country and not to travel to Greece: Now, therefore, be it

Resolved, That the Senate—

(1) urges the Government of the former Yugoslav Republic of Macedonia to work within the framework of the United Nations process with Greece to achieve longstanding United States and United Nations policy goals; and

(2) the Government of the former Yugoslav Republic of Macedonia to abstain from hostile activities and stop violating provisions of the United Nations-brokered Interim Agreement between the former Yugoslav Republic of Macedonia and Greece regarding "hostile activities or propaganda".

AMENDMENTS SUBMITTED AND PROPOSED

SA 1257. Mr. ENSIGN 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.

SA 1258. Mr. ENSIGN 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:

TEXT OF AMENDMENTS

SA 1257. Mr. ENSIGN 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.

SA 1258. Mr. ENSIGN 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:

At the appropriate place, insert the following:

SEC. __. INCREASED CONTRIBUTIONS FROM USERS OF TOBACCO PRODUCTS UNDER FEDERAL EMPLOYEES HEALTH BENEFITS PLANS.

(a) IN GENERAL.—Section 8906 of title 5, United States Code, is amended—

(1) in subsection (a)(2), by striking "and" and inserting "(i), and (j)"; and

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

"(j)(1) With respect to the monthly premium amount under this section for months after December 2010, the Secretary shall adjust (under procedures established by the Secretary) the amount of such premium for each individual based on whether or not the individual refrains from tobacco use. Such procedures shall include providing an individual premium adjustment for the proceeding year with the opportunity to have the amount of such increase for the year refunded in whole or in part if the individual demonstrates to the Secretary that the individual now refrains from tobacco use.

(2) In making the adjustments under paragraph (1) for a month, the Secretary shall ensure that the total amount of premiums to be paid under this part for the month is equal to the total amount of premiums that would have been paid under this part for the month if no such adjustments had been made, as estimated by the Secretary.

SA 1259. Mr. BENNETT 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:

"(3) The Government contribution paid for each enrollee, as applicable, shall be—

"(A) reduced by the dollar amount of the increase adjusted under paragraph (2)(A); or

"(B) increased by the dollar amount of the reduction adjusted under paragraph (2)(B)."

(b) REGULATIONS.—The Office of Personnel Management shall prescribe regulations to carry out the amendment made by this section.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to contracts entered into under section 8902 of title 5, United States Code, that take effect on or after such date.
At the appropriate place, insert the following:

SEC. 921. ESTABLISHMENT OF TOBACCO PHASE OUT PROGRAM.

(a) In General.—The Secretary shall establish a program to require annual reductions in the sale of cigarettes.

(b) Requirement.—

(1) In General.—Under the program under subsection (a), each tobacco product manufacturer shall annually certify to the Secretary that—

(A) with respect to cigarettes made by such manufacturer, the total number of such cigarettes sold during the preceding year, or

(B) such manufacturer has purchased an additional cigarette sales allotment from another manufacturer as provided for in subsection (c).

(2) Initial Certification.—With respect to the first year for which a certification is submitted by a tobacco product manufacturer, the 1 percent reduction required under paragraph (1) shall not apply.

(c) ADDITIONAL CIGARETTE SALES ALLOTMENT.—

(1) In General.—A tobacco product manufacturer (referred to in this subsection as the ‘contracting manufacturer’) to which this section applies may enter into a contract with one or more additional manufacturers (referred to in this subsection as a ‘decreased sales manufacturer’) to purchase from such manufacturers an additional sales allotment.

(2) Requirements.—A contract entered into under paragraph (1) shall—

(A) require the decreased sales manufacturer to provide for a further reduction in the total number of cigarettes sold during the year involved (beyond that required under subsection (b)(1)) by an amount equal to the additional sales allotment provided for in the contract; and

(B) permit the contracting manufacturer to increase the total number of cigarettes sold during the year involved by an amount equal to the additional sales allotment provided for in the contract.

(3) ADDITIONAL SALES ALLOTMENT.—In this subsection, the term ‘additional sales allotment’ means cigarettes by which the decreased sales manufacturer agrees to further reduce its sales during the year involved.

(4) Enforcement.—

(A) In General.—A tobacco product manufacturer that fails to comply with the requirement of subsection (b) for any year shall be subject to an annual penalty in an amount equal to $2 multiplied by the number of cigarettes by which such manufacturer has failed to comply with such subsection (b).

(B) Use of amounts.—

(1) By United States government.—The amounts collected under paragraph (4) shall be used to carry out paragraph (2).

(2) Use of amounts.—

(A) Amount collected under paragraph (4) shall be used to reimburse the Secretary for the costs of implementing the program under this section.

(B) Use of proceeds.—The proceeds from the sale of such cigarettes shall be used to—

(1) Carry out the campaign under section 916.

(2) 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:

SA 1260. Mr. BURR 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:

In section 102(a) of division A, strike paragraph (2) and insert the following:

(2) Advertising in general.—Beginning on the date that is 1 year from date of enactment of this Act, the advertisement of tobacco products, through any form of media, shall be prohibited.

SA 1263. Mr. BURR 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:

In section 900 of the Federal Food Drug, and Cosmetic Act (as added by section 101), strike paragraph (7) and insert the following:

(7) Tobacco product manufacturer means a tobacco product manufacturer whose share, expressed as a percentage, of the total number of individual cigarettes sold in the United States, the District of Columbia, and Puerto Rico during the calendar year at issue, as measured by excise taxes collected by the Federal Government of the United States, in the case of cigarettes sold in the United States, and by the Puerto Rico, by arbitrios de cigarillos collected by the Puerto Rico taxing authority,
is less than 10 percent. For purposes of calculating the share under this paragraph, 0.09 ounces of ‘roll your own’ tobacco shall constitute one individual cigarette. With respect to tobacco products manufactured that sells tobacco products others than cigarettes and does not also sell cigarettes, the term ‘small tobacco product manufacturer’ means a tobacco product manufacturer that employs fewer than 350 employees.”

