 or chapter 84 of title 5, United States Code, on or after the date of enactment of this Act who performed qualifying District of Columbia service shall be entitled to have such service included in calculating the individual's creditable service under sections 8332 or 8411 of title 5, United States Code, but only for purposes of the following provisions of such title:

(A) Sections 8333 and 8410 (relating to eligibility for annuity).

(B) Sections 8336 (other than subsections (d), (h), and (p) thereof) and 8412 (relating to immediate retirement).

(C) Sections 8338 and 8413 (relating to deferred retirement).

(D) Sections 8336(d), 8336(h), 8336(p), and 8414 (relating to early retirement).

(E) Section 8341 and subchapter IV of chapter 84 (relating to survivor annuities).

(F) Section 8337 and subchapter V of chapter 84 (relating to disability benefits).

(2) TREATMENT OF DETENTION OFFICER SERVICE AS LAW ENFORCEMENT OFFICER SERVICE.—Any portion of an individual's qualifying District of Columbia service which consisted of service as a detention officer under section 2604(2) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1–626.04(2), D.C. Official Code) shall be treated as service as a law enforcement officer under sections 8331(20) or 8401(17) of title 5, United States Code, for purposes of applying paragraph (1) with respect to the individual.

(3) SERVICE NOT INCLUDED IN COMPUTING AMOUNT OF ANY ANNUITY.—Qualifying District of Columbia service shall not be taken into account for purposes of computing the amount of any benefit payable out of the Civil Service Retirement and Disability Fund.

(b) QUALIFYING DISTRICT OF COLUMBIA SERVICE DEFINED.—In this section, ''qualifying District of Columbia service'' means any of the following:

(1) Service performed by an individual as a nonjudicial employee of the District of Columbia courts—

(A) which was performed prior to the effective date of the amendments made by section 11246(b) of the Balanced Budget Act of 1997; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(2) Service performed by an individual as an employee of an entity of the District of Columbia government whose functions were transferred to the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee under section 11232 of the Balanced Budget Act of 1997—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government under section 11232(f) of such Act; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(3) Service performed by an individual as an employee of the District of Columbia Public Defender Service—

(A) which was performed prior to the effective date of the amendments made by section 7(e) of the District of Columbia Courts and Justice Technical Corrections Act of 1998; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(4) In the case of an individual who was an employee of the District of Columbia Department of Corrections who was separated from service as a result of the closing of the Lorton Correctional Complex and who was appointed to a position with the Bureau of Prisons, the District of Columbia courts, the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee, the United States Parole Commission, or the District of Columbia Public Defender Service, service performed by the individual as an employee of the District of Columbia Department of Corrections—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(c) CERTIFICATION OF SERVICE.—The Office of Personnel Management shall accept the certification of the appropriate personnel official of the government of the District of Columbia or other independent employing entity concerning whether an individual performed qualifying District of Columbia service and the length of the period of such service the individual performed.

SEC. 116. RETIREMENT TREATMENT OF CERTAIN SECRET SERVICE EMPLOYEES.

(a) DEFINITION.—In this section the term ''covered employee'' means an individual who—

(1) was hired as a member of the United States Secret Service Division during the period beginning on January 1, 1984 through December 31, 1986;

(2) has actively performed duties other than clerical for 10 or more years directly related to the protection mission of the United States Secret Service described under section 3056 of title 18, United States Code;

(3) is serving as a member of the United States Secret Service Division or the United States Secret Service Uniform Division (or any successor entity) on the effective date of this section; and

(4) files an election to be a covered employee under subsection (b)(1).

(b) ELECTION OF COVERAGE.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, an individual described under subsection (a)(1), (2), and (3) may file an election with the United States Secret Service to be a covered employee and to transition to the District of Columbia Police and Fire Fighter Retirement and Disability System.

(2) NOTIFICATION.—Not later than 30 days after the date of enactment of this Act, the Office of Personnel Management and the United States Secret Service shall notify each individual described under subsection (a)(1), (2), and (3) that the individual is qualified to file an election under paragraph (1).

(c) RETIREMENT COVERAGE CONVERSION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and in consultation with the Secretary of Homeland Security and the Thrift Savings Board, the Office of Personnel Management shall prescribe regulations to carry out the responsibilities of the Federal Government under this section. The regulations prescribed under this paragraph shall provide for transition of covered employees from the Federal Employees' Retirement System to the Civil Service Retirement System.

(2) TREATMENT OF COVERED EMPLOYEES.—

(A) ELECTION OF COVERAGE.—

(i) IN GENERAL.—If a covered employee files an election under subsection (b)(1), the covered employee shall, subject to clause (ii), be converted from the Federal Employees' Retirement System to the Civil Service Retirement System.

(ii) COVERAGE IN DISTRICT OF COLUMBIA RETIREMENT SYSTEM.—

(I) IN GENERAL.—Chapter 7 of title 5 of the District of Columbia Code shall apply with respect to a covered employee on the date on which the covered employee transitions to the Civil Service Retirement System.

(II) AUTHORIZATION FOR DISTRICT OF COLUMBIA.—The government of the District of Columbia shall provide for the coverage of covered employees in the District of Columbia Police and Fire Fighter Retirement and Disability System in accordance with this section.

(B) THRIFT SAVINGS PLAN.—A covered employee shall forfeit, under procedures prescribed by the Executive Director of the Federal Retirement Thrift Investment Board, all Thrift Savings Plan contributions and associated earnings made by an employing agency pursuant to section 8432(c) of title 5, United States Code. Any amounts remaining in the Thrift Savings Plan account of the covered employee may be transferred to a private account or the District of Columbia Police and Firefighter Retirement and Disability System.

(C) FORFEITURE OF SOCIAL SECURITY BENEFITS.—

(i) CONTRIBUTIONS.—Upon conversion into the Civil Service Retirement System, a covered employee shall forfeit all contributions made for purposes of title II of the Social Security Act on the basis of the covered employee's employment with the United States Secret Service under sections 3101(a) and 3111(a) of the Internal Revenue Code of 1986. All forfeited funds shall remain in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as applicable. Notwithstanding paragraphs (4) and (5) of section 205(c) of the Social Security Act, the Commissioner of Social Security may change or delete any entry with respect to wages of a covered employee that are forfeited under this clause.

(ii) BENEFITS.—

(I) IN GENERAL.—No individual shall be entitled to any benefit under title II of the Social Security Act based on any contribution forfeited under clause (i).

(II) NO EFFECT ON MEDICARE BENEFITS.—Notwithstanding the forfeiture of contributions by a covered employee under clause (i), such contributions shall continue to be treated as having been made while performing medicare qualified government employment (as defined in section 210(p) of the Social Security Act) for purposes of sections 226 and 226A of that Act.

(3) IMPLEMENTATION.—The Office of Personnel Management, the Department of Homeland Security, the Social Security Administration, and the Thrift Savings Board shall take such actions as necessary to provide for the implementation of this section.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided under paragraph (2), this section shall take effect on the first day of the first applicable pay period that begins 180 days after the date of enactment of this Act.

(2) ELECTIONS AND IMPLEMENTATION.—Subsections (b) and (c)(1) and (3) shall take effect on the date of enactment of this Act.

TITLE _____—PART-TIME REEMPLOYMENT OF ANNUITANTS

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Part-Time Reemployment of Annuitants Act of 2009''.

SEC. ___2. PART-TIME REEMPLOYMENT.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m);

(2) by inserting after subsection (k) the following:

''(l)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (k)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) or (b) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) or (b) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office of Personnel Management or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for the effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) or (b) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (m) (as so redesignated)—

(A) in paragraph (1), by striking ''(k)'' and inserting ''(l)''; and

(B) in paragraph (2), by striking ''or (k)'' and inserting ''(k), or (l)''.

(b) FEDERAL EMPLOYEE RETIREMENT SYSTEM.—Section 8468 of title 5, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j);

(2) by inserting after subsection (h) the following:

''(i)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (h)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or

the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (j) (as so redesignated)—

(A) in paragraph (1), by striking ''(h)'' and inserting ''(i)''; and

(B) in paragraph (2), by striking ''or (h)'' and inserting ''(h), or (i)''.

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section may be construed to authorize the waiver of the hiring preferences under chapter 33 of title 5, United States Code in selecting annuitants to employ in an appointive or elective position.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 1005(d)(2) of title 39, United States Code, is amended—

(1) by striking ''(l)(2)'' and inserting ''(m)(2)''; and

(2) by striking ''(i)(2)'' and inserting ''(j)(2)''.

SEC. ___3. GENERAL ACCOUNTABILITY OFFICE REPORT.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report regarding the use of the authority under the amendments made by section ___2.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) include the number of annuitants for whom a waiver was made under subsection (l) of section 8344 of title 5, United States Code, as amended by this title, or subsection (i) of section 8468 of title 5, United States Code, as amended by this title; and

(2) identify each agency that used the authority described in paragraph (1).

(c) AGENCY DATA.—Each head of an agency (as defined under sections 8344(l)(1) and 8468(i)(1)(A) of title 5, United States Code, as added by section ___2 of this title) shall—

(1) collect and maintain data necessary for purposes of the Comptroller General report submitted under subsection (a); and

(2) submit to the Comptroller General that data as the Comptroller General requires in a timely fashion.

SA 1293. Mrs. HAGAN submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

On page 26, strike lines 7 through 15, and insert the following:

''(16) SMALL TOBACCO PRODUCT MANUFACTURER.—The term 'small tobacco product manufacturer' means a tobacco product manufacturer that employs fewer than 350 employees. For purposes of determining the number of employees of a manufacturer under the preceding sentence—

''(A) the employees of a manufacturer are deemed to include the employees of each entity that controls, is controlled by, or is under common control with such manufacturer; and

''(B) except that in the case of a farmer owned tobacco grower cooperative that is also tobacco manufacturer, any employees whose responsibilities and compensation in no way support, are connected to, or are dependent upon the manufacture, fabrication, assembly, processing, labeling, storage or marketing of tobacco products, including cigarettes, roll-your-own tobacco, cigars, small cigar or cigarette tubes shall not be deemed employees of the tobacco product manufacturer.''.

SA 1294. Mrs. HAGAN submitted an amendment intended to be proposed by her to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

''SMALL TOBACCO PRODUCT MANUFACTURER.—The term 'small tobacco product manufacturer' means a tobacco product manufacturer that employs fewer than 350 employees. For purposes of determining the number of employees of a manufacturer under the preceding sentence—

''(A) the employees of a manufacturer are deemed to include the employees of each entity that controls, is controlled by, or is under common control with such manufacturer; and

''(B) except that in the case of a farmer owned tobacco grower cooperative that is also tobacco manufacturer, any employees whose responsibilities and compensation in no way support, are connected to, or are dependent upon the manufacture, fabrication, assembly, processing, labeling, storage or marketing of tobacco products, including cigarettes, roll-your-own tobacco, cigars, small cigar or cigarette tubes shall not be deemed employees of the tobacco product manufacturer.''.

SA 1295. Mr. BROWNBACK (for himself, Mr. COCHRAN, and Mr. ROBERTS) submitted an amendment intended to be proposed to amendment SA 1229 submitted by Mr. DORGAN (for himself, Ms. SNOWE, Mr. MCCAIN, Ms. STABENOW, Mr. SANDERS, and Ms. KLOBUCHAR) and intended to be proposed to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

On page 140 of the amendment, after line 17, add the following:

SEC. 11. CERTIFICATION.

(a) IN GENERAL.—This division, and the amendments made by this division, shall become effective only if the Secretary of

Health and Human Services certifies to Congress that the implementation of this division, and the amendments made by this division, will—

(1) pose no additional risk to the public's health and safety; and

(2) result in a significant reduction in the cost of covered products to the American consumer.

(b) EFFECTIVE DATE.—Notwithstanding any other provision of this division, or of any amendment made by this division—

(1) any reference in this division, or in such amendments, to the date of enactment of this division shall be deemed a reference to the date of the certification under subsection (a); and

(2) each reference to ''January 1, 2012'' in section 6(c) of this division shall be substituted with ''90 days after the effective date of this division''.

SA 1296. Mr. CASEY submitted an amendment intended to be proposed to amendment SA 1255 submitted by Ms. STABENOW (for herself, Mr. BROWNBACK, Ms. MIKULSKI, Mr. VOINOVICH, Mrs. SHAHEEN, Mr. BOND, Mr. BURRIS, Mr. DURBIN, Mr. LEVIN, and Mr. BROWN) and intended to be proposed to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 17, insert ''or new fuel efficient motorcycle'' after ''automobile''.

On page 2, line 24, insert ''or new fuel efficient motorcycle'' after ''automobile''.

On page 3, line 18, insert ''or new fuel efficient motorcycle'' after ''automobile''.

On page 5, between lines 21 and 22, insert the following:

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

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

(B) the combined fuel economy is at least 25 miles higher than the combined fuel economy value of the eligible trade-in vehicle.

On page 6, line 2, insert ''or new fuel efficient motorcycles'' after ''automobiles''.

On page 6, line 17, insert ''or a single new fuel efficient motorcycle'' after ''automobile''.

On page 7, line 2, insert ''or new fuel efficient motorcycle'' after ''automobile''.

On page 7, line 9, insert ''or new fuel efficient motorcycle'' after ''automobile''.

On page 9, lines 24 and 25, insert ''or new fuel efficient motorcycle'' after ''automobile''.

On page 10, line 11, insert ''or new fuel efficient motorcycle'' after ''automobile''.

On page 12, line 20, insert ''and new fuel efficient motorcycles'' after ''automobiles''.

On page 13, line 4, insert ''(including new fuel efficient motorcycles)'' after ''vehicles''.

On page 13, line 19, insert ''and new fuel efficient motorcycles'' after ''automobiles''.

On page 13, line 22, insert ''or motorcycle'' after ''automobile''.

On page 17, line 7, insert ''or motorcycle'' after ''Code)''.

On page 17, between lines 19 and 20, insert the following:

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

On page 17, line 20, strike ''(8)'' and insert ''(9)''.

On page 18, between lines 21 and 22, insert the following:

(10) the term ''new fuel efficient motorcycle'' means a motorcycle—

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

(B) that carries a manufacturer's suggested retail price of $20,000 or less; and

(C) that has a combined fuel economy value of at least 50 miles per gallon;

On page 18, line 22, strike ''(9)'' and insert ''(11)''.

On page 19, line 1, strike ''(10)'' and insert ''(12)''.

On page 19, line 13, insert ''or motorcycle'' after ''automobile''.

On page 19, line 14, insert ''or motorcycle'' after ''automobile''.

SA 1297. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 1256 proposed by Mr. SCHUMER (for Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mr. VOINOVICH)) to the amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

Subtitle B—Other Retirement-Related Provisions

SEC. 111. CREDIT FOR UNUSED SICK LEAVE.

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (k) and subsection (l) as subsections (l) and (m), respectively; and

(2) in subsection (l) (as so redesignated by paragraph (1))—

(A) by striking ''(l) In computing'' and inserting ''(l)(1) In computing''; and

(B) by adding at the end the following:

''(2) Except as provided in paragraph (1), in computing an annuity under this subchapter, the total service of an employee who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to annuity includes the days of unused sick leave to his credit under a formal leave system and for which days the employee has not received payment, except that these days will not be counted in determining average pay or annuity eligibility under this subchapter. For purposes of this subsection, in the case of any such employee who is excepted from subchapter I of chapter 63 under section 6301(2)(x) through (xiii), the days of unused sick leave to his credit include any unused sick leave standing to his credit when he was excepted from such subchapter.''.

(b) EXCEPTION FROM DEPOSIT REQUIREMENT.—Section 8422(d)(2) of title 5, United States Code, is amended by striking ''section 8415(k)'' and inserting ''paragraph (1) or (2) of section 8415(l)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to annuities computed based on separations occurring on or after the date of enactment of this Act.

SEC. 112. LIMITED EXPANSION OF THE CLASS OF INDIVIDUALS ELIGIBLE TO RECEIVE AN ACTUARIALLY REDUCED ANNUITY UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) IN GENERAL.—Section 8334(d)(2)(A)(i) of title 5, United States Code, is amended by striking ''October 1, 1990'' each place it appears and inserting ''March 1, 1991''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 113. COMPUTATION OF CERTAIN ANNUITIES BASED ON PART-TIME SERVICE.

(a) IN GENERAL.—Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

''(3) In the administration of paragraph (1)—

''(A) subparagraph (A) of such paragraph shall apply with respect to service performed before, on, or after April 7, 1986; and

''(B) subparagraph (B) of such paragraph—

''(i) shall apply with respect to that portion of any annuity which is attributable to service performed on or after April 7, 1986; and

''(ii) shall not apply with respect to that portion of any annuity which is attributable to service performed before April 7, 1986.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 114. AUTHORITY TO DEPOSIT REFUNDS UNDER FERS.

(a) DEPOSIT AUTHORITY.—Section 8422 of title 5, United States Code, is amended by adding at the end the following:

''(i)(1) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which such employee or Member may be allowed credit under this chapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

''(2) Interest under this subsection shall be computed in accordance with paragraphs (2) and (3) of section 8334(e) and regulations prescribed by the Office. The option under the third sentence of section 8334(e)(2) to make a deposit in one or more installments shall apply to deposits under this subsection.

''(3) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONAL AMENDMENT.—Section 8401(19)(C) of title 5, United States Code, is amended by striking ''8411(f);'' and inserting ''8411(f) or 8422(i);''.

(2) CREDITING OF DEPOSITS.—Section 8422(c) of title 5, United States Code, is amended by adding at the end the following: ''Deposits made by an employee, Member, or survivor also shall be credited to the Fund.''.

(3) SECTION HEADING.—(A) The heading for section 8422 of title 5, United States Code, is amended to read as follows:

''§ 8422. Deductions from pay; contributions for other service; deposits''.

(B) The analysis for chapter 84 of title 5, United States Code, is amended by striking the item relating to section 8422 and inserting the following:

''8422. Deductions from pay; contributions for other service; deposits.''.

(4) RESTORATION OF ANNUITY RIGHTS.—The last sentence of section 8424(a) of title 5, United States Code, is amended by striking ''based.'' and inserting ''based, until the employee or Member is reemployed in the service subject to this chapter.''.

SEC. 115. RETIREMENT CREDIT FOR SERVICE OF CERTAIN EMPLOYEES TRANSFERRED FROM DISTRICT OF COLUMBIA SERVICE TO FEDERAL SERVICE.

(a) RETIREMENT CREDIT.—

(1) IN GENERAL.—Any individual who is treated as an employee of the Federal Government for purposes of chapter 83 or chapter 84 of title 5, United States Code, on or after the date of enactment of this Act who performed qualifying District of Columbia service shall be entitled to have such service included in calculating the individual's creditable service under sections 8332 or 8411 of title 5, United States Code, but only for purposes of the following provisions of such title:

(A) Sections 8333 and 8410 (relating to eligibility for annuity).

(B) Sections 8336 (other than subsections (d), (h), and (p) thereof) and 8412 (relating to immediate retirement).

(C) Sections 8338 and 8413 (relating to deferred retirement).

(D) Sections 8336(d), 8336(h), 8336(p), and 8414 (relating to early retirement).

(E) Section 8341 and subchapter IV of chapter 84 (relating to survivor annuities).

(F) Section 8337 and subchapter V of chapter 84 (relating to disability benefits).

(2) TREATMENT OF DETENTION OFFICER SERVICE AS LAW ENFORCEMENT OFFICER SERVICE.—Any portion of an individual's qualifying District of Columbia service which consisted of service as a detention officer under section 2604(2) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1–626.04(2), D.C. Official Code) shall be treated as service as a law enforcement officer under sections 8331(20) or 8401(17) of title 5, United States Code, for purposes of applying paragraph (1) with respect to the individual.

(3) SERVICE NOT INCLUDED IN COMPUTING AMOUNT OF ANY ANNUITY.—Qualifying District of Columbia service shall not be taken into account for purposes of computing the amount of any benefit payable out of the Civil Service Retirement and Disability Fund.

(b) QUALIFYING DISTRICT OF COLUMBIA SERVICE DEFINED.—In this section, ''qualifying District of Columbia service'' means any of the following:

(1) Service performed by an individual as a nonjudicial employee of the District of Columbia courts—

(A) which was performed prior to the effective date of the amendments made by section 11246(b) of the Balanced Budget Act of 1997; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(2) Service performed by an individual as an employee of an entity of the District of Columbia government whose functions were transferred to the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee under section 11232 of the Balanced Budget Act of 1997—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government under section 11232(f) of such Act; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(3) Service performed by an individual as an employee of the District of Columbia Public Defender Service—

(A) which was performed prior to the effective date of the amendments made by section 7(e) of the District of Columbia Courts and Justice Technical Corrections Act of 1998; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(4) In the case of an individual who was an employee of the District of Columbia Department of Corrections who was separated from service as a result of the closing of the Lorton Correctional Complex and who was appointed to a position with the Bureau of Prisons, the District of Columbia courts, the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee, the United States Parole Commission, or the District of Columbia Public Defender Service, service performed by the individual as an employee of the District of Columbia Department of Corrections—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(c) CERTIFICATION OF SERVICE.—The Office of Personnel Management shall accept the certification of the appropriate personnel official of the government of the District of Columbia or other independent employing entity concerning whether an individual performed qualifying District of Columbia service and the length of the period of such service the individual performed.

SEC. 116. RETIREMENT TREATMENT OF CERTAIN SECRET SERVICE EMPLOYEES.

(a) DEFINITION.—In this section the term ''covered employee'' means an individual who—

(1) was hired as a member of the United States Secret Service Division during the period beginning on January 1, 1984 through December 31, 1986;

(2) has actively performed duties other than clerical for 10 or more years directly related to the protection mission of the United States Secret Service described under section 3056 of title 18, United States Code;

(3) is serving as a member of the United States Secret Service Division or the United States Secret Service Uniform Division (or any successor entity) on the effective date of this section; and

(4) files an election to be a covered employee under subsection (b)(1).

(b) ELECTION OF COVERAGE.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, an individual described under subsection (a)(1), (2), and (3) may file an election with the United States Secret Service to be a covered employee and to transition to the District of Columbia Police and Fire Fighter Retirement and Disability System.

(2) NOTIFICATION.—Not later than 30 days after the date of enactment of this Act, the Office of Personnel Management and the United States Secret Service shall notify each individual described under subsection (a)(1), (2), and (3) that the individual is qualified to file an election under paragraph (1).

(c) RETIREMENT COVERAGE CONVERSION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and in consultation with the Secretary of Homeland Security and the Thrift Savings Board, the Office of Personnel Management shall prescribe regulations to carry out the responsibilities of the Federal Government under this section. The regulations prescribed under this paragraph shall provide for transition of covered employees from the Federal Employees' Retirement System to the Civil Service Retirement System.

(2) TREATMENT OF COVERED EMPLOYEES.—

(A) ELECTION OF COVERAGE.—

(i) IN GENERAL.—If a covered employee files an election under subsection (b)(1), the covered employee shall, subject to clause (ii), be converted from the Federal Employees' Retirement System to the Civil Service Retirement System.

(ii) COVERAGE IN DISTRICT OF COLUMBIA RETIREMENT SYSTEM.—

(I) IN GENERAL.—Chapter 7 of title 5 of the District of Columbia Code shall apply with respect to a covered employee on the date on which the covered employee transitions to the Civil Service Retirement System.

(II) AUTHORIZATION FOR DISTRICT OF COLUMBIA.—The government of the District of Columbia shall provide for the coverage of covered employees in the District of Columbia Police and Fire Fighter Retirement and Disability System in accordance with this section.

(B) THRIFT SAVINGS PLAN.—A covered employee shall forfeit, under procedures prescribed by the Executive Director of the Federal Retirement Thrift Investment Board, all Thrift Savings Plan contributions and associated earnings made by an employing agency pursuant to section 8432(c) of title 5, United States Code. Any amounts remaining in the Thrift Savings Plan account of the covered employee may be transferred to a private account or the District of Columbia Police and Firefighter Retirement and Disability System.

(C) FORFEITURE OF SOCIAL SECURITY BENEFITS.—

(i) CONTRIBUTIONS.—Upon conversion into the Civil Service Retirement System, a covered employee shall forfeit all contributions made for purposes of title II of the Social Security Act on the basis of the covered employee's employment with the United States Secret Service under sections 3101(a) and 3111(a) of the Internal Revenue Code of 1986. All forfeited funds shall remain in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as applicable. Notwithstanding paragraphs (4) and (5) of section 205(c) of the Social Security Act, the Commissioner of Social Security may change or delete any entry with respect to wages of a covered employee that are forfeited under this clause.

(ii) BENEFITS.—

(I) IN GENERAL.—No individual shall be entitled to any benefit under title II of the Social Security Act based on any contribution forfeited under clause (i).

(II) NO EFFECT ON MEDICARE BENEFITS.—Notwithstanding the forfeiture of contributions by a covered employee under clause (i), such contributions shall continue to be treated as having been made while performing medicare qualified government employment (as defined in section 210(p) of the Social Security Act) for purposes of sections 226 and 226A of that Act.

(3) IMPLEMENTATION.—The Office of Personnel Management, the Department of Homeland Security, the Social Security Administration, and the Thrift Savings Board shall take such actions as necessary to provide for the implementation of this section.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided under paragraph (2), this section shall take effect on the first day of the first applicable pay period that begins 180 days after the date of enactment of this Act.

(2) ELECTIONS AND IMPLEMENTATION.—Subsections (b) and (c)(1) and (3) shall take effect on the date of enactment of this Act.

TITLE _____—PART-TIME REEMPLOYMENT OF ANNUITANTS

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Part-Time Reemployment of Annuitants Act of 2009''.

SEC. ___2. PART-TIME REEMPLOYMENT.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m);

(2) by inserting after subsection (k) the following:

''(l)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (k)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) or (b) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) or (b) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office of Personnel Management or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for the effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) or (b) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (m) (as so redesignated)—

(A) in paragraph (1), by striking ''(k)'' and inserting ''(l)''; and

(B) in paragraph (2), by striking ''or (k)'' and inserting ''(k), or (l)''.

(b) FEDERAL EMPLOYEE RETIREMENT SYSTEM.—Section 8468 of title 5, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j);

(2) by inserting after subsection (h) the following:

''(i)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (h)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (j) (as so redesignated)—

(A) in paragraph (1), by striking ''(h)'' and inserting ''(i)''; and

(B) in paragraph (2), by striking ''or (h)'' and inserting ''(h), or (i)''.

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section may be construed to authorize the waiver of the hiring preferences under chapter 33 of title 5, United States Code in selecting annuitants to employ in an appointive or elective position.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 1005(d)(2) of title 39, United States Code, is amended—

(1) by striking ''(l)(2)'' and inserting ''(m)(2)''; and

(2) by striking ''(i)(2)'' and inserting ''(j)(2)''.

SEC. ___3. GENERAL ACCOUNTABILITY OFFICE REPORT.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report regarding the use of the authority under the amendments made by section ___2.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) include the number of annuitants for whom a waiver was made under subsection (l) of section 8344 of title 5, United States Code, as amended by this title, or subsection (i) of section 8468 of title 5, United States Code, as amended by this title; and

(2) identify each agency that used the authority described in paragraph (1).

(c) AGENCY DATA.—Each head of an agency (as defined under sections 8344(l)(1) and 8468(i)(1)(A) of title 5, United States Code, as added by section ___2 of this title) shall—

(1) collect and maintain data necessary for purposes of the Comptroller General report submitted under subsection (a); and

(2) submit to the Comptroller General that data as the Comptroller General requires in a timely fashion.

SA 1298. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 1256 proposed by Mr. SCHUMER (for Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mr. VOINOVICH)) to the amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System; and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

Subtitle B—Other Retirement-Related Provisions

SEC. 111. CREDIT FOR UNUSED SICK LEAVE.

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (k) and subsection (l) as subsections (l) and (m), respectively; and

(2) in subsection (l) (as so redesignated by paragraph (1))—

(A) by striking ''(l) In computing'' and inserting ''(l)(1) In computing''; and

(B) by adding at the end the following:

''(2) Except as provided in paragraph (1), in computing an annuity under this subchapter, the total service of an employee who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to annuity includes the days of unused sick leave to his credit under a formal leave system and for which days the employee has not received payment, except that these days will not be counted in determining average pay or annuity eligibility under this subchapter. For purposes of this subsection, in the case of any such employee who is excepted from subchapter I of chapter 63 under section 6301(2)(x) through (xiii), the days of unused sick leave to his credit include any unused sick leave standing to his credit when he was excepted from such subchapter.''.