SA 1264. Mr. BURR 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:

In section 102(a)(2), insert after subparagraph (D) the following:

“(E) strike ‘and in paragraph (b)(2) of this section’ from section 897.14(b)(1), and strike section 897.14(b)(2);”.

SA 1265. Mr. ALEXANDER (for himself, Mr. VITTER, Mr. CORNYN, Mr. ISAKSON, and Mr. ROBERTS) 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. 3. RESTRICTIONS ON TARP EXPENDITURES FOR AUTOMOBILE MANUFACTURERS—ORS FOR AUTOMOBILE MANUFACTURERS.—Strikes and insert the following:

(a) SHORT TITLE.—This section may be cited as the ‘Auto Stock for Every Taxpayer Act’.

(b) PROHIBITION ON FURTHER TARP FUNDS FOR AUTOMOBILE MANUFACTURERS.—Strikes and insert the following:

(i) 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;

(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; and

(C) the term ‘eligible taxpayer’ means any individual taxpayer who filed a Federal taxable return for taxable year 2008 (including any joint return) not later than the due date for such return (including any extension); and

(d) REQUIRED ISSUANCE OF COMMON STOCK TO ELIGIBLE TAXPAYERS.—Not later than 1 year after the emergence of any designated automobile manufacturer from bankruptcy protection described in subsection (c)(1)(B), the Secretary shall issue a certificate of common stock to each eligible taxpayer, which shall represent such taxpayer’s share of the aggregate common stock holdings of the United States Government in the designated automobile manufacturer on such date.

(e) CIVIL ACTIONS AUTHORIZED.—A person who is aggrieved of a violation of the fiduciary duty established under subsection (c), may bring a civil action in an appropriate United States district court to obtain injunctive or other equitable relief relating to the violation.

(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;

(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; and

(C) the term ‘eligible taxpayer’ means any individual taxpayer who filed a Federal taxable return for taxable year 2008 (including any joint return) not later than the due date for such return (including any extension);

(2) the term ‘eligible taxpayer’ means any individual taxpayer who filed a Federal taxable return for taxable year 2008 (including any joint return) not later than the due date for such return (including any extension);

(3) the term ‘Secretary’ means the Secretary of the Treasury or the designee of the Secretary; and


SA 1266. Mr. ENNSIGN 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:

At the appropriate place, insert the following:

SEC. 3. HEALTHY BEHAVIOR INCENTIVE PROGRAMS.

(a) MEDICAID STATE PLAN AMENDMENT.—Section 1902 of the Social Security Act (42 U.S.C. 1397gg(e)) is amended—

(1) in subsection (a)—

(A) in paragraph (73), by striking ‘and’ at the end;

(B) in paragraph (74), by striking the period at the end and inserting ‘; and’; and

(C) by inserting after paragraph (73), the following new paragraph:

‘(74) provide that, not later than October 1, 2011, the State shall provide assurances to the Secretary that the State has in effect a program described in subsection (gg) to reward and encourage individuals determined to be eligible for medical assistance under the plan to reduce or eliminate their use of tobacco products;’.

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

‘(gg)(1) For purposes of subsection (a)(74), a program described in this subsection is a program under which the State—

(A) provides incentives to reward individuals determined to be eligible for medical assistance under the State plan who have attained age 19 but not attained age 65, to condition the individual’s enrollment in the State plan on participating in the program; and

(B) notwithstanding any other provision of this title, may elect with respect to individuals determined to be eligible for medical assistance under the State plan who have attained age 19 but not attained age 65, to condition the individual’s enrollment in the State plan on participating in the program;’.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX or a State child health plan under title XXI of the Social Security Act, which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of this title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

SA 1267. Mr. CHAMBLISS (for himself and Mr. ROBERTS) 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
SA 1268. Mr. CHAMBLISS (for himself and Mr. ROBERTS) 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 pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).''.

(4) The American Association of Colleges of Nursing (in this section referred to as the ‘‘AACN’’) estimates that 49,948 applicants were turned away specifically from baccalaureate nursing in 2008 and over 70 percent of the schools responding to the AACN survey reported a lack of nurse faculty as the number 1 reason for turning away qualified applicants. Likewise, nearly 70 percent of the associate degree registered nurse programs responding to the most recent American Association of Community Colleges survey reported a lack of faculty to teach as the number 1 reason for turning away qualified applicants.

(5) Large numbers of faculty members at schools of nursing in the United States are nearing retirement. According to the AACN, the average age of a nurse faculty member is 55 years old and the average age at retirement is 62.

(6) The current nationwide nurse faculty vacancy rate is estimated to be as high as 7.6 percent, including 81 vacant positions at schools of nursing, baccalaureate and advanced degrees and, in 2006, as many as 880 in associate degree programs.

(7) Market forces have created disincentives for individuals qualified to become nurse educators from pursing this career. The average annual salary for an associate professor in the science of nursing, with a master’s degree is nearly 20 percent less than the average salary for a nurse practitioner with a master’s degree, according to the 2007 salary survey by the journal ADVANCE for Nurse Practitioners.

(8) The most recent Health Resources and Services Administration survey data indicates that over 2,000,000 registered nurses, only 143,133 registered nurses with a bachelor’s degree and only 51,318 registered nurses with an associate’s degree have continued their education to earn a master’s degree in the science of nursing, the minimum credential necessary to teach in all types of registered nurse programs. The majority of these graduates do not become nurse educators.

(9) Current Federal incentive programs to encourage nurses to become educators are inadequate and inaccessible for many interested nurses.

(10) A broad incentive program must be available to willing and qualified nurses that will provide financial support and encourage them to pursue and maintain a career in nursing education.

SEC. 3. NURSE FACULTY LOAN REPAYMENT PROGRAM

Part E of title VIII of the Public Health Service Act (42 U.S.C. 297a et seq.) is amended by inserting after section 866A the following:

Section 846B. Nurse Faculty Loan Repayment Program.

"(a) Establishment.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may enter into an agreement with eligible individuals for the repayment of education loans, in accordance with this section, to increase the number of qualified nursing faculty."

"(b) Agreements.—Each agreement entered into under subsection (a) shall require that the eligible individual shall serve as a full-time member of the faculty of an accredited school of nursing for a total period, in the aggregate, of at least 4 years during the 6-year period beginning on the later of—"

"(1) the date on which the individual receives a master’s or doctorate nursing degree from an accredited school of nursing; or"

"(2) the date on which the individual enters into an agreement under subsection (a)."

"(c) Agreement Provisions.—Agreements entered into pursuant to subsection (b) shall be entered into on such terms and conditions as the Secretary may determine, except that—"

"(1) not more than 360 days after the date on which the 6-year period described under subsection (b) begins, but in no case before the individual starts as a full-time member of the faculty of an accredited school of nursing, the Secretary shall make available to the Secretary for making loan repayments, and on behalf of the individual, on the outstanding principal of, and interest on, any loan the individual obtained to finance such degree;"

"(2) for an individual who has completed a master’s degree in nursing—"

"(A) payments may not exceed $20,000 per calendar year; and"

"(B) total payments may not exceed $80,000; and"

"(3) for an individual who has completed a doctorate degree in nursing—"

"(A) payments may not exceed $30,000 per calendar year; and"

"(B) total payments may not exceed $120,000; and"

"(4) Breach of Agreement.—"

"(1) In General.—In the case of any agreement made under subsection (a), the individual is liable to the Federal Government for the total amount paid by the Secretary under such agreement, and for interest on the amount, at such prevailing rate, if the individual fails to meet the agreement terms required under subsection (b)."

"(2) Waiver or Suspension of Liability.—In the case of an individual making an agreement for purposes of paragraph (1), the Secretary shall provide for the waiver or suspension of paragraph if compliance by the individual with the agreement involved is impossible or would involve extreme hardship to the individual or if enforcement of the agreement with respect to the individual would be unconscionable.

"(3) Date Certain for Recovery.—Subject to paragraph (2), any amount that the Federal Government is entitled to recover under paragraph (1) shall be paid to the United States not later than the expiration of the 3-year period beginning on the date the United States becomes so entitled.

"(4) Availability.—Amounts recovered under paragraph (1) shall be available to the Secretary for making loan repayments under this section and shall remain available for such purpose until expended.

"(e) Eligible Individual Defined.—For purposes of this section, the term 'eligible individual' means an individual who—"

"(1) is a United States citizen, national, or lawful permanent resident;

"(2) holds an unencumbered license as a registered nurse; and

"(3) has either already completed a master’s or doctorate nursing program at an accredited school of nursing or is currently enrolled on a full-time or part-time basis in such a program.

"(f) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2010 through 2014 to carry out this Act. Such sums shall remain available until expended.

"(g) Sunset.—The provisions of this section shall terminate on December 31, 2020."
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. . REIMBURSEMENT OF AUTOMOBILE DISTRIBUTORS.

(a) In General.—Notwithstanding any other provision of law, any funds provided by the United States Government, or any agency, department, or subdivision thereof, to an automobile manufacturer or a distributor thereof as credit, loans, financing, advances, or by any other agreement between the automobile manufacturer or a distributor's proceeding as a debtor under title 11, United States Code, shall be conditioned upon use of such funds to fully reimburse all dealers of such automobile manufacturer or manufacturer's distributor for—

(1) the cost incurred by such dealers in acquiring and inventorying the dealer's possession as of the date on which the proceeding under title 11, United States Code, by or against the automobile manufacturer or manufacturer's distributor is commenced, on the same basis as if the dealers were terminating pursuant to existing franchise agreements or dealer agreements; and

(2) losses sustained by such automobile manufacturer or manufacturer's distributor under any other agreement between the dealers and the automobile manufacturer or manufacturer's distributor and the Government (or any agency, department, or subdivision thereof) shall expressly provide for the use of such funds as required by this section.

A bankruptcy court may not authorize the automobile manufacturer or manufacturer's distributor and the Government (or any agency, department, or subdivision thereof) to pay for the use of such funds as required by this section 364 of title 11, United States Code, unless the credit agreement or agreements expressly provide for the use of funds as required by this section.

(b) EFFECTIVENESS OF REJECTION.—Notwithstanding any other provision of law, any rejection by an automobile manufacturer or manufacturer's distributor of a Debtor in a proceeding under title 11, United States Code, of a franchise agreement or dealer agreement pursuant to section 365 of that title, shall not be effective until at least 180 days after the date on which such rejection is otherwise approved by a bankruptcy court.

SA 1271. Mr. KOHL (for himself, Ms. SNOWE, and Mrs. GILLBRAND) submitted an amendment intended to be proposed by Mr. 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 A, add the following:

TITLE —PREVENT ALL CIGARETTE TRAFFICKING ACT

SEC. . 01. SHORT TITLE; PURPOSES.

(a) SHORT TITLE.—This title may be cited as the "Prevent All Cigarette Trafficking Act of 2009" or "FACT Act".