(b) EXCEPTION FROM DEPOSIT REQUIREMENT.—Section 8422(d)(2) of title 5, United States Code, is amended by striking ''section 8415(k)'' and inserting ''paragraph (1) or (2) of section 8415(l)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to annuities computed based on separations occurring on or after the date of enactment of this Act.

SEC. 112. LIMITED EXPANSION OF THE CLASS OF INDIVIDUALS ELIGIBLE TO RECEIVE AN ACTUARIALLY REDUCED ANNUITY UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) IN GENERAL.—Section 8334(d)(2)(A)(i) of title 5, United States Code, is amended by striking ''October 1, 1990'' each place it appears and inserting ''March 1, 1991''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 113. COMPUTATION OF CERTAIN ANNUITIES BASED ON PART-TIME SERVICE.

(a) IN GENERAL.—Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

''(3) In the administration of paragraph (1)—

''(A) subparagraph (A) of such paragraph shall apply with respect to service performed before, on, or after April 7, 1986; and

''(B) subparagraph (B) of such paragraph—

''(i) shall apply with respect to that portion of any annuity which is attributable to service performed on or after April 7, 1986; and

''(ii) shall not apply with respect to that portion of any annuity which is attributable to service performed before April 7, 1986.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 114. AUTHORITY TO DEPOSIT REFUNDS UNDER FERS.

(a) DEPOSIT AUTHORITY.—Section 8422 of title 5, United States Code, is amended by adding at the end the following:

''(i)(1) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which such employee or Member may be allowed credit under this chapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

''(2) Interest under this subsection shall be computed in accordance with paragraphs (2) and (3) of section 8334(e) and regulations prescribed by the Office. The option under the third sentence of section 8334(e)(2) to make a deposit in one or more installments shall apply to deposits under this subsection.

''(3) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONAL AMENDMENT.—Section 8401(19)(C) of title 5, United States Code, is amended by striking ''8411(f);'' and inserting ''8411(f) or 8422(i);''.

(2) CREDITING OF DEPOSITS.—Section 8422(c) of title 5, United States Code, is amended by adding at the end the following: ''Deposits made by an employee, Member, or survivor also shall be credited to the Fund.''.

(3) SECTION HEADING.—(A) The heading for section 8422 of title 5, United States Code, is amended to read as follows:

''§ 8422. Deductions from pay; contributions for other service; deposits''.

(B) The analysis for chapter 84 of title 5, United States Code, is amended by striking the item relating to section 8422 and inserting the following:

''8422. Deductions from pay; contributions for other service; deposits.''.

(4) RESTORATION OF ANNUITY RIGHTS.—The last sentence of section 8424(a) of title 5, United States Code, is amended by striking ''based.'' and inserting ''based, until the employee or Member is reemployed in the service subject to this chapter.''.

SEC. 115. RETIREMENT CREDIT FOR SERVICE OF CERTAIN EMPLOYEES TRANSFERRED FROM DISTRICT OF COLUMBIA SERVICE TO FEDERAL SERVICE.

(a) RETIREMENT CREDIT.—

(1) IN GENERAL.—Any individual who is treated as an employee of the Federal Government for purposes of chapter 83 or chapter 84 of title 5, United States Code, on or after the date of enactment of this Act who performed qualifying District of Columbia service shall be entitled to have such service included in calculating the individual's creditable service under sections 8332 or 8411 of title 5, United States Code, but only for purposes of the following provisions of such title:

(A) Sections 8333 and 8410 (relating to eligibility for annuity).

(B) Sections 8336 (other than subsections (d), (h), and (p) thereof) and 8412 (relating to immediate retirement).

(C) Sections 8338 and 8413 (relating to deferred retirement).

(D) Sections 8336(d), 8336(h), 8336(p), and 8414 (relating to early retirement).

(E) Section 8341 and subchapter IV of chapter 84 (relating to survivor annuities).

(F) Section 8337 and subchapter V of chapter 84 (relating to disability benefits).

(2) TREATMENT OF DETENTION OFFICER SERVICE AS LAW ENFORCEMENT OFFICER SERVICE.—Any portion of an individual's qualifying

District of Columbia service which consisted of service as a detention officer under section 2604(2) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1–626.04(2), D.C. Official Code) shall be treated as service as a law enforcement officer under sections 8331(20) or 8401(17) of title 5, United States Code, for purposes of applying paragraph (1) with respect to the individual.

(3) SERVICE NOT INCLUDED IN COMPUTING AMOUNT OF ANY ANNUITY.—Qualifying District of Columbia service shall not be taken into account for purposes of computing the amount of any benefit payable out of the Civil Service Retirement and Disability Fund.

(b) QUALIFYING DISTRICT OF COLUMBIA SERVICE DEFINED.—In this section, ''qualifying District of Columbia service'' means any of the following:

(1) Service performed by an individual as a nonjudicial employee of the District of Columbia courts—

(A) which was performed prior to the effective date of the amendments made by section 11246(b) of the Balanced Budget Act of 1997; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(2) Service performed by an individual as an employee of an entity of the District of Columbia government whose functions were transferred to the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee under section 11232 of the Balanced Budget Act of 1997—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government under section 11232(f) of such Act; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(3) Service performed by an individual as an employee of the District of Columbia Public Defender Service—

(A) which was performed prior to the effective date of the amendments made by section 7(e) of the District of Columbia Courts and Justice Technical Corrections Act of 1998; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(4) In the case of an individual who was an employee of the District of Columbia Department of Corrections who was separated from service as a result of the closing of the Lorton Correctional Complex and who was appointed to a position with the Bureau of Prisons, the District of Columbia courts, the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee, the United States Parole Commission, or the District of Columbia Public Defender Service, service performed by the individual as an employee of the District of Columbia Department of Corrections—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(c) CERTIFICATION OF SERVICE.—The Office of Personnel Management shall accept the certification of the appropriate personnel official of the government of the District of Columbia or other independent employing entity concerning whether an individual performed qualifying District of Columbia service and the length of the period of such service the individual performed.

SA 1299. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 1256 proposed by Mr. SCHUMER (for Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mr. VOINOVICH)) to the amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

Subtitle B—Other Retirement-Related Provisions

SEC. 111. CREDIT FOR UNUSED SICK LEAVE.

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (k) and subsection (l) as subsections (l) and (m), respectively; and

(2) in subsection (l) (as so redesignated by paragraph (1))—

(A) by striking ''(l) In computing'' and inserting ''(l)(1) In computing''; and

(B) by adding at the end the following:

''(2) Except as provided in paragraph (1), in computing an annuity under this subchapter, the total service of an employee who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to annuity includes the days of unused sick leave to his credit under a formal leave system and for which days the employee has not received payment, except that these days will not be counted in determining average pay or annuity eligibility under this subchapter. For purposes of this subsection, in the case of any such employee who is excepted from subchapter I of chapter 63 under section 6301(2)(x) through (xiii), the days of unused sick leave to his credit include any unused sick leave standing to his credit when he was excepted from such subchapter.''.

(b) EXCEPTION FROM DEPOSIT REQUIREMENT.—Section 8422(d)(2) of title 5, United States Code, is amended by striking ''section 8415(k)'' and inserting ''paragraph (1) or (2) of section 8415(l)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to annuities computed based on separations occurring on or after the date of enactment of this Act.

SEC. 112. LIMITED EXPANSION OF THE CLASS OF INDIVIDUALS ELIGIBLE TO RECEIVE AN ACTUARIALLY REDUCED ANNUITY UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) IN GENERAL.—Section 8334(d)(2)(A)(i) of title 5, United States Code, is amended by striking ''October 1, 1990'' each place it appears and inserting ''March 1, 1991''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 113. COMPUTATION OF CERTAIN ANNUITIES BASED ON PART-TIME SERVICE.

(a) IN GENERAL.—Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

''(3) In the administration of paragraph (1)—

''(A) subparagraph (A) of such paragraph shall apply with respect to service performed before, on, or after April 7, 1986; and

''(B) subparagraph (B) of such paragraph—

''(i) shall apply with respect to that portion of any annuity which is attributable to service performed on or after April 7, 1986; and

''(ii) shall not apply with respect to that portion of any annuity which is attributable to service performed before April 7, 1986.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 114. AUTHORITY TO DEPOSIT REFUNDS UNDER FERS.

(a) DEPOSIT AUTHORITY.—Section 8422 of title 5, United States Code, is amended by adding at the end the following:

''(i)(1) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which such employee or Member may be allowed credit under this chapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

''(2) Interest under this subsection shall be computed in accordance with paragraphs (2) and (3) of section 8334(e) and regulations prescribed by the Office. The option under the third sentence of section 8334(e)(2) to make a deposit in one or more installments shall apply to deposits under this subsection.

''(3) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONAL AMENDMENT.—Section 8401(19)(C) of title 5, United States Code, is amended by striking ''8411(f);'' and inserting ''8411(f) or 8422(i);''.

(2) CREDITING OF DEPOSITS.—Section 8422(c) of title 5, United States Code, is amended by adding at the end the following: ''Deposits made by an employee, Member, or survivor also shall be credited to the Fund.''.

(3) SECTION HEADING.—(A) The heading for section 8422 of title 5, United States Code, is amended to read as follows:

''§ 8422. Deductions from pay; contributions for other service; deposits''.

(B) The analysis for chapter 84 of title 5, United States Code, is amended by striking the item relating to section 8422 and inserting the following:

''8422. Deductions from pay; contributions for other service; deposits.''.

(4) RESTORATION OF ANNUITY RIGHTS.—The last sentence of section 8424(a) of title 5, United States Code, is amended by striking ''based.'' and inserting ''based, until the employee or Member is reemployed in the service subject to this chapter.''.

SEC. 115. RETIREMENT CREDIT FOR SERVICE OF CERTAIN EMPLOYEES TRANSFERRED FROM DISTRICT OF COLUMBIA SERVICE TO FEDERAL SERVICE.

(a) RETIREMENT CREDIT.—

(1) IN GENERAL.—Any individual who is treated as an employee of the Federal Government for purposes of chapter 83 or chapter 84 of title 5, United States Code, on or after the date of enactment of this Act who performed qualifying District of Columbia service shall be entitled to have such service included in calculating the individual's creditable service under sections 8332 or 8411 of

title 5, United States Code, but only for purposes of the following provisions of such title:

(A) Sections 8333 and 8410 (relating to eligibility for annuity).

(B) Sections 8336 (other than subsections (d), (h), and (p) thereof) and 8412 (relating to immediate retirement).

(C) Sections 8338 and 8413 (relating to deferred retirement).

(D) Sections 8336(d), 8336(h), 8336(p), and 8414 (relating to early retirement).

(E) Section 8341 and subchapter IV of chapter 84 (relating to survivor annuities).

(F) Section 8337 and subchapter V of chapter 84 (relating to disability benefits).

(2) TREATMENT OF DETENTION OFFICER SERVICE AS LAW ENFORCEMENT OFFICER SERVICE.—Any portion of an individual's qualifying District of Columbia service which consisted of service as a detention officer under section 2604(2) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1–626.04(2), D.C. Official Code) shall be treated as service as a law enforcement officer under sections 8331(20) or 8401(17) of title 5, United States Code, for purposes of applying paragraph (1) with respect to the individual.

(3) SERVICE NOT INCLUDED IN COMPUTING AMOUNT OF ANY ANNUITY.—Qualifying District of Columbia service shall not be taken into account for purposes of computing the amount of any benefit payable out of the Civil Service Retirement and Disability Fund.

(b) QUALIFYING DISTRICT OF COLUMBIA SERVICE DEFINED.—In this section, ''qualifying District of Columbia service'' means any of the following:

(1) Service performed by an individual as a nonjudicial employee of the District of Columbia courts—

(A) which was performed prior to the effective date of the amendments made by section 11246(b) of the Balanced Budget Act of 1997; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(2) Service performed by an individual as an employee of an entity of the District of Columbia government whose functions were transferred to the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee under section 11232 of the Balanced Budget Act of 1997—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government under section 11232(f) of such Act; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(3) Service performed by an individual as an employee of the District of Columbia Public Defender Service—

(A) which was performed prior to the effective date of the amendments made by section 7(e) of the District of Columbia Courts and Justice Technical Corrections Act of 1998; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(4) In the case of an individual who was an employee of the District of Columbia Department of Corrections who was separated from service as a result of the closing of the Lorton Correctional Complex and who was appointed to a position with the Bureau of Prisons, the District of Columbia courts, the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee, the United States Parole Commission, or the District of Columbia Public Defender Service, service performed by the individual as an employee of the District of Columbia Department of Corrections—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(c) CERTIFICATION OF SERVICE.—The Office of Personnel Management shall accept the certification of the appropriate personnel official of the government of the District of Columbia or other independent employing entity concerning whether an individual performed qualifying District of Columbia service and the length of the period of such service the individual performed.

TITLE _____—PART-TIME REEMPLOYMENT OF ANNUITANTS

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Part-Time Reemployment of Annuitants Act of 2009''.

SEC. ___2. PART-TIME REEMPLOYMENT.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m);

(2) by inserting after subsection (k) the following:

''(l)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (k)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) or (b) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) or (b) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office of Personnel Management or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for the effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) or (b) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (m) (as so redesignated)—

(A) in paragraph (1), by striking ''(k)'' and inserting ''(l)''; and

(B) in paragraph (2), by striking ''or (k)'' and inserting ''(k), or (l)''.

(b) FEDERAL EMPLOYEE RETIREMENT SYSTEM.—Section 8468 of title 5, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j);

(2) by inserting after subsection (h) the following:

''(i)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (h)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (j) (as so redesignated)—

(A) in paragraph (1), by striking ''(h)'' and inserting ''(i)''; and

(B) in paragraph (2), by striking ''or (h)'' and inserting ''(h), or (i)''.

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section may be construed to authorize the waiver of the hiring preferences under chapter 33 of title 5, United States Code in selecting annuitants to employ in an appointive or elective position.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 1005(d)(2) of title 39, United States Code, is amended—

(1) by striking ''(l)(2)'' and inserting ''(m)(2)''; and

(2) by striking ''(i)(2)'' and inserting ''(j)(2)''.

SEC. ___3. GENERAL ACCOUNTABILITY OFFICE REPORT.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report regarding the use of the authority under the amendments made by section ___2.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) include the number of annuitants for whom a waiver was made under subsection (l) of section 8344 of title 5, United States Code, as amended by this title, or subsection (i) of section 8468 of title 5, United States Code, as amended by this title; and

(2) identify each agency that used the authority described in paragraph (1).

(c) AGENCY DATA.—Each head of an agency (as defined under sections 8344(l)(1) and 8468(i)(1)(A) of title 5, United States Code, as added by section ___2 of this title) shall—

(1) collect and maintain data necessary for purposes of the Comptroller General report submitted under subsection (a); and

(2) submit to the Comptroller General that data as the Comptroller General requires in a timely fashion.

SA 1300. Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, Mr. VOINOVICH, Ms. MURKOWSKI, Mr. INOUYE, Mr. BEGICH, Ms. MIKULSKI, and Mr. KOHL) submitted an amendment intended to be proposed to amendment SA 1256 proposed by Mr. SCHUMER (for Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mr. VOINOVICH)) to the amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System; and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

Subtitle B—Other Retirement-Related Provisions

SEC. 111. CREDIT FOR UNUSED SICK LEAVE.

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (k) and subsection (l) as subsections (l) and (m), respectively; and

(2) in subsection (l) (as so redesignated by paragraph (1))—

(A) by striking ''(l) In computing'' and inserting ''(l)(1) In computing''; and

(B) by adding at the end the following:

''(2) Except as provided in paragraph (1), in computing an annuity under this subchapter, the total service of an employee who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to annuity includes the days of unused sick leave to his credit under a formal leave system and for which days the employee has not received payment, except that these days will not be counted in determining average pay or annuity eligibility under this subchapter. For purposes of this subsection, in the case of any such employee who is excepted from subchapter I of chapter 63 under section 6301(2)(x) through (xiii), the days of unused sick leave to his credit include any unused sick leave standing to his credit when he was excepted from such subchapter.''.

(b) EXCEPTION FROM DEPOSIT REQUIREMENT.—Section 8422(d)(2) of title 5, United States Code, is amended by striking ''section 8415(k)'' and inserting ''paragraph (1) or (2) of section 8415(l)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to annuities computed based on separations occurring on or after the date of enactment of this Act.

SEC. 112. LIMITED EXPANSION OF THE CLASS OF INDIVIDUALS ELIGIBLE TO RECEIVE AN ACTUARIALLY REDUCED ANNUITY UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) IN GENERAL.—Section 8334(d)(2)(A)(i) of title 5, United States Code, is amended by striking ''October 1, 1990'' each place it appears and inserting ''March 1, 1991''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 113. COMPUTATION OF CERTAIN ANNUITIES BASED ON PART-TIME SERVICE.

(a) IN GENERAL.—Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

''(3) In the administration of paragraph (1)—

''(A) subparagraph (A) of such paragraph shall apply with respect to service performed before, on, or after April 7, 1986; and

''(B) subparagraph (B) of such paragraph—

''(i) shall apply with respect to that portion of any annuity which is attributable to service performed on or after April 7, 1986; and

''(ii) shall not apply with respect to that portion of any annuity which is attributable to service performed before April 7, 1986.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 114. AUTHORITY TO DEPOSIT REFUNDS UNDER FERS.

(a) DEPOSIT AUTHORITY.—Section 8422 of title 5, United States Code, is amended by adding at the end the following:

''(i)(1) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which such employee or Member may be allowed credit under this chapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

''(2) Interest under this subsection shall be computed in accordance with paragraphs (2) and (3) of section 8334(e) and regulations prescribed by the Office. The option under the third sentence of section 8334(e)(2) to make a deposit in one or more installments shall apply to deposits under this subsection.

''(3) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONAL AMENDMENT.—Section 8401(19)(C) of title 5, United States Code, is amended by striking ''8411(f);'' and inserting ''8411(f) or 8422(i);''.

(2) CREDITING OF DEPOSITS.—Section 8422(c) of title 5, United States Code, is amended by adding at the end the following: ''Deposits made by an employee, Member, or survivor also shall be credited to the Fund.''.

(3) SECTION HEADING.—(A) The heading for section 8422 of title 5, United States Code, is amended to read as follows:

''§ 8422. Deductions from pay; contributions for other service; deposits''.

(B) The analysis for chapter 84 of title 5, United States Code, is amended by striking the item relating to section 8422 and inserting the following:

''8422. Deductions from pay; contributions for other service; deposits.''.

(4) RESTORATION OF ANNUITY RIGHTS.—The last sentence of section 8424(a) of title 5, United States Code, is amended by striking ''based.'' and inserting ''based, until the employee or Member is reemployed in the service subject to this chapter.''.

SEC. 115. RETIREMENT CREDIT FOR SERVICE OF CERTAIN EMPLOYEES TRANSFERRED FROM DISTRICT OF COLUMBIA SERVICE TO FEDERAL SERVICE.

(a) RETIREMENT CREDIT.—

(1) IN GENERAL.—Any individual who is treated as an employee of the Federal Government for purposes of chapter 83 or chapter 84 of title 5, United States Code, on or after the date of enactment of this Act who performed qualifying District of Columbia service shall be entitled to have such service included in calculating the individual's creditable service under sections 8332 or 8411 of title 5, United States Code, but only for purposes of the following provisions of such title:

(A) Sections 8333 and 8410 (relating to eligibility for annuity).

(B) Sections 8336 (other than subsections (d), (h), and (p) thereof) and 8412 (relating to immediate retirement).

(C) Sections 8338 and 8413 (relating to deferred retirement).

(D) Sections 8336(d), 8336(h), 8336(p), and 8414 (relating to early retirement).

(E) Section 8341 and subchapter IV of chapter 84 (relating to survivor annuities).

(F) Section 8337 and subchapter V of chapter 84 (relating to disability benefits).

(2) TREATMENT OF DETENTION OFFICER SERVICE AS LAW ENFORCEMENT OFFICER SERVICE.—Any portion of an individual's qualifying District of Columbia service which consisted of service as a detention officer under section 2604(2) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1–626.04(2), D.C. Official Code) shall be treated as service as a law enforcement officer under sections 8331(20) or 8401(17) of title 5, United States Code, for purposes of applying paragraph (1) with respect to the individual.

(3) SERVICE NOT INCLUDED IN COMPUTING AMOUNT OF ANY ANNUITY.—Qualifying District of Columbia service shall not be taken into account for purposes of computing the amount of any benefit payable out of the Civil Service Retirement and Disability Fund.

(b) QUALIFYING DISTRICT OF COLUMBIA SERVICE DEFINED.—In this section, ''qualifying District of Columbia service'' means any of the following:

(1) Service performed by an individual as a nonjudicial employee of the District of Columbia courts—

(A) which was performed prior to the effective date of the amendments made by section 11246(b) of the Balanced Budget Act of 1997; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(2) Service performed by an individual as an employee of an entity of the District of Columbia government whose functions were transferred to the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee under section 11232 of the Balanced Budget Act of 1997—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government under section 11232(f) of such Act; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(3) Service performed by an individual as an employee of the District of Columbia Public Defender Service—

(A) which was performed prior to the effective date of the amendments made by section 7(e) of the District of Columbia Courts and Justice Technical Corrections Act of 1998; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(4) In the case of an individual who was an employee of the District of Columbia Department of Corrections who was separated from service as a result of the closing of the Lorton Correctional Complex and who was appointed to a position with the Bureau of Prisons, the District of Columbia courts, the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee, the United States Parole Commission, or the District of Columbia Public Defender Service, service performed by the individual as an employee of the District of Columbia Department of Corrections—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(c) CERTIFICATION OF SERVICE.—The Office of Personnel Management shall accept the certification of the appropriate personnel official of the government of the District of Columbia or other independent employing entity concerning whether an individual performed qualifying District of Columbia service and the length of the period of such service the individual performed.

SEC. 116. RETIREMENT TREATMENT OF CERTAIN SECRET SERVICE EMPLOYEES.

(a) DEFINITION.—In this section the term ''covered employee'' means an individual who—

(1) was hired as a member of the United States Secret Service Division during the period beginning on January 1, 1984 through December 31, 1986;

(2) has actively performed duties other than clerical for 10 or more years directly related to the protection mission of the United States Secret Service described under section 3056 of title 18, United States Code;

(3) is serving as a member of the United States Secret Service Division or the United States Secret Service Uniform Division (or any successor entity) on the effective date of this section; and

(4) files an election to be a covered employee under subsection (b)(1).

(b) ELECTION OF COVERAGE.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, an individual described under subsection (a)(1), (2), and (3) may file an election with the United States Secret Service to be a covered employee and to transition to the District of Columbia Police and Fire Fighter Retirement and Disability System.

(2) NOTIFICATION.—Not later than 30 days after the date of enactment of this Act, the Office of Personnel Management and the United States Secret Service shall notify each individual described under subsection (a)(1), (2), and (3) that the individual is qualified to file an election under paragraph (1).

(c) RETIREMENT COVERAGE CONVERSION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and in consultation with the Secretary of Homeland Security and the Thrift Savings Board, the Office of Personnel Management shall prescribe regulations to carry out the responsibilities of the Federal Government under this section. The regulations prescribed under this paragraph shall provide for transition of covered employees from the Federal Employees' Retirement System to the Civil Service Retirement System.

(2) TREATMENT OF COVERED EMPLOYEES.—

(A) ELECTION OF COVERAGE.—

(i) IN GENERAL.—If a covered employee files an election under subsection (b)(1), the covered employee shall, subject to clause (ii), be converted from the Federal Employees' Retirement System to the Civil Service Retirement System.

(ii) COVERAGE IN DISTRICT OF COLUMBIA RETIREMENT SYSTEM.—

(I) IN GENERAL.—Chapter 7 of title 5 of the District of Columbia Code shall apply with respect to a covered employee on the date on which the covered employee transitions to the Civil Service Retirement System.

(II) AUTHORIZATION FOR DISTRICT OF COLUMBIA.—The government of the District of Columbia shall provide for the coverage of covered employees in the District of Columbia Police and Fire Fighter Retirement and Disability System in accordance with this section.

(B) THRIFT SAVINGS PLAN.—A covered employee shall forfeit, under procedures prescribed by the Executive Director of the Federal Retirement Thrift Investment Board, all Thrift Savings Plan contributions and associated earnings made by an employing agency pursuant to section 8432(c) of title 5, United States Code. Any amounts remaining in the Thrift Savings Plan account of the covered employee may be transferred to a private account or the District of Columbia Police and Firefighter Retirement and Disability System.

(C) FORFEITURE OF SOCIAL SECURITY BENEFITS.—

(i) CONTRIBUTIONS.—Upon conversion into the Civil Service Retirement System, a covered employee shall forfeit all contributions made for purposes of title II of the Social Security Act on the basis of the covered employee's employment with the United States Secret Service under sections 3101(a) and 3111(a) of the Internal Revenue Code of 1986. All forfeited funds shall remain in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as applicable. Notwithstanding paragraphs (4) and (5) of section 205(c) of the Social Security Act, the Commissioner of Social Security may change or delete any entry with respect to wages of a covered employee that are forfeited under this clause.

(ii) BENEFITS.—

(I) IN GENERAL.—No individual shall be entitled to any benefit under title II of the Social Security Act based on any contribution forfeited under clause (i).

(II) NO EFFECT ON MEDICARE BENEFITS.—Notwithstanding the forfeiture of contributions by a covered employee under clause (i), such contributions shall continue to be treated as having been made while performing medicare qualified government employment (as defined in section 210(p) of the Social Security Act) for purposes of sections 226 and 226A of that Act.

(3) IMPLEMENTATION.—The Office of Personnel Management, the Department of Homeland Security, the Social Security Administration, and the Thrift Savings Board shall take such actions as necessary to provide for the implementation of this section.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided under paragraph (2), this section shall take effect on the first day of the first applicable pay period that begins 180 days after the date of enactment of this Act.

(2) ELECTIONS AND IMPLEMENTATION.—Subsections (b) and (c)(1) and (3) shall take effect on the date of enactment of this Act.

TITLE ____—NON-FOREIGN AREA RETIREMENT EQUITY ASSURANCE

SEC. __01. SHORT TITLE.

This title may be cited as the ''Non-Foreign Area Retirement Equity Assurance Act of 2009'' or the ''Non-Foreign AREA Act of 2009''.

SEC. __02. EXTENSION OF LOCALITY PAY.

(a) LOCALITY-BASED COMPARABILITY PAYMENTS.—Section 5304 of title 5, United States Code, is amended—

(1) in subsection (f)(1), by striking subparagraph (A) and inserting the following:

''(A) each General Schedule position in the United States, as defined under section 5921(4), and its territories and possessions, including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands, shall be included within a pay locality;'';

(2) in subsection (g)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'' after the semicolon;

(ii) in subparagraph (B) by striking the period and inserting ''; and''; and

(iii) by adding after subparagraph (B) the following:

''(C) positions under subsection (h)(1)(C) not covered by appraisal systems certified under section 5382; and''; and

(B) by adding at the end the following:

''(3) The applicable maximum under this subsection shall be level II of the Executive Schedule for positions under subsection (h)(1)(C) covered by appraisal systems certified under section 5307(d).''; and

(3) in subsection (h)(1)—

(A) in subparagraph (B) by striking ''and'' after the semicolon;

(B) by redesignating subparagraph (C) as subparagraph (D);

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

''(C) a Senior Executive Service position under section 3132 or 3151 or a senior level position under section 5376 stationed within the United States, but outside the 48 contiguous States and the District of Columbia in which the incumbent was an individual who on the day before the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009 was eligible to receive a cost-of-living allowance under section 5941; and'';

(D) in clause (iv) in the matter following subparagraph (D), by inserting '', except for members covered by subparagraph (C)'' before the semicolon; and

(E) in clause (v) in the matter following subparagraph (D), by inserting '', except for members covered by subparagraph (C)'' before the semicolon.

(b) ALLOWANCES BASED ON LIVING COSTS AND CONDITIONS OF ENVIRONMENT.—Section 5941 of title 5, United States Code, is amended—

(1) in subsection (a), by adding after the last sentence ''Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) shall be the cost-of-living allowance rate in effect on the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, except as adjusted under subsection (c).'';

(2) by redesignating subsection (b) as subsection (d); and

(3) by inserting after subsection (a) the following:

''(b) This section shall apply only to areas that are designated as cost-of-living allowance areas as in effect on December 31, 2009.

''(c)(1) The cost-of-living allowance rate payable under this section shall be adjusted on the first day of the first applicable pay period beginning on or after—

''(A) January 1, 2010; and

''(B) January 1 of each calendar year in which a locality-based comparability adjustment takes effect under section __04 (2) and (3) of the Non-Foreign Area Retirement Equity Assurance Act of 2009.