(b) PURPOSES.—It is the purpose of this title to—

(1) require Internet and other remote sell-

er of cigarettes and smokeless tobacco to comply with the same laws that apply to tobacco retailers;

(2) operate a system to combat illegal smuggling of tobacco products;

(3) provide government enforcement officials with more effective enforcement tools to combat illegal tobacco trafficking;

(4) make it more difficult for cigarette and smokeless tobacco traffickers to engage in and profit from their illegal activities;

(5) increase collections of Federal, State, and local excise taxes on cigarettes and smokeless tobacco; and

(6) reduce youth access to inexpensive cigarettes and smokeless tobacco through illegal Internet or contraband sales.

SEC. . 02. COLLECTION OF STATE CIGARETTE AND SMOKELESS TOBACCO TAXES.

(a) DEFINITIONS.—As used in this Act, the following definitions apply:

(1) ATTORNEY GENERAL.—The term ‘attor-

ney general’ shall be deemed to have the meaning given that term in section 10151 of title 18, United States Code.

(2) CIGARETTE.—

(A) the consumer submits the order for delivery;

(B) CIGARETTE.—The term ‘cigarette’ does not include a cigar (as defined in section 5702 of the Internal Revenue Code of 1986).

(3) COMMON CARRIER.—The term ‘common

carrier’ means any person (other than a local messenger service or the United States Postal Service) that holds itself out to the general public as engaged in the transportation by water, land, or air of merchandise (regardless of whether the person actually operates the vehicle, vessel, or aircraft, or whether the transportation is provided) between a port or place and a port or place in the United States.

(4) CONSUMER.—The term ‘consumer’—

(A) means a person who purchases cigarettes or smokeless tobacco; and

(B) does not include any person lawfully operating as a manufacturer, distributor, wholesaler, or retailer of cigarettes or smokeless tobacco.

(5) DELIVERY SALE.—The term ‘delivery sale’ means any sale of cigarettes or smokeless tobacco to a consumer—

(A) the consumer submits the order for the sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for pur-

chase or order is made; or

(B) the sale of smokeless tobacco are delivered to the buyer by common carrier, private delivery service, or other method of remote delivery, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.

(6) DELIVERY SELLER.—The term ‘delivery

seller’ means a person who makes a delivery sale.

(7) INDIAN COUNTRY.—The term ‘Indian

country’—

(A) has the meaning given that term in section 1151 of title 18, United States Code, except that within the State of Alaska that area applies only to the Indian Community, Annette Island Reserve; and

(B) includes any other land held by the United States in trust or restricted status for one or more Indian tribes.

(8) INDIAN TRIBE.—The term ‘Indian tribe’, ‘tribe’, or ‘tribal’ refers to an Indian tribe as defined in section 602 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 459b(c)) or as listed pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1).

(9) INTERSTATE COMMERCE.—The term ‘interstate commerce’ means commerce between a State and any place outside the State, commerce between a State and any Indian country in the State, or commerce between points in the same State but through any place outside the State or through any Indian country.

(10) PERSON.—The term ‘person’ means an individual, corporation, company, association, firm, partnership, society, State government, or political subdivision thereof, a local government, governmental organization of such a government, or joint stock company.

(11) STATE.—The term ‘State’ means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(12) SMOKELESS TOBACCO.—The term ‘smokeless tobacco’ means any finely cut, ground, powdered, or leaf tobacco, or other product containing tobacco, that is intended to be placed in the oral mucous membrane or otherwise consumed without being burned.

(13) TOBACCO TAX ADMINISTRATOR.—The term ‘tobacco tax administrator’ means the State, local, or tribal official duly authorized to collect the tobacco tax or administer the tax law of a State, locality, or tribe, respectively.

(14) USE.—The term ‘use’ includes the consumption, storage, handling, or disposal of cigarettes or smokeless tobacco.

(b) RULE OF CONSTRUCTION.—For purposes of this Act, a sale, shipment, or transfer of cigarettes or smokeless tobacco that is made in Indian country in the State, or that is otherwise not in the physical presence of the buyer when the request for purchase or order is made, shall be deemed to have been made into the State, place, or locality in which such cigarettes or smokeless tobacco are delivered.

(b) REPORTS TO STATE TOBACCO TAX ADMINISTRATORS.—Section 2 of the Jenkins Act (15 U.S.C. 376) is amended by—

(1) by striking "cigarettes" and inserting "cigarettes or smokeless tobacco";

(2) in subsection (a)—

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

(i) by inserting "Contents.—" after "(a)";

(ii) by striking "or transfers" and insert-

ing "transfers, ships, or";

(B) in paragraph (1)—

(i) by striking "with the tobacco tax ad-

ministrator of the State" and inserting "with the Attorney General of the United States and with the tobacco tax administra-

tor of the State and place"; and

(ii) by striking "; and" and inserting the fol-

lowing: "; as well as telephone numbers..."
for each place of business, a principal electronic mail address, any website addresses, and the name, address, and telephone number of an agent in the State authorized to accept service on behalf of the person;".

(2) In paragraph (2), by striking "and the quantity thereof." and inserting "the quantity thereof, and the name, address, and telephone number of an agent in the State authorized to accept service on behalf of the person through the shipment to the recipient on behalf of the delivery seller, with all invoice or memoranda information relating to specific customers to be organized by city or town and by zip code; and"

(3) by adding at the end the following:

"(d) In subsection (a), with respect to each memorandum or invoice that is used as the basis for the purposes of the enforcement of this Act and the collection of any taxes owed on sales of cigarettes or smokeless tobacco, the delivery seller shall keep confidential any personal information in the memorandum or invoice except as required for such purposes.".

(c) REQUIREMENTS FOR DELIVERY SALES.

The Jenkins Act is amended—

"(a) IN GENERAL.—With respect to delivery sales into a specific State and place, each delivery seller shall comply with—

"(1) the shipping requirements set forth in subsection (b);

"(2) common recordkeeping requirements set forth in subsection (c); and

"(3) all State, local, tribal, and other laws generally applicable to sales of cigarettes or smokeless tobacco that occurred entirely within the State and place, including laws imposing—

"(A) excise taxes;

"(B) licensing and tax-stamping requirements;

"(C) restrictions on sales to minors; and

"(D) other payment obligations or legal requirements relating to the sale, distribution, or delivery of cigarettes or smokeless tobacco; and

"(4) the tax collection requirements set forth at paragraph (d)."

"(b) SHIPPING AND PACKAGING.—

"(1) REQUIRED STATEMENT.—For any shipping package containing cigarettes or smokeless tobacco, the delivery seller shall include on the bill of lading, if any, and on the outside of the shipping package, on the same surface as the delivery address, a clear and conspicuous statement providing as follows:

"(CIGARETTES/SMOKELESS TOBACCO: FEDERAL LAW REQUIRES THE PAYMENT OF ALL APPLICABLE EXCISE TAXES, LICENSES, TAX STAMPS, AND APPLICABLE LICENSING AND TAX-STAMPING OBLIGATIONS."

"(2) FAILURE TO LABEL.—Any shipping package containing cigarettes or smokeless tobacco, the delivery seller shall not be subject to any changes or supplementation by the delivery seller.

"(c) RECORDS.—

"(1) IN GENERAL.—Each delivery seller shall keep a record of any delivery sale, including all of the information described in section 2(a)(2), organized by the State, and within the State, by the city or town and by zip code, into which the delivery sale is so incurred entirely within the specific State and place, by government and businesses for the purpose of the enforcement of this Act and the collection of any taxes owed on sales of cigarettes or smokeless tobacco that occurred entirely within the State and place, including laws imposing—

"(A) excise taxes;

"(B) licensing and tax-stamping requirements;

"(C) restrictions on sales to minors; and

"(D) other payment obligations or legal requirements relating to the sale, distribution, or delivery of cigarettes or smokeless tobacco; and

"(2) RECORD RETENTION.—Records of a delivery sale shall be kept as described in paragraph (1) until the end of the 4th calendar year that begins after the date of the delivery sale.

"(d) ACCESS FOR OFFICIALS.—A delivery seller does or has done business, or ships or causes to be shipped any cigarettes or smokeless tobacco in or into any State, shall include, for each delivery seller on the Attorney General's initial list described in subparagraph (A)—

"(i) the name, address, and telephone number of a person designated to accept delivery orders who is at least the minimum age required for the sale of cigarettes or smokeless tobacco,

"(ii) any other person that the Attorney General of the United States determines to the Attorney General of the United States in order to ensure the compliance of persons making delivery sales with the requirements of this Act.

"(4) DELIVERY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no delivery seller may sell or deliver any cigarettes or smokeless tobacco except as provided in paragraph (2).

"(2) EXCEPTION.—Paragraph (1) does not apply to a delivery sale, unless, in advance of the delivery sale, the delivery seller knows or should know the excise tax from the person delivering the package containing cigarettes or smokeless tobacco is to be delivered has been paid to the State:

"(A) any cigarette or smokeless tobacco excise tax that is imposed by the State in which the cigarettes or smokeless tobacco are to be delivered has been paid to the local government; and

"(B) any cigarette or smokeless tobacco excise tax that is imposed by the local government of the place in which the cigarettes or smokeless tobacco are to be delivered has been paid to the local government.

"(e) LIST OF UNREGISTERED OR NONCOMPLIANT DELIVERY SELLERS."

"(1) IN GENERAL.—

"(A) INITIAL LIST.—Not later than 90 days after the date this subsection goes into effect under the Prevent All Cigarette Trafficking Act of 2009, the Attorney General of the United States shall compile a list of delivery sellers of cigarettes or smokeless tobacco who have not registered with the Attorney General of the United States pursuant to section 2(a), that are otherwise not in compliance with this Act, and

"(i) distribute the list to—

"(I) the attorney general and tax administrator of every State;

"(II) all common carriers and other persons that deliver small packages to consumers in interstate commerce, including the United States Postal Service; and

"(III) any other person that the Attorney General of the United States determines can promote the effective enforcement of this Act; and

"(ii) publicize and make the list available to any other person engaged in the business of interstate deliveries or who delivers cigarettes or smokeless tobacco in or into any State.

"(B) LIST CONTENTS.—To the extent known, the Attorney General of the United States shall include, for each delivery seller on the list described in subsection (a),—

"(i) all names the delivery seller uses or has used in the transaction of its business or on packages delivered to customers;

"(ii) all addresses from which the delivery seller does or has done business, or ships or has shipped cigarettes or smokeless tobacco;

"(iii) the website addresses, primary e-mail addresses, and phone number of the delivery seller; and

"(iv) any other information that the Attorney General of the United States determines appropriate.

"(C) UPDATING.—The Attorney General of the United States shall update and distribute the list under paragraphs (a)(4) and (i) at least once every 4 months, and may distribute the list and any updates by regular
(D) STATE, LOCAL, OR TRIBAL ADDITIONS.—The Attorney General of the United States shall include in the list described in subparagraph (A) of subparagraph (B) any noncomplying delivery seller not later than 30 days after any request or complaint received from a State, local or tribal government or any political authority of 2 or more States, local, or tribal governments, that information, upon request, to the Attorney General of the United States or to the attorney general or chief law enforcement official or tax administrator of any State, local, or tribal government.