''(2)(A) In this paragraph, the term 'applicable locality-based comparability pay percentage' means, with respect to calendar year 2010 and each calendar year thereafter, the applicable percentage under section __04 (1), (2), or (3) of Non-Foreign Area Retirement Equity Assurance Act of 2009.

''(B) Each adjusted cost-of-living allowance rate under paragraph (1) shall be computed by—

''(i) subtracting 65 percent of the applicable locality-based comparability pay percentage from the cost-of-living allowance percentage rate in effect on December 31, 2009; and

''(ii) dividing the resulting percentage determined under clause (i) by the sum of—

''(I) one; and

''(II) the applicable locality-based comparability payment percentage expressed as a numeral.

''(3) No allowance rate computed under paragraph (2) may be less than zero.

''(4) Each allowance rate computed under paragraph (2) shall be paid as a percentage of basic pay (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law).''.

SEC. __03. ADJUSTMENT OF SPECIAL RATES.

(a) IN GENERAL.—Each special rate of pay established under section 5305 of title 5, United States Code, and payable in an area designated as a cost-of-living allowance area under section 5941(a) of that title, shall be adjusted, on the dates prescribed by section __04 of this title, in accordance with regulations prescribed by the Director of the Office of Personnel Management under section __08 of this title.

(b) AGENCIES WITH STATUTORY AUTHORITY.—

(1) IN GENERAL.—Each special rate of pay established under an authority described under paragraph (2) and payable in a location designated as a cost-of-living allowance area under section 5941(a)(1) of title 5, United States Code, shall be adjusted in accordance with regulations prescribed by the applicable head of the agency that are consistent with the regulations issued by the Director of the Office of Personnel Management under subsection (a).

(2) STATUTORY AUTHORITY.—The authority referred to under paragraph (1), is any statutory authority that—

(A) is similar to the authority exercised under section 5305 of title 5, United States Code;

(B) is exercised by the head of an agency when the head of the agency determines it to be necessary in order to obtain or retain the services of persons specified by statute; and

(C) authorizes the head of the agency to increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations.

(c) TEMPORARY ADJUSTMENT.—Regulations issued under subsection (a) or (b) may provide that statutory limitations on the amount of such special rates may be temporarily raised to a higher level during the transition period described in section __04 ending on the first day of the first pay period beginning on or after January 1, 2012, at which time any special rate of pay in excess of the applicable limitation shall be converted to a retained rate under section 5363 of title 5, United States Code.

SEC. __04. TRANSITION SCHEDULE FOR LOCALITY-BASED COMPARABILITY PAYMENTS.

Notwithstanding any other provision of this title or section 5304 or 5304a of title 5, United States Code, in implementing the amendments made by this title, for each non-foreign area determined under section 5941(b) of that title, the applicable rate for the locality-based comparability adjustment that is used in the computation required under section 5941(c) of that title shall be adjusted effective on the first day of the first pay period beginning on or after January 1—

(1) in calendar year 2010, by using ⅓ of the locality pay percentage for the rest of United States locality pay area;

(2) in calendar year 2011, by using ⅔ of the otherwise applicable comparability payment approved by the President for each non-foreign area; and

(3) in calendar year 2012 and each subsequent year, by using the full amount of the applicable comparability payment approved by the President for each non-foreign area.

SEC. __05. SAVINGS PROVISION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the application of this title to any employee should not result in a decrease in the take home pay of that employee;

(2) in calendar year 2012 and each subsequent year, no employee shall receive less than the Rest of the U.S. locality pay rate;

(3) concurrent with the surveys next conducted under the provisions of section 5304(d)(1)(A) of title 5, United States Code, beginning after the date of the enactment of this Act, the Bureau of Labor Statistics should conduct separate surveys to determine the extent of any pay disparity (as defined by section 5302 of that title) that may exist with respect to positions located in the State of Alaska, the State of Hawaii, and the United States territories, including American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the United States Virgin Islands;

(4) if the surveys under paragraph (3) indicate that the pay disparity determined for the State of Alaska, the State of Hawaii, or any 1 of the United States territories including American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the United States Virgin Islands exceeds the pay disparity determined for the locality which (for purposes of section 5304 of that title) is commonly known as the ''Rest of the United States'', the President's Pay Agent should take appropriate measures to provide that each such surveyed area be treated as a separate pay locality for purposes of that section; and

(5) the President's Pay Agent will establish 1 locality area for the entire State of Hawaii and 1 locality area for the entire State of Alaska.

(b) SAVINGS PROVISIONS.—

(1) IN GENERAL.—During the period described under section __04 of this title, an employee paid a special rate under 5305 of title 5, United States Code, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, and who continues to be officially stationed in an allowance area, shall receive an increase in the employee's special rate consistent with increases in the applicable special rate schedule. For employees in allowance areas, the minimum step rate for any grade of a special rate schedule shall be increased at the time of an increase in the applicable locality rate percentage for the allowance area by not less than the dollar increase in the locality-based comparability payment for a non-special rate employee at the same minimum step provided under section __04 of this title, and corresponding increases shall be provided for all step rates of the given pay range.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE RATE.—If an employee, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, would receive a rate of basic pay and applicable locality-based comparability payment which is in excess of the maximum rate limitation set under section 5304(g) of title 5, United States Code, for his position (but for that maximum rate limitation) due to the operation of this title, the employee shall continue to receive the cost-of-living allowance rate in effect on December 31, 2009 without adjustment until—

(A) the employee leaves the allowance area or pay system; or

(B) the employee is entitled to receive basic pay (including any applicable locality-based comparability payment or similar supplement) at a higher rate,

but, when any such position becomes vacant, the pay of any subsequent appointee thereto shall be fixed in the manner provided by applicable law and regulation.

(3) LOCALITY-BASED COMPARABILITY PAYMENTS.—Any employee covered under paragraph (2) shall receive any applicable locality-based comparability payment extended under section __04 of this title which is not in excess of the maximum rate set under section 5304(g) of title 5, United States Code, for his position including any future increase to statutory pay limitations under 5318 of title 5, United States Code. Notwithstanding paragraph (2), to the extent that an employee covered under that paragraph receives any amount of locality-based comparability payment, the cost-of-living allowance rate under that paragraph shall be reduced accordingly, as provided under section 5941(c)(2)(B) of title 5, United States Code.

SEC. __06. APPLICATION TO OTHER ELIGIBLE EMPLOYEES.

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection, the term ''covered employee'' means—

(A) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

(II) was not eligible to be paid locality-based comparability payments under 5304 or 5304a of that title; or

(ii) on or after the date of enactment of this Act becomes eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; or

(B) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) was eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) was employed by the Transportation Security Administration of the Department of Homeland Security and was eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) was eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code; or

(ii) on or after the date of enactment of this Act—

(I) becomes eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) becomes eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) is employed by the Transportation Security Administration of the Department of Homeland Security and becomes eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) is eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code.

(2) APPLICATION TO COVERED EMPLOYEES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of this title (including the amendments made by this title) any covered employee shall be treated as an employee to whom section 5941 of title 5, United States Code (as amended by section __02 of this title), and section __04 of this title apply.

(B) PAY FIXED BY STATUTE.—Pay to covered employees under section 5304 or 5304a of title 5, United States Code, as a result of the application of this title shall be considered to be fixed by statute.

(C) PERFORMANCE APPRAISAL SYSTEM.—With respect to a covered employee who is subject to a performance appraisal system no part of pay attributable to locality-based comparability payments as a result of the application of this title including section 5941 of title 5, United States Code (as amended by section __02 of this title), may be reduced on the basis of the performance of that employee.

(b) POSTAL EMPLOYEES IN NON-FOREIGN AREAS.—

(1) IN GENERAL.—Section 1005(b) of title 39, United States Code, is amended—

(A) by inserting ''(1)'' after ''(b)'';

(B) by striking ''Section 5941,'' and inserting ''Except as provided under paragraph (2), section 5941'';

(C) by striking ''For purposes of such section,'' and inserting ''Except as provided under paragraph (2), for purposes of section 5941 of that title,''; and

(D) by adding at the end the following:

''(2) On and after the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009—

''(A) the provisions of that Act and section 5941 of title 5 shall apply to officers and employees covered by section 1003 (b) and (c) whose duty station is in a nonforeign area; and

''(B) with respect to officers and employees of the Postal Service (other than those officers and employees described under subparagraph (A)) of section __06(b)(2) of that Act shall apply.''.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE.—

(A) IN GENERAL.—Notwithstanding any other provision of this title, any employee of the Postal Service (other than an employee covered by section 1003 (b) and (c) of title 39, United States Code, whose duty station is in a nonforeign area) who is paid an allowance under section 1005(b) of that title shall be treated for all purposes as if the provisions of this title (including the amendments made by this title) had not been enacted, except that the cost-of-living allowance rate paid to that employee—

(i) may result in the allowance exceeding 25 percent of the rate of basic pay of that employee; and

(ii) shall be the greater of—

(I) the cost-of-living allowance rate in effect on December 31, 2009 for the applicable area; or

(II) the applicable locality-based comparability pay percentage under section __04.

(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

(i) provide for an employee described under subparagraph (A) to be a covered employee as defined under subsection (a); or

(ii) authorize an employee described under subparagraph (A) to file an election under section __07 of this title.

SEC. __07. ELECTION OF ADDITIONAL BASIC PAY FOR ANNUITY COMPUTATION BY EMPLOYEES.

(a) DEFINITION.—In this section the term ''covered employee'' means any employee—

(1) to whom section __04 applies;

(2) who is separated from service by reason of retirement under chapter 83 or 84 of title 5, United States Code, during the period of January 1, 2010, through December 31, 2012; and

(3) who files an election with the Office of Personnel Management under subsection (b).

(b) ELECTION.—

(1) IN GENERAL.—An employee described under subsection (a) (1) and (2) may file an election with the Office of Personnel Management to be covered under this section.

(2) DEADLINE.—An election under this subsection may be filed not later than December 31, 2012.

(c) COMPUTATION OF ANNUITY.—

(1) IN GENERAL.—Except as provided under paragraph (2), for purposes of the computation of an annuity of a covered employee any cost-of-living allowance under section 5941 of title 5, United States Code, paid to that employee during the first applicable pay period beginning on or after January 1, 2010 through the first applicable pay period ending on or after December 31, 2012, shall be considered basic pay as defined under section 8331(3) or 8401(4) of that title.

(2) LIMITATION.—The amount of the cost-of-living allowance which may be considered basic pay under paragraph (1) may not exceed the amount of the locality-based comparability payments the employee would have received during that period for the applicable pay area if the limitation under section __04 of this title did not apply.

(d) CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

(1) EMPLOYEE CONTRIBUTIONS.—A covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund—

(A) an amount equal to the difference between—

(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during the period described under subsection (c) of this section if the cost-of-living allowances described under that subsection had been treated as basic pay under section 8331(3) or 8401(4) of title 5, United States Code; and

(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period; and

(B) interest as prescribed under section 8334(e) of title 5, United States Code, based on the amount determined under subparagraph (A).

(2) AGENCY CONTRIBUTIONS.—

(A) IN GENERAL.—The employing agency of a covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund an amount for applicable agency contributions based on payments made under paragraph (1).

(B) SOURCE.—Amounts paid under this paragraph shall be contributed from the appropriation or fund used to pay the employee.

(3) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this section.

SEC. __08. REGULATIONS.

(a) IN GENERAL.—The Director of the Office of Personnel Management shall prescribe regulations to carry out this title, including—

(1) rules for special rate employees described under section __03;

(2) rules for adjusting rates of basic pay for employees in pay systems administered by the Office of Personnel Management when such employees are not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, without regard to otherwise applicable statutory pay limitations during the transition period described in section __04 ending on the first day of the first pay period beginning on or after January 1, 2012; and

(3) rules governing establishment and adjustment of saved or retained rates for any employee whose rate of pay exceeds applicable pay limitations on the first day of the first pay period beginning on or after January 1, 2012.

(b) OTHER PAY SYSTEMS.—With the concurrence of the Director of the Office of Personnel Management, the administrator of a pay system not administered by the Office of Personnel Management shall prescribe regulations to carry out this title with respect to employees in such pay system, consistent with the regulations prescribed by the Office under subsection (a). With respect to employees not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, regulations prescribed under this subsection may provide for special payments or adjustments for employees who were eligible to receive a cost-of-living allowance under section 5941 of that title on the date before the date of enactment of this Act.

SEC. __09. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided by subsection (b), this title (including the amendments made by this title) shall take effect on the date of enactment of this Act.

(b) LOCALITY PAY AND SCHEDULE.—The amendments made by section __02 and the provisions of section __04 shall take effect on the first day of the first applicable pay period beginning on or after January 1, 2010.

TITLE_____—PART-TIME REEMPLOYMENT OF ANNUITANTS

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Part-Time Reemployment of Annuitants Act of 2009''.

SEC. ___2. PART-TIME REEMPLOYMENT.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m);

(2) by inserting after subsection (k) the following:

''(l)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (k)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) or (b) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) or (b) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office of Personnel Management or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for the effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) or (b) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (m) (as so redesignated)—

(A) in paragraph (1), by striking ''(k)'' and inserting ''(l)''; and

(B) in paragraph (2), by striking ''or (k)'' and inserting ''(k), or (l)''.

(b) FEDERAL EMPLOYEE RETIREMENT SYSTEM.—Section 8468 of title 5, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j);

(2) by inserting after subsection (h) the following:

''(i)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (h)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (j) (as so redesignated)—

(A) in paragraph (1), by striking ''(h)'' and inserting ''(i)''; and

(B) in paragraph (2), by striking ''or (h)'' and inserting ''(h), or (i)''.

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section may be construed to authorize the waiver of the hiring preferences under chapter 33 of title 5, United States Code in selecting annuitants to employ in an appointive or elective position.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 1005(d)(2) of title 39, United States Code, is amended—

(1) by striking ''(l)(2)'' and inserting ''(m)(2)''; and

(2) by striking ''(i)(2)'' and inserting ''(j)(2)''.

SEC. ___3. GENERAL ACCOUNTABILITY OFFICE REPORT.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report regarding the use of the authority under the amendments made by section ___2.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) include the number of annuitants for whom a waiver was made under subsection (l) of section 8344 of title 5, United States Code, as amended by this title, or subsection (i) of section 8468 of title 5, United States Code, as amended by this title; and

(2) identify each agency that used the authority described in paragraph (1).