(4) EXEMPTIONS.—Any person receiving records under subparagraph (B) shall—

(1) use the records solely for the purposes of the enforcement of this Act and the collection of any taxes owed on related sales of cigarettes and smokeless tobacco to consumers by common carriers or other delivery services on behalf of delivery sellers by—

(i) requiring that the common carrier or other delivery service verify the identity of the consumer accepting the delivery by requiring the person who signs to accept delivery of the shipping container to provide proof of the form of a valid, government-issued identification bearing a photograph of the individual, that the person is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by either State or local law at the place of delivery;

(ii) requiring that the common carrier or other delivery service verify that all applicable taxes have been paid;

(iii) requiring that packages delivered by the common carrier or other delivery service contain any particular labels, notice, or markings; or

(iv) prohibiting common carriers or other delivery services from making deliveries on the basis of whether the delivery seller is or is not a party to any such agreement.

(B) RECORDS.—A common carrier or other delivery service shall retain, for a period of 5 years, any records kept in the ordinary course of business relating to any delivery interrupted under this paragraph and provide that information, upon request, to the Attorney General of the United States or to the attorney general or chief law enforcement official or tax administrator of any State, local, or tribal government.

(5) IMPLEMENTATION OF UPDATES.—In preparing and revising the list described in subparagraph (A), the Attorney General of the United States shall—

(1) use reasonable procedures to ensure maximum possible accuracy and completeness of the records and information relied on for the purpose of determining that a delivery seller is or is not in compliance with this Act;

(2) on or about October 21, 2005, and the Assurance of Compliance entered into by the Attorney General of New York and New York Express (USA), Inc. on or about July 1, 2005, and the Assurance of Compliance entered into by the Attorney General of New York and United Parcel Service, Inc. on or about October 21, 2005, and the Assurance of Compliance entered into by the Attorney General of New York and Federal Express Corporation and FedEx Ground Package Systems, Inc. on or about February 3, 2006, if each of those agreements is honored throughout the United States to block illegal deliveries of cigarettes or smokeless tobacco to consumers;

(3) require that at least the minimum age required for the legal sale or purchase of tobacco products, as determined by either State or local law at the place of delivery;

(4) by later than 14 days before including a delivery seller on the list, make a reasonable attempt to send notice to the delivery seller and the common carrier that the delivery seller is being placed on the list, which shall cite the relevant provision of this Act and the specific reason for which the delivery seller is being placed on the list;

(5) provide an offer to the delivery seller to challenge placement on the list; and

(6) investigate each challenge described in clause (i) by contacting the relevant Federal, State, tribal, and local law enforcement officials and the specific findings and results of the investigation to the delivery seller not later than 30 days after the date on which the challenge is made; and

(7) if the Attorney General of the United States determines that the basis for including a delivery seller on the list is inaccurate, based on incomplete information, or cannot be verified, promptly remove the delivery seller from the list as appropriate and notify each appropriate Federal, State, tribal, and local authority of the determination.

(6) ACCURACY AND COMPLETENESS OF LIST OF NONCOMPLYING DELIVERY SELLERS.—In preparing and revising the list described in subparagraph (A), the Attorney General of the United States shall—

(1) investigate each challenge described in clause (i) by contacting the relevant Federal, State, tribal, and local law enforcement officials and the specific findings and results of the investigation to the delivery seller not later than 30 days after the date on which the challenge is made; and

(2) if the Attorney General of the United States deems or has reason to believe that the delivery seller is or is not in compliance with this Act and the specific reason for which the delivery seller is being placed on the list, make a reasonable attempt to send notice to the delivery seller and the common carrier that the delivery seller is being placed on the list, which shall cite the relevant provision of this Act and the specific reason for which the delivery seller is being placed on the list;

(3) investigate each challenge described in clause (i) by contacting the relevant Federal, State, tribal, and local law enforcement officials and the specific findings and results of the investigation to the delivery seller not later than 30 days after the date on which the challenge is made; and

(4) by later than 14 days before including a delivery seller on the list, make a reasonable attempt to send notice to the delivery seller and the common carrier that the delivery seller is being placed on the list, which shall cite the relevant provision of this Act and the specific reason for which the delivery seller is being placed on the list.

(7) RECORDS.—A common carrier or other delivery service shall retain, for a period of 5 years, any records kept in the ordinary course of business relating to any delivery interrupted under this paragraph and provide that information, upon request, to the Attorney General of the United States or to the attorney general or chief law enforcement official or tax administrator of any State, local, or tribal government.

(8) RECORDS.—A common carrier or other delivery service shall maintain, for a period of 5 years, any records kept in the ordinary course of business relating to any delivery interrupted under this paragraph and provide that information, upon request, to the Attorney General of the United States or to the attorney general or chief law enforcement official or tax administrator of any State, local, or tribal government.

(9) RECORDS.—A common carrier or other delivery service shall provide the pack-
“(ii) Exemptions.—No State may enforce against a common carrier a law prohibiting the delivery of cigarettes or other tobacco products to individual consumers or personal residue, or otherwise imposing a tax on any person who makes deliveries of cigarettes or smokeless tobacco in or into the State, locality, or tribal land; and

“(ii) has failed to register with or make reports to the respective tax administrator as required by this Act, or that has been found in a legal proceeding to have otherwise failed to comply with this Act; and

“(ii) a list of common carriers and other persons who make deliveries of cigarettes or smokeless tobacco in or into the State, locality, or tribal land.

“(B) Updates.—Any government providing a list to the Attorney General of the United States under subparagraph (A) shall also provide updates and corrections every 4 months until such time as the government notifies the Attorney General of the United States in writing that the government no longer desires to submit information to supplement the list described in paragraph (1)(A).

“(C) Basis of Withdrawal.—Upon receiving written notice that a government no longer desires to submit information under subparagraph (A), the Attorney General of the United States shall remove from the list described in paragraph (1)(A) any persons that are on the list solely because of the provision of information by the government of the common carrier or independent delivery sellers of cigarettes or smokeless tobacco during the 1-year period ending on the date of the violation.

“(7) DEDLINE TO INCORPORATE ADDITIONS.—The Attorney General of the United States shall:

“(A) include any delivery seller identified and submitted by a State, local, or tribal government under paragraph (6) in any list or update that is distributed or made available under paragraph (1) on or after the date that is 30 days after the date on which the information is received by the Attorney General of the United States.

“(B) distribute any list or update described in subparagraph (A) to any common carrier or other person who makes deliveries of cigarettes or smokeless tobacco that has been identified and submitted by a government pursuant to paragraph (6).

“(8) NOTICE TO DELIVERY SELLERS.—Not later than 14 days before including any delivery seller on the list described in paragraph (1)(A) who is using a different name or address in order to evade the delivery restrictions.

“(9) LIMITATIONS.—Except as provided in paragraph (3), whoever violates this Act shall be imprisoned for not more than 3 years, fined under title 18, United States Code, or both.

“(4) PENALTIES.—Any common carrier or person who makes deliveries of cigarettes or smokeless tobacco in or into the State, locality, or tribal land, or who physically receives and procures cigarettes or smokeless tobacco of the delivery seller during the 1-year period ending on the date of the violation.

“(B) in the case of a delivery seller, the greater of—

“(i) $5,000 in the case of the first violation, or $10,000 for any other violation; or

“(ii) for any violation, 2 percent of the gross sales of cigarettes or smokeless tobacco of the delivery seller during the 1-year period ending on the date of the violation.

“(B) STATE, LOCAL, AND TRIBAL ENFORCEMENT.—

“(1) IN GENERAL.—The Attorney General of the United States shall administer and enforce this Act.

“(2) PROVISION OF INFORMATION.—A State, local, or tribal government may bring an action in a United States district court to prevent and restrain violations of this Act and to provide other appropriate injunctive or equitable relief, including money damages, for the violations.

“(3) STATE, LOCAL, AND TRIBAL ENFORCEMENT.—

“(A) STANDING.—A State, through its attorney general, or a local government or Indian tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement official, may bring an action in a United States district court to prevent and restrain violations of this Act by any person or to obtain any other appropriate relief from any person for violations of this Act, including civil penalties, money damages, and injunctive or other equitable relief.

“(B) SOVEREIGN IMMUNITY.—Nothing in this Act shall be construed to constitute a waiver of any sovereign immunity of a State or local government or Indian tribe against any unconstitutional lawsuit under this Act or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian tribe.

“(B) PROVISION OF INFORMATION.—A State, through its attorney general or local government or Indian tribe that levies a tax subject to section 2A(a)(3), through its chief attorney general or local government or Indian tribe shall be subject to civil penalties under paragraph (1) for a violation of section 2A(e)(1) only if the violation is committed intentionally—

“(i) as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value; or

“(ii) for the purpose of assisting a delivery seller to violate, or otherwise evading compliance with, section 2A.

“(C) OTHER LIMITATIONS.—No common carrier or independent delivery service shall be subject to civil penalties under paragraph (1) for a violation of section 2A(e) if—

“(i) the violation consists of an employee of the common carrier or independent delivery service who physically receives and processes orders, picks up packages, processes payments, or makes deliveries, taking actions that are outside the scope of employment of the employee, or that violate the implemented and enforced policies of the common carrier or independent delivery service described in clause (i).”

“ENFORCEMENT.—The Jenkins Act is amended by striking section 4 and inserting the following:

“SEC. 4. ENFORCEMENT.

“(A) IN GENERAL.—The United States district courts shall have jurisdiction to prevent and restrain violations of this Act and to provide other appropriate injunctive or equitable relief, including money damages, for the violations.

“(B) AUTHORITY OF THE ATTORNEY GENERAL.—The Attorney General of the United States shall administer and enforce this Act.

“(C) STATE, LOCAL, AND TRIBAL ENFORCEMENT.—

“(1) IN GENERAL.—A State, through its attorney general, or a local government or Indian tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement official, may bring an action in a United States district court to prevent and restrain violations of this Act and to provide other appropriate injunctive or equitable relief, including money damages, for the violations.

“(B) SOVEREIGN IMMUNITY.—Nothing in this Act shall be construed to constitute a waiver of any sovereign immunity of a State or local government or Indian tribe against any unconstitutional lawsuit under this Act or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian tribe.

“(B) PROVISION OF INFORMATION.—A State, through its attorney general or local government or Indian tribe that levies a tax subject to section 2A(a)(3), through its chief attorney general or local government or Indian tribe shall be subject to civil penalties under paragraph (1) for a violation of section 2A(e)(1) only if the violation is committed intentionally—

“(i) as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value; or

“(ii) for the purpose of assisting a delivery seller to violate, or otherwise evading compliance with, section 2A.

“(B) PENALTIES.—The Jenkins Act is amended by striking section 4 and inserting the following:

“SEC. 4. ENFORCEMENT.

“(A) IN GENERAL.—The United States district courts shall have jurisdiction to prevent and restrain violations of this Act and to provide other appropriate injunctive or equitable relief, including money damages, for the violations.

“(B) AUTHORITY OF THE ATTORNEY GENERAL.—The Attorney General of the United States shall administer and enforce this Act.

“(C) STATE, LOCAL, AND TRIBAL ENFORCEMENT.—

“(1) IN GENERAL.—A State, through its attorney general, or a local government or Indian tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement official, may bring an action in a United States district court to prevent and restrain violations of this Act and to provide other appropriate injunctive or equitable relief, including money damages, for the violations.

“(B) SOVEREIGN IMMUNITY.—Nothing in this Act shall be construed to constitute a waiver of any sovereign immunity of a State or local government or Indian tribe against any unconstitutional lawsuit under this Act or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian tribe.

“(B) PROVISION OF INFORMATION.—A State, through its attorney general or local government or Indian tribe that levies a tax subject to section 2A(a)(3), through its chief
law enforcement officer, may provide evidence of a violation of this Act by any person not subject to State, local, or tribal government enforcement actions for violations of the underlying Federal Government in enforcing this Act shall be transferred into the PACT Anti-Trafficking Fund and shall be available to the Attorney General of the United States for purposes of enforcing this Act and other laws relating to contraband tobacco products.

"(2) ALLOCATION OF FUNDS.—Of the amount available to the Attorney General of the United States under subsection (A), not less than 50 percent shall be made available only to the agencies and offices within the Department which were responsible for the enforcement actions in which the penalties concerned were imposed or for any underlying investigations.

"(3) EXCLUSION OF REMEDY.—

"(A) IN GENERAL.—The remedies available under this section and section 3 in addition to any other remedies available under Federal, State, local, or tribal law.

"(B) STATE COURT PROCEEDINGS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of State or other law.

"(4) TRIBAL COURT PROCEEDINGS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized Indian tribal government official to proceed in tribal court, or take other enforcement actions, on the basis of an alleged violation of tribal law.

"(D) LOCAL GOVERNMENT ENFORCEMENT.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.

"(d) PERSONS DEALING IN TOBACCO PRODUCTS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized Indian tribal government official to proceed in tribal court, or take other enforcement actions, on the basis of an alleged violation of tribal law.

"(d) PERSONS DEALING IN TOBACCO PRODUCTS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.

"(d) PERSONS DEALING IN TOBACCO PRODUCTS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.

"(A) IN GENERAL.—Subsection (a) shall not apply to tobacco products mailed only—

"(B) PERSONS DEALING IN TOBACCO PRODUCTS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized Indian tribal government official to proceed in tribal court, or take other enforcement actions, on the basis of an alleged violation of tribal law.

"(1) PERSONS DEALING IN TOBACCO PRODUCTS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.

"(1) PERSONS DEALING IN TOBACCO PRODUCTS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.

"(1) PERSONS DEALING IN TOBACCO PRODUCTS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized Indian tribal government official to proceed in tribal court, or take other enforcement actions, on the basis of an alleged violation of tribal law.

"(1) PERSONS DEALING IN TOBACCO PRODUCTS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized Indian tribal government official to proceed in tribal court, or take other enforcement actions, on the basis of an alleged violation of tribal law.

"(1) PERSONS DEALING IN TOBACCO PRODUCTS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.

"(1) PERSONS DEALING IN TOBACCO PRODUCTS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.

"(1) PERSONS DEALING IN TOBACCO PRODUCTS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.
States Postal Service shall deliver the package only to a recipient who is verified not to be a minor at the recipient address or transfer it for delivery to an Air/Army Postal Office or Fleet Postal Office number designated in the recipient address; and

(VII) that no person may initiate more than 10 mailings described in subparagraph (A) during a 30-day period.

(2) DEFINITION.—In this paragraph, the term ‘minor’ means an individual who is less than the minimum age required for the legal sale or purchase of tobacco products as determined by applicable law at the place the individual is located.

(3) PROVIDING MAILINGS FOR CONSUMER TESTING BY MANUFACTURERS.—

(A) IN GENERAL.—Subject to subparagraph (B), subsection (a) shall not preclude a legally operating cigarette manufacturer or a legally authorized agent of a legally operating cigarette manufacturer from using the United States Postal Service to mail cigarettes to verified adult smoker solely for consumer testing purposes, if—

(i) the cigarette manufacturer has a permit, in good standing, issued under section 5713 of the Code of Federal Regulations; and

(ii) the package of cigarettes mailed under this paragraph contains not more than 12 packs of cigarettes (240 cigarettes).

(B) LIMITATIONS.—Subparagraph (A) shall not—

(i) permit a mailing of cigarettes to an individual located in any State that prohibits the delivery of noncompliant cigarettes to individuals in the State, or preempt, limit, or otherwise affect any related State laws; or

(ii) require, direct, or authorize a manufacturer, directly or through a legally authorized agent, to mail cigarettes in any calendar year in a total amount greater than 1 percent of the total cigarettes manufactured by the manufacturer in the United States during the calendar year before the date of the mailing.

(4) RULES.—

(i) IN GENERAL.—Not later than 180 days after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, the Postmaster General shall issue a final rule which shall establish the standards and requirements that apply to all mailings described in subparagraph (A).

(ii) CONTENTS.—The final rule issued under clause (i) shall require—

(1) the United States Postal Service to verify that any person submitting a tobacco product into the mails under this paragraph is a legally operating cigarette manufacturer that permitted to make a mailing under this paragraph, or an agent legally authorized by the legally operating cigarette manufacturer to submit the tobacco product into the mails on behalf of the manufacturer;

(2) the legally operating cigarette manufacturer submitting the cigarettes into the mails to affix the proper indicia to the tobacco products as described in subparagraph (A); and

(aa) the manufacturer or the legally authorized agent of the manufacturer has verified that the recipient is an adult established smoker;

(bb) the recipient has not made any payment for the cigarettes;

(cc) the recipient has signed a written statement that is in effect indicating that the recipient wishes to receive the mailings; and

(dd) the manufacturer or the legally authorized agent of the manufacturer has offered the opportunity for the recipient to withdraw the written statement described in item (cc) (i) or (ii) once or more than once in every 3-month period;

(5) EXCEPTION FOR MAILINGS FOR CONSUMER TESTING.—

The United States Postal Service shall deliver the package of cigarettes mailed under this paragraph to the recipient in the United States, who shall take appropriate action for violations of this section with related enforcement activities of any other agency or agency of any State, local, or tribal government, whenever appropriate.

(6) ACTIONS BY STATE, LOCAL, OR TRIBAL GOVERNMENTS RELATING TO CERTAIN TOBACCO PRODUCTS