(c) AGENCY DATA.—Each head of an agency (as defined under sections 8344(l)(1) and 8468(i)(1)(A) of title 5, United States Code, as added by section ___2 of this title) shall—

(1) collect and maintain data necessary for purposes of the Comptroller General report submitted under subsection (a); and

(2) submit to the Comptroller General that data as the Comptroller General requires in a timely fashion.

SA 1301. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 1256 proposed by Mr. SCHUMER (for Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mr. VOINOVICH)) to the amendment SA 1247 proposed by Mr. DODD to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table as follows:

In lieu of the matter proposed to be inserted, insert the following:

Subtitle B—Other Retirement-Related Provisions

SEC. 111. CREDIT FOR UNUSED SICK LEAVE.

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (k) and subsection (l) as subsections (l) and (m), respectively; and

(2) in subsection (l) (as so redesignated by paragraph (1))—

(A) by striking ''(l) In computing'' and inserting ''(l)(1) In computing''; and

(B) by adding at the end the following:

''(2) Except as provided in paragraph (1), in computing an annuity under this subchapter, the total service of an employee who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to annuity includes the days of unused sick leave to his credit under a formal leave system and for which days the employee has not received payment, except that these days will not be counted in determining average pay or annuity eligibility under this subchapter. For purposes of this subsection, in the case of any such employee who is excepted from subchapter I of chapter 63 under section 6301(2)(x) through (xiii), the days of unused sick leave to his credit include any unused sick leave standing to his credit when he was excepted from such subchapter.''.

(b) EXCEPTION FROM DEPOSIT REQUIREMENT.—Section 8422(d)(2) of title 5, United States Code, is amended by striking ''section 8415(k)'' and inserting ''paragraph (1) or (2) of section 8415(l)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to annuities computed based on separations occurring on or after the date of enactment of this Act.

SEC. 112. LIMITED EXPANSION OF THE CLASS OF INDIVIDUALS ELIGIBLE TO RECEIVE AN ACTUARIALLY REDUCED ANNUITY UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) IN GENERAL.—Section 8334(d)(2)(A)(i) of title 5, United States Code, is amended by striking ''October 1, 1990'' each place it appears and inserting ''March 1, 1991''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 113. COMPUTATION OF CERTAIN ANNUITIES BASED ON PART-TIME SERVICE.

(a) IN GENERAL.—Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

''(3) In the administration of paragraph (1)—

''(A) subparagraph (A) of such paragraph shall apply with respect to service performed before, on, or after April 7, 1986; and

''(B) subparagraph (B) of such paragraph—

''(i) shall apply with respect to that portion of any annuity which is attributable to service performed on or after April 7, 1986; and

''(ii) shall not apply with respect to that portion of any annuity which is attributable to service performed before April 7, 1986.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

SEC. 114. AUTHORITY TO DEPOSIT REFUNDS UNDER FERS.

(a) DEPOSIT AUTHORITY.—Section 8422 of title 5, United States Code, is amended by adding at the end the following:

''(i)(1) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which such employee or Member may be allowed credit under this chapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

''(2) Interest under this subsection shall be computed in accordance with paragraphs (2) and (3) of section 8334(e) and regulations prescribed by the Office. The option under the third sentence of section 8334(e)(2) to make a deposit in one or more installments shall apply to deposits under this subsection.

''(3) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONAL AMENDMENT.—Section 8401(19)(C) of title 5, United States Code, is amended by striking ''8411(f);'' and inserting ''8411(f) or 8422(i);''.

(2) CREDITING OF DEPOSITS.—Section 8422(c) of title 5, United States Code, is amended by adding at the end the following: ''Deposits made by an employee, Member, or survivor also shall be credited to the Fund.''.

(3) SECTION HEADING.—(A) The heading for section 8422 of title 5, United States Code, is amended to read as follows:

''§ 8422. Deductions from pay; contributions for other service; deposits''.

(B) The analysis for chapter 84 of title 5, United States Code, is amended by striking the item relating to section 8422 and inserting the following:

''8422. Deductions from pay; contributions for other service; deposits.''.

(4) RESTORATION OF ANNUITY RIGHTS.—The last sentence of section 8424(a) of title 5, United States Code, is amended by striking ''based.'' and inserting ''based, until the employee or Member is reemployed in the service subject to this chapter.''.

SEC. 115. RETIREMENT CREDIT FOR SERVICE OF CERTAIN EMPLOYEES TRANSFERRED FROM DISTRICT OF COLUMBIA SERVICE TO FEDERAL SERVICE.

(a) RETIREMENT CREDIT.—

(1) IN GENERAL.—Any individual who is treated as an employee of the Federal Government for purposes of chapter 83 or chapter 84 of title 5, United States Code, on or after the date of enactment of this Act who performed qualifying District of Columbia service shall be entitled to have such service included in calculating the individual's creditable service under sections 8332 or 8411 of title 5, United States Code, but only for purposes of the following provisions of such title:

(A) Sections 8333 and 8410 (relating to eligibility for annuity).

(B) Sections 8336 (other than subsections (d), (h), and (p) thereof) and 8412 (relating to immediate retirement).

(C) Sections 8338 and 8413 (relating to deferred retirement).

(D) Sections 8336(d), 8336(h), 8336(p), and 8414 (relating to early retirement).

(E) Section 8341 and subchapter IV of chapter 84 (relating to survivor annuities).

(F) Section 8337 and subchapter V of chapter 84 (relating to disability benefits).

(2) TREATMENT OF DETENTION OFFICER SERVICE AS LAW ENFORCEMENT OFFICER SERVICE.—Any portion of an individual's qualifying District of Columbia service which consisted of service as a detention officer under section 2604(2) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1–626.04(2), D.C. Official Code) shall be treated as service as a law enforcement officer under sections 8331(20) or 8401(17) of title 5, United States Code, for purposes of applying paragraph (1) with respect to the individual.

(3) SERVICE NOT INCLUDED IN COMPUTING AMOUNT OF ANY ANNUITY.—Qualifying District of Columbia service shall not be taken into account for purposes of computing the amount of any benefit payable out of the Civil Service Retirement and Disability Fund.

(b) QUALIFYING DISTRICT OF COLUMBIA SERVICE DEFINED.—In this section, ''qualifying District of Columbia service'' means any of the following:

(1) Service performed by an individual as a nonjudicial employee of the District of Columbia courts—

(A) which was performed prior to the effective date of the amendments made by section 11246(b) of the Balanced Budget Act of 1997; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(2) Service performed by an individual as an employee of an entity of the District of Columbia government whose functions were transferred to the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee under section 11232 of the Balanced Budget Act of 1997—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government under section 11232(f) of such Act; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(3) Service performed by an individual as an employee of the District of Columbia Public Defender Service—

(A) which was performed prior to the effective date of the amendments made by section 7(e) of the District of Columbia Courts and Justice Technical Corrections Act of 1998; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(4) In the case of an individual who was an employee of the District of Columbia Department of Corrections who was separated from service as a result of the closing of the Lorton Correctional Complex and who was appointed to a position with the Bureau of Prisons, the District of Columbia courts, the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee, the United States Parole Commission, or the District of Columbia Public Defender Service, service performed by the individual as an employee of the District of Columbia Department of Corrections—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(c) CERTIFICATION OF SERVICE.—The Office of Personnel Management shall accept the certification of the appropriate personnel official of the government of the District of Columbia or other independent employing entity concerning whether an individual performed qualifying District of Columbia service and the length of the period of such service the individual performed.

TITLE _____—NON-FOREIGN AREA RETIREMENT EQUITY ASSURANCE

SEC. __01. SHORT TITLE.

This title may be cited as the ''Non-Foreign Area Retirement Equity Assurance Act of 2009'' or the ''Non-Foreign AREA Act of 2009''.

SEC. __02. EXTENSION OF LOCALITY PAY.

(a) LOCALITY-BASED COMPARABILITY PAYMENTS.—Section 5304 of title 5, United States Code, is amended—

(1) in subsection (f)(1), by striking subparagraph (A) and inserting the following:

''(A) each General Schedule position in the United States, as defined under section 5921(4), and its territories and possessions, including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands, shall be included within a pay locality;'';

(2) in subsection (g)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'' after the semicolon;

(ii) in subparagraph (B) by striking the period and inserting ''; and''; and

(iii) by adding after subparagraph (B) the following:

''(C) positions under subsection (h)(1)(C) not covered by appraisal systems certified under section 5382; and''; and

(B) by adding at the end the following:

''(3) The applicable maximum under this subsection shall be level II of the Executive Schedule for positions under subsection (h)(1)(C) covered by appraisal systems certified under section 5307(d).''; and

(3) in subsection (h)(1)—

(A) in subparagraph (B) by striking ''and'' after the semicolon;

(B) by redesignating subparagraph (C) as subparagraph (D);

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

''(C) a Senior Executive Service position under section 3132 or 3151 or a senior level position under section 5376 stationed within the United States, but outside the 48 contiguous States and the District of Columbia in which the incumbent was an individual who on the day before the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009 was eligible to receive a cost-of-living allowance under section 5941; and'';

(D) in clause (iv) in the matter following subparagraph (D), by inserting '', except for members covered by subparagraph (C)'' before the semicolon; and

(E) in clause (v) in the matter following subparagraph (D), by inserting '', except for members covered by subparagraph (C)'' before the semicolon.

(b) ALLOWANCES BASED ON LIVING COSTS AND CONDITIONS OF ENVIRONMENT.—Section 5941 of title 5, United States Code, is amended—

(1) in subsection (a), by adding after the last sentence ''Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) shall be the cost-of-living allowance rate in effect on the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, except as adjusted under subsection (c).'';

(2) by redesignating subsection (b) as subsection (d); and

(3) by inserting after subsection (a) the following:

''(b) This section shall apply only to areas that are designated as cost-of-living allowance areas as in effect on December 31, 2009.

''(c)(1) The cost-of-living allowance rate payable under this section shall be adjusted on the first day of the first applicable pay period beginning on or after—

''(A) January 1, 2010; and

''(B) January 1 of each calendar year in which a locality-based comparability adjustment takes effect under section __04 (2) and (3) of the Non-Foreign Area Retirement Equity Assurance Act of 2009.

''(2)(A) In this paragraph, the term 'applicable locality-based comparability pay percentage' means, with respect to calendar year 2010 and each calendar year thereafter, the applicable percentage under section __04 (1), (2), or (3) of Non-Foreign Area Retirement Equity Assurance Act of 2009.

''(B) Each adjusted cost-of-living allowance rate under paragraph (1) shall be computed by—

''(i) subtracting 65 percent of the applicable locality-based comparability pay percentage from the cost-of-living allowance percentage rate in effect on December 31, 2009; and

''(ii) dividing the resulting percentage determined under clause (i) by the sum of—

''(I) one; and

''(II) the applicable locality-based comparability payment percentage expressed as a numeral.

''(3) No allowance rate computed under paragraph (2) may be less than zero.

''(4) Each allowance rate computed under paragraph (2) shall be paid as a percentage of basic pay (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law).''.

SEC. __03. ADJUSTMENT OF SPECIAL RATES.

(a) IN GENERAL.—Each special rate of pay established under section 5305 of title 5, United States Code, and payable in an area designated as a cost-of-living allowance area under section 5941(a) of that title, shall be adjusted, on the dates prescribed by section __04 of this title, in accordance with regulations prescribed by the Director of the Office of Personnel Management under section __08 of this title.

(b) AGENCIES WITH STATUTORY AUTHORITY.—

(1) IN GENERAL.—Each special rate of pay established under an authority described under paragraph (2) and payable in a location designated as a cost-of-living allowance area under section 5941(a)(1) of title 5, United States Code, shall be adjusted in accordance with regulations prescribed by the applicable head of the agency that are consistent with the regulations issued by the Director of the Office of Personnel Management under subsection (a).

(2) STATUTORY AUTHORITY.—The authority referred to under paragraph (1), is any statutory authority that—

(A) is similar to the authority exercised under section 5305 of title 5, United States Code;

(B) is exercised by the head of an agency when the head of the agency determines it to be necessary in order to obtain or retain the services of persons specified by statute; and

(C) authorizes the head of the agency to increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations.

(c) TEMPORARY ADJUSTMENT.—Regulations issued under subsection (a) or (b) may provide that statutory limitations on the amount of such special rates may be temporarily raised to a higher level during the transition period described in section __04 ending on the first day of the first pay period beginning on or after January 1, 2012, at which time any special rate of pay in excess of the applicable limitation shall be converted to a retained rate under section 5363 of title 5, United States Code.

SEC. __04. TRANSITION SCHEDULE FOR LOCALITY-BASED COMPARABILITY PAYMENTS.

Notwithstanding any other provision of this title or section 5304 or 5304a of title 5, United States Code, in implementing the amendments made by this title, for each non-foreign area determined under section 5941(b) of that title, the applicable rate for the locality-based comparability adjustment that is used in the computation required under section 5941(c) of that title shall be adjusted effective on the first day of the first pay period beginning on or after January 1—

(1) in calendar year 2010, by using ⅓ of the locality pay percentage for the rest of United States locality pay area;

(2) in calendar year 2011, by using ⅔ of the otherwise applicable comparability payment approved by the President for each non-foreign area; and

(3) in calendar year 2012 and each subsequent year, by using the full amount of the applicable comparability payment approved by the President for each non-foreign area.

SEC. __05. SAVINGS PROVISION.

(a) IN GENERAL.—During the period described under section __04 of this title, an employee paid a special rate under 5305 of title 5, United States Code, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, and who continues to be officially stationed in an allowance area, shall receive an increase in the employee's special rate consistent with increases in the applicable special rate schedule. For employees in allowance areas, the minimum step rate for any grade of a special rate schedule shall be increased at the time of an increase in the applicable locality rate percentage for the allowance area by not less than the dollar increase in the locality-based comparability payment for a non-special rate employee at the same minimum step provided under section __04 of this title, and corresponding increases shall be provided for all step rates of the given pay range.

(b) CONTINUATION OF COST OF LIVING ALLOWANCE RATE.—If an employee, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, would receive a rate of basic pay and applicable locality-based comparability payment which is in excess of the maximum rate limitation set under section 5304(g) of title 5, United States Code, for his position (but for that maximum rate limitation) due to the operation of this title, the employee shall continue to receive the cost-of-living allowance rate in effect on December 31, 2009 without adjustment until—

(A) the employee leaves the allowance area or pay system; or

(B) the employee is entitled to receive basic pay (including any applicable locality-based comparability payment or similar supplement) at a higher rate,

but, when any such position becomes vacant, the pay of any subsequent appointee thereto shall be fixed in the manner provided by applicable law and regulation.

(c) LOCALITY-BASED COMPARABILITY PAYMENTS.—Any employee covered under paragraph (2) shall receive any applicable locality-based comparability payment extended under section __04 of this title which is not in excess of the maximum rate set under section 5304(g) of title 5, United States Code, for his position including any future increase to statutory pay limitations under 5318 of title 5, United States Code. Notwithstanding paragraph (2), to the extent that an employee covered under that paragraph receives any amount of locality-based comparability payment, the cost-of-living allowance rate under that paragraph shall be reduced accordingly, as provided under section 5941(c)(2)(B) of title 5, United States Code.

SEC. __06. APPLICATION TO OTHER ELIGIBLE EMPLOYEES.

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection, the term ''covered employee'' means—

(A) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

(II) was not eligible to be paid locality-based comparability payments under 5304 or 5304a of that title; or

(ii) on or after the date of enactment of this Act becomes eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; or

(B) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) was eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) was employed by the Transportation Security Administration of the Department of Homeland Security and was eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) was eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code; or

(ii) on or after the date of enactment of this Act—

(I) becomes eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) becomes eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) is employed by the Transportation Security Administration of the Department of Homeland Security and becomes eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) is eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code.

(2) APPLICATION TO COVERED EMPLOYEES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of this title (including the amendments made by this title) any covered employee shall be treated as an employee to whom section 5941 of title 5, United States Code (as amended by section __02 of this title), and section __04 of this title apply.

(B) PAY FIXED BY STATUTE.—Pay to covered employees under section 5304 or 5304a of title 5, United States Code, as a result of the application of this title shall be considered to be fixed by statute.

(C) PERFORMANCE APPRAISAL SYSTEM.—With respect to a covered employee who is subject to a performance appraisal system no part of pay attributable to locality-based comparability payments as a result of the application of this title including section 5941 of title 5, United States Code (as amended by section __02 of this title), may be reduced on the basis of the performance of that employee.

(b) POSTAL EMPLOYEES IN NON-FOREIGN AREAS.—

(1) IN GENERAL.—Section 1005(b) of title 39, United States Code, is amended—

(A) by inserting ''(1)'' after ''(b)'';

(B) by striking ''Section 5941,'' and inserting ''Except as provided under paragraph (2), section 5941'';

(C) by striking ''For purposes of such section,'' and inserting ''Except as provided under paragraph (2), for purposes of section 5941 of that title,''; and

(D) by adding at the end the following:

''(2) On and after the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009—

''(A) the provisions of that Act and section 5941 of title 5 shall apply to officers and employees covered by section 1003 (b) and (c) whose duty station is in a nonforeign area; and

''(B) with respect to officers and employees of the Postal Service (other than those officers and employees described under subparagraph (A)) of section __06(b)(2) of that Act shall apply.''.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE.—

(A) IN GENERAL.—Notwithstanding any other provision of this title, any employee of the Postal Service (other than an employee covered by section 1003 (b) and (c) of title 39, United States Code, whose duty station is in a nonforeign area) who is paid an allowance under section 1005(b) of that title shall be treated for all purposes as if the provisions of this title (including the amendments made by this title) had not been enacted, except that the cost-of-living allowance rate paid to that employee—

(i) may result in the allowance exceeding 25 percent of the rate of basic pay of that employee; and

(ii) shall be the greater of—

(I) the cost-of-living allowance rate in effect on December 31, 2009 for the applicable area; or

(II) the applicable locality-based comparability pay percentage under section __04.

(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

(i) provide for an employee described under subparagraph (A) to be a covered employee as defined under subsection (a); or

(ii) authorize an employee described under subparagraph (A) to file an election under section __07 of this title.

SEC. __07. ELECTION OF ADDITIONAL BASIC PAY FOR ANNUITY COMPUTATION BY EMPLOYEES.

(a) DEFINITION.—In this section the term ''covered employee'' means any employee—

(1) to whom section __04 applies;

(2) who is separated from service by reason of retirement under chapter 83 or 84 of title 5, United States Code, during the period of January 1, 2010, through December 31, 2012; and

(3) who files an election with the Office of Personnel Management under subsection (b).

(b) ELECTION.—

(1) IN GENERAL.—An employee described under subsection (a) (1) and (2) may file an election with the Office of Personnel Management to be covered under this section.

(2) DEADLINE.—An election under this subsection may be filed not later than December 31, 2012.

(c) COMPUTATION OF ANNUITY.—

(1) IN GENERAL.—Except as provided under paragraph (2), for purposes of the computation of an annuity of a covered employee any cost-of-living allowance under section 5941 of title 5, United States Code, paid to that employee during the first applicable pay period beginning on or after January 1, 2010 through the first applicable pay period ending on or after December 31, 2012, shall be considered basic pay as defined under section 8331(3) or 8401(4) of that title.

(2) LIMITATION.—The amount of the cost-of-living allowance which may be considered basic pay under paragraph (1) may not exceed the amount of the locality-based comparability payments the employee would have received during that period for the applicable pay area if the limitation under section __04 of this title did not apply.

(d) CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

(1) EMPLOYEE CONTRIBUTIONS.—A covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund—

(A) an amount equal to the difference between—

(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during the period described under subsection (c) of this section if the cost-of-living allowances described under that subsection had been treated as basic pay under section 8331(3) or 8401(4) of title 5, United States Code; and

(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period; and

(B) interest as prescribed under section 8334(e) of title 5, United States Code, based on the amount determined under subparagraph (A).

(2) AGENCY CONTRIBUTIONS.—

(A) IN GENERAL.—The employing agency of a covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund an amount for applicable agency contributions based on payments made under paragraph (1).

(B) SOURCE.—Amounts paid under this paragraph shall be contributed from the appropriation or fund used to pay the employee.

(3) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this section.

SEC. __08. REGULATIONS.

(a) IN GENERAL.—The Director of the Office of Personnel Management shall prescribe regulations to carry out this title, including—

(1) rules for special rate employees described under section __03;

(2) rules for adjusting rates of basic pay for employees in pay systems administered by the Office of Personnel Management when such employees are not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, without regard to otherwise applicable statutory pay limitations during the transition period described in section __04 ending on the first day of the first pay period beginning on or after January 1, 2012; and

(3) rules governing establishment and adjustment of saved or retained rates for any employee whose rate of pay exceeds applicable pay limitations on the first day of the first pay period beginning on or after January 1, 2012.

(b) OTHER PAY SYSTEMS.—With the concurrence of the Director of the Office of Personnel Management, the administrator of a pay system not administered by the Office of Personnel Management shall prescribe regulations to carry out this title with respect to employees in such pay system, consistent with the regulations prescribed by the Office under subsection (a). With respect to employees not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, regulations prescribed under this subsection may provide for special payments or adjustments for employees who were eligible to receive a cost-of-living allowance under section 5941 of that title on the date before the date of enactment of this Act.

SEC. __09. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided by subsection (b), this title (including the amendments made by this title) shall take effect on the date of enactment of this Act.

(b) LOCALITY PAY AND SCHEDULE.—The amendments made by section __02 and the provisions of section __04 shall take effect on the first day of the first applicable pay period beginning on or after January 1, 2010.

TITLE _____—PART-TIME REEMPLOYMENT OF ANNUITANTS

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Part-Time Reemployment of Annuitants Act of 2009''.

SEC. ___2. PART-TIME REEMPLOYMENT.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m);

(2) by inserting after subsection (k) the following:

''(l)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (k)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) or (b) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) or (b) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office of Personnel Management or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for the effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) or (b) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (m) (as so redesignated)—

(A) in paragraph (1), by striking ''(k)'' and inserting ''(l)''; and

(B) in paragraph (2), by striking ''or (k)'' and inserting ''(k), or (l)''.

(b) FEDERAL EMPLOYEE RETIREMENT SYSTEM.—Section 8468 of title 5, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j);

(2) by inserting after subsection (h) the following:

''(i)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (h)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (j) (as so redesignated)—

(A) in paragraph (1), by striking ''(h)'' and inserting ''(i)''; and

(B) in paragraph (2), by striking ''or (h)'' and inserting ''(h), or (i)''.

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section may be construed to authorize the waiver of the hiring preferences under chapter 33 of title 5, United States Code in selecting annuitants to employ in an appointive or elective position.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 1005(d)(2) of title 39, United States Code, is amended—

(1) by striking ''(l)(2)'' and inserting ''(m)(2)''; and

(2) by striking ''(i)(2)'' and inserting ''(j)(2)''.

SEC. ___3. GENERAL ACCOUNTABILITY OFFICE REPORT.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report regarding the use of the authority under the amendments made by section ___2.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) include the number of annuitants for whom a waiver was made under subsection (l) of section 8344 of title 5, United States Code, as amended by this title, or subsection (i) of section 8468 of title 5, United States Code, as amended by this title; and

(2) identify each agency that used the authority described in paragraph (1).

(c) AGENCY DATA.—Each head of an agency (as defined under sections 8344(l)(1) and 8468(i)(1)(A) of title 5, United States Code, as added by section ___2 of this title) shall—

(1) collect and maintain data necessary for purposes of the Comptroller General report submitted under subsection (a); and

(2) submit to the Comptroller General that data as the Comptroller General requires in a timely fashion.

SA 1302. Mrs. HAGAN submitted an amendment intended to be proposed to amendment SA 1251 submitted by Mrs. HAGEN and intended to be proposed to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

On page 1 of the amendment, line 6, strike ''includes'' and all that follows through line 7 on page 2, and insert the following: ''means a tobacco product manufacturer that employs fewer than 350 employees. For purposes of determining the number of employees of a manufacturer under the preceding sentence—

''(A) the employees of a manufacturer are deemed to include the employees of each entity that controls, is controlled by, or is under common control with such manufacturer; and

''(B) except that in the case of a farmer owned tobacco grower cooperative that is also tobacco manufacturer, any employees whose responsibilities and compensation in no way support, are connected to, or are dependent upon the manufacture, fabrication, assembly, processing, labeling, storage or marketing of tobacco products, including cigarettes, roll-your-own tobacco, cigars, small cigar or cigarette tubes shall not be deemed employees of the tobacco product manufacturer.''.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before Committee on Energy and Natural Resources Subcommittee on National Parks.

The hearing will be held on Tuesday, June 16, 2009, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the President's proposed fiscal year 2010 budget for the National Park Service and proposed expenditures under the American Recovery and Reinvestment Act.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by email to anna__fox@energy.senate.gov.

For further information, please contact David Brooks at (202) 224–9863 or Anna Fox at (202) 224–1219.

COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, June 11, 2009, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building to conduct an oversight hearing on Reforming the Indian Health Care System.

Those wishing additional information may contact the Indian Affairs Committee at 202–224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Monday, June 8, 2009, at 5:30 p.m.

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

PRIVILEGES OF THE FLOOR

Mr. ENZI. Mr. President, I ask unanimous consent that privileges of the floor be granted to Len Zwelling, a fellow in my office, for the remainder of the debate on H.R. 1256.

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

COMBAT METHAMPHETAMINE ENHANCEMENT ACT OF 2009

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 38, S. 256.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 256) to enhance the ability to combat methamphetamine.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, that there be no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

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

The bill (S. 256) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 256

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Combat Methamphetamine Enhancement Act of 2009''.

SEC. 2. REQUIREMENT OF SELF-CERTIFICATION BY ALL REGULATED PERSONS SELLING SCHEDULED LISTED CHEMICALS.

Section 310(e)(2) of the Controlled Substances Act (21 U.S.C. 830(e)(2)) is amended by inserting at the end the following:

''(C) Each regulated person who makes a sale at retail of a scheduled listed chemical product and is required under subsection (b)(3) to submit a report of the sales transaction to the Attorney General may not sell any scheduled listed chemical product at retail unless such regulated person has submitted to the Attorney General a self-certification including a statement that the seller understands each of the requirements that apply under this paragraph and under subsection (d) and agrees to comply with the requirements. The Attorney General shall by regulation establish criteria for certifications of mail-order distributors that are consistent with the criteria established for the certifications of regulated sellers under paragraph (1)(B).''.

SEC. 3. PUBLICATION OF SELF-CERTIFIED REGULATED SELLERS AND REGULATED PERSONS LISTS.

Section 310(e)(1)(B) of the Controlled Substances Act (21 U.S.C. 830(e)(1)(B)) is amended by inserting at the end the following:

''(v) PUBLICATION OF LIST OF SELF-CERTIFIED PERSONS.—The Attorney General shall develop and make available a list of all persons who are currently self-certified in accordance with this section. This list shall be made publicly available on the website of the Drug Enforcement Administration in an electronically downloadable format.''.

SEC. 4. REQUIREMENT THAT DISTRIBUTORS OF LISTED CHEMICALS SELL ONLY TO SELF-CERTIFIED REGULATED SELLERS AND REGULATED PERSONS.

Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)) is amended—

(1) in paragraph (13), by striking ''or'' after the semicolon;

(2) in paragraph (14), by striking the period and inserting ''; or'';

(3) by inserting after paragraph (14) the following:

''(15) to distribute a scheduled listed chemical product to a regulated seller, or to a regulated person referred to in section 310(b)(3)(B), unless such regulated seller or regulated person is, at the time of such distribution, currently registered with the Drug Enforcement Administration, or on the list of persons referred to under section 310(e)(1)(B)(v).''; and

(4) inserting at the end the following: ''For purposes of paragraph (15), if the distributor is temporarily unable to access the list of persons referred to under section 310(e)(1)(B)(v), the distributor may rely on a

written, faxed, or electronic copy of a certificate of self-certification submitted by the regulated seller or regulated person, provided the distributor confirms within 7 business days of the distribution that such regulated seller or regulated person is on the list referred to under section 310(e)(1)(B)(v).''.

SEC. 5. NEGLIGENT FAILURE TO SELF-CERTIFY AS REQUIRED.

Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)(10)) is amended by inserting before the semicolon the following: ''or negligently to fail to self-certify as required under section 310 (21 U.S.C. 830)''.

SEC. 6. EFFECTIVE DATE AND REGULATIONS.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) REGULATIONS.—In promulgating the regulations authorized by section 2, the Attorney General may issue regulations on an interim basis as necessary to ensure the implementation of this Act by the effective date.

HONORING THE 20TH ANNIVERSARY OF THE SUSAN G. KOMEN RACE FOR THE CURE

Mr. REID. Madam President, I ask unanimous consent that the Senate now proceed to the consideration of H. Con. Res. 109.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 109) honoring the 20th anniversary of the Susan G. Komen Race for the Cure in the Nation's Capital and its transition to the Susan G. Komen Global Race for the Cure on June 6, 2009, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, that there be no intervening action or debate, and any statements related to this matter be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 109) was agreed to.

The preamble was agreed to.

NATIONAL DAY OF THE AMERICAN COWBOY

Mr. REID. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate now proceed to the consideration of S. Res. 142.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 142) designating July 25, 2009, as ''National Day of the American Cowboy.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. ENZI. Madam President, I rise today to talk about one of the great icons of the American West—the cowboy. The cowboy is an enduring symbol of strong character, honesty, integrity, respect, and patriotism. I am proud to carry on a tradition started by my late colleague and friend, Senator Craig Thomas, by sponsoring S. Res. 142, which honors the men and women called cowboys by designating July 25, 2009, the National Day of the American Cowboy.

Craig truly showed us what it meant to be a cowboy. He knew that they come from all walks of life. Cowboys are men and women of any age, any race, and can be found across the country. The cowboy spirit isn't about boots and spurs and a hat. It is about strength of character, sound family values, courage, respect, and good common sense. Senator Thomas said:

Trying to define a cowboy is like trying to rope the wind, but you certainly recognize one when you see them.

It was easy to recognize that Senator Thomas truly was a Wyoming cowboy in every sense of the word.

The cowboy way of life has been passed down for generations since the first cowboys settled the American West. They were true pioneers who came west to settle an untamed frontier. Many of the cowtowns that sprung up around the cattle business when the West was being settled are still there now. They continue to live their western heritage. The first cowboys relied on hard work and persistence to make their living in a tough country. Today's cowboys haven't changed all that much from when the first wranglers and ranch hands started herding cattle on the Great Plains.

Today's cowboys continue to rope and ride across the United States. They live and work in every State to manage nearly 100 million cattle. They are an integral part of the economy of Wyoming and many other Western States. Cowboys work hard but they also play hard. Rodeo is a sport that tests skill with a rope or challenges a cowboy's ability to stay on the back of bucking rough stock for 8 long seconds. Rodeos across the Nation, from big events such as Cheyenne Frontier Days and the National Finals Rodeo in Las Vegas, to weekly smalltown jackpots at community arenas around the country, draw millions of fans every year.

The cowboy legend still lives in our culture and our imaginations through music, movies, and books. From cowboy blockbusters on the big screen to the thousands of country radio stations on the air, the cowboy remains a larger-than-life figure. We look up to cowboys because they are examples of honesty, integrity, character, patriotism and self-reliance. Cowboys have a strong work ethic, they are compassionate, and they are good stewards of the land. We look to cowboys as role models for how to live up to the best American qualities.

I am proud to be from a State that continues to live the cowboy tradition every day. Their contributions have helped shape what it means to be an American and have created a high standard we can all strive to meet. I am proud to continue Senator Thomas's tradition of recognizing the many contributions cowboys have made to our country. I look forward to celebrating the National Day of the American Cowboy on July 25, 2009.

Mr. REID. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 142) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 142

Whereas pioneering men and women, recognized as ''cowboys'', helped establish the American West;

Whereas the cowboy embodies honesty, integrity, courage, compassion, respect, a strong work ethic, and patriotism;

Whereas the cowboy spirit exemplifies strength of character, sound family values, and good common sense;

Whereas the cowboy archetype transcends ethnicity, gender, geographic boundaries, and political affiliations;

Whereas the cowboy is an excellent steward of the land and its creatures, who lives off the land and works to protect and enhance the environment;

Whereas cowboy traditions have been a part of American culture for generations;

Whereas the cowboy continues to be an important part of the economy through the work of many thousands of ranchers across the Nation who contribute to the economic well-being of every State;

Whereas millions of fans watch professional and working ranch rodeo events annually, and rodeo is one of the most-watched sports in the Nation;

Whereas membership and participation in rodeo and other organizations that promote and encompass the livelihood of cowboys span every generation and transcend race and gender;

Whereas the cowboy is a central figure in literature, film, and music and occupies a central place in the public imagination;

Whereas the cowboy is an American icon; and

Whereas the ongoing contributions made by cowboys and cowgirls to their communities should be recognized and encouraged: Now, therefore, be it

Resolved, That the Senate—

(1) designates July 25, 2009, as ''National Day of the American Cowboy''; and

(2) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

20TH ANNIVERSARY OF TIANANMEN SQUARE MASSACRE

Mr. REID. Madam President, I ask unanimous consent the Senate now proceed to S. Res. 171.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 171) commending the people who have sacrificed their personal freedoms to bring about democratic change

in the People's Republic of China and expressing sympathy for the families of the people who were killed, wounded, or imprisoned, on the occasion of the 20th anniversary of the Tiananmen Square Massacre in Beijing, China from June 3 through 4, 1989.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 171) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, was agreed to, as follows:

S. RES. 171

Whereas freedom of expression, assembly, association, and religion are fundamental rights that all people should be able to possess and enjoy;

Whereas, in April 1989, in a demonstration of democratic progress, thousands of students took part in peaceful protests against the communist government of the People's Republic of China in the capital city of Beijing;

Whereas, throughout the month of May 1989, the students, in peaceful demonstrations, drew more people, young and old and from all walks of life, into central Beijing to demand better democracy, basic freedoms of speech and assembly, and an end to corruption;

Whereas, from June 3 through 4, 1989, the Government of China ordered members of the People's Liberation Army to enter Beijing and clear Tiananmen Square (located in central Beijing) by lethal force;

Whereas, by June 7, 1989, the Red Cross of China reported that the People's Liberation Army had killed more than 300 people in Beijing, although foreign journalists who witnessed the events estimate that thousands of people were killed and thousands more wounded;

Whereas more than 20,000 people in China were arrested and detained without trial, due to their suspected involvement in the protests at Tiananmen Square;

Whereas, according to the Department of State, the Government of China has worked to censor information about the massacre at Tiananmen Square by blocking Internet sites and other media outlets, along with other sensitive information that would be damaging to the Government of China;

Whereas the Government of China has continued to deny basic human rights, such as freedom of speech and religion;

Whereas, during the 2008 Olympic Games, the Government of China promised to provide the international media covering the Olympic Games with the same access given the media at all the other Olympic Games, but denied access to certain internet sites and media outlets in attempts to censor free speech;

Whereas the Department of State Human Rights Report for 2008 found that the Government of China had increased already severe cultural and religious suppression of ethnic minorities in Tibetan areas and the Xinjiang Uighur Autonomous Region, detained and harassed dissidents and journalists, and maintained tight controls on freedom of speech and the Internet;

Whereas the United States Commission on International Religious Freedom in 2009 stated, ''The Chinese government continues to engage in systematic and egregious violations of the freedom of religion or belief, with religious activities tightly controlled and some religious adherents detained, imprisoned, fined, beaten, and harassed.''; and

Whereas the China Aid Association reported that in 2007, Christians were detained or arrested and Christian house church groups were persecuted by the Government of China: Now, therefore, be it

Resolved, That the Senate—

(1) commends the people who demonstrated at Tiananmen Square and elsewhere in the People's Republic of China in 1989, many of whom sacrificed their lives and freedom to—

(A) bring about democratic change in China; and

(B) gain freedom of expression, assembly, association, and religion for the people of China;

(2) expresses its sympathy for the families of the people who were killed, wounded, or imprisoned due to their involvement in the peaceful protests in Tiananmen Square in Beijing, China from June 3 through 4, 1989;

(3) condemns the ongoing human rights abuses by the Government of China;

(4) calls on the Government of China to—

(A) release all prisoners that are—

(i) still in captivity as a result of their involvement in the events from June 3 through 4, 1989, at Tiananmen Square; and

(ii) imprisoned without cause;

(B) allow freedom of speech and access to information, especially information regarding the events at Tiananmen Square in 1989; and

(C) cease all harassment, intimidation, and unjustified imprisonment of—

(i) members of religious and minority groups; and

(ii) people who disagree with policies of the Government of China;

(5) supports efforts by free speech activists in China and elsewhere who are working to overcome censorship (including censorship of the Internet) and the chilling effect of censorship; and

(6) urges the President to continue to support peaceful advocates of free speech around the world.

NATIONAL APHASIA AWARENESS MONTH

Mr. REID. Madam President, I ask unanimous consent to proceed to S. Res. 172.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 172) designating June 2009 as ''National Aphasia Awareness Month'' and supporting efforts to increase awareness of aphasia.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, there be no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

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

The resolution (S. Res. 172) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 172

Whereas aphasia is a communication impairment caused by brain damage that typically results from a stroke;

Whereas, while aphasia is most often the result of stroke or brain injury, it can also occur with other neurological disorders, such as a brain tumor;

Whereas many people with aphasia also have weakness or paralysis in the right leg and right arm, usually due to damage to the left hemisphere of the brain, which controls language and movement on the right side of the body;

Whereas the effects of aphasia may include a loss of or reduction in the ability to speak, comprehend, read, and write, but the intelligence of a person with aphasia remains intact;

Whereas, according to the National Institute of Neurological Disorders and Stroke (referred to in this resolution as the ''NINDS''), stroke is the 3rd-leading cause of death in the United States, ranking behind heart disease and cancer;

Whereas stroke is a leading cause of serious, long-term disability in the United States;

Whereas the NINDS estimates that there are about 5,000,000 stroke survivors in the United States;

Whereas the NINDS estimates that people in the United States suffer about 750,000 strokes per year, with approximately ⅓ of the strokes resulting in aphasia;

Whereas, according to the NINDS, aphasia affects at least 1,000,000 people in the United States;

Whereas the NINDS estimates that more than 200,000 people in the United States acquire the disorder each year;

Whereas the National Aphasia Association is a unique organization that provides communication strategies, support, and education for people with aphasia and their caregivers throughout the United States; and

Whereas, as an advocacy organization for people with aphasia and their caregivers, the National Aphasia Association envisions a world that recognizes the ''silent'' disability of aphasia and provides opportunity and fulfillment for people affected by aphasia: Now, therefore, be it

Resolved, That the Senate—

(1) designates June 2009 as ''National Aphasia Awareness Month'';

(2) supports efforts to increase awareness of aphasia;

(3) recognizes that strokes, a primary cause of aphasia, are the 3rd-largest cause of death and disability in the United States;

(4) acknowledges that aphasia deserves more attention and study in order to find new solutions for serving individuals experiencing aphasia and their caregivers;

(5) supports efforts to make the voices of people with aphasia heard, because people with aphasia are often unable to communicate with others; and

(6) encourages all people in the United States to observe National Aphasia Awareness Month with appropriate events and activities.

MEASURE READ THE FIRST TIME—H.R. 31

Mr. REID. Madam President, H.R. 31 is at the desk and has been received from the House; is that correct?

The PRESIDING OFFICER. The leader is correct.

Mr. REID. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 31) to provide for the recognition of the Lumbee Tribe of North Carolina, and for other purposes.

Mr. REID. Madam President, I would first ask for its second reading but object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will receive its second reading on the next legislative day.

UNANIMOUS CONSENT AGREEMENT—H.R. 1256

Mr. REID. Madam President, I ask unanimous consent that the vote in relation to the Burr-Hagan amendment No. 1246 occur at 4:30 p.m. tomorrow, Tuesday, June 9, and that no amendment be in order to the amendment prior to a vote in relation thereto.

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

UNANIMOUS CONSENT AGREEMENT—JOINT REFERRAL

Mr. REID. Madam President, as in executive session, I ask unanimous consent that the nomination of Raymond M. Jefferson to be Assistant Secretary of Labor for Veterans' Employment and Training, received by the Senate on June 2, 2009, be jointly referred to the HELP and Veterans' Affairs Committees.

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

ORDERS FOR TUESDAY, JUNE 9, 2009

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until tomorrow morning, June 9, at 10 a.m.; that following the prayer and the pledge, the Journal of proceedings be approved to date and the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business for up to 1 hour, with the time equally divided between the two leaders or their designees, with the majority controlling the first half, the Republicans controlling the second half, and with Senators permitted to speak therein for up to 10 minutes each; that following morning business, the Senate will resume consideration of Calendar No. 47, H.R. 1256, the Family Smoking Prevention and Tobacco Control Act. Further, I ask that the Senate recess from 12:30 p.m. until 2:15 p.m. to allow for the weekly caucus luncheons. Finally, I ask that the time during any adjournment, recess, or period of morning business count postcloture to the matter now before the Senate, the tobacco legislation.

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

PROGRAM

Mr. REID. Madam President, tomorrow, the Senate will resume consideration of the FDA tobacco legislation. Earlier tonight, cloture was invoked on the substitute amendment. Tomorrow, we will continue to work through amendments. We have indicated from the very beginning that those amendments are germane to the bill, we would be happy to work on those. If there are others we can work something out on, we would be happy to do that. Rollcall votes could occur throughout the day. Tonight, we were able to reach an agreement for a vote at 4:30 on the pending Burr substitute amendment. Senators will be notified when any additional votes are scheduled.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:51 p.m., adjourned until Tuesday, June 9, 2009, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF TRANSPORTATION

POLLY TROTTENBERG, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION, VICE TYLER D. DUVALL, RESIGNED.

FEDERAL COMMUNICATIONS COMMISSION

ROBERT MALCOLM MCDOWELL, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF FIVE YEARS FROM JULY 1, 2009. (REAPPOINTMENT)

DEPARTMENT OF STATE

ANNE ELIZABETH DERSE, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LITHUANIA.

DAVID C. JACOBSON, OF ILLINOIS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO CANADA.

CARLOS PASCUAL, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MEXICO.

ARTURO A. VALENZUELA, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF STATE (WESTERN HEMISPHERE AFFAIRS), VICE THOMAS A. SHANNON, JR., RESIGNED.

DEPARTMENT OF EDUCATION

THELMA MELENDEZ DE SANTA ANA, OF CALIFORNIA, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION, VICE KERRI LAYNE BRIGGS.

THE JUDICIARY

STUART GORDON NASH, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE RAFAEL DIAZ, TERM EXPIRED.

DEPARTMENT OF JUSTICE

IGNACIA S. MORENO, OF NEW YORK, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE RONALD JAY TENPAS, RESIGNED.

SMALL BUSINESS ADMINISTRATION

WINSLOW LORENZO SARGEANT, OF WISCONSIN, TO BE CHIEF COUNSEL FOR ADVOCACY, SMALL BUSINESS ADMINISTRATION, VICE THOMAS M. SULLIVAN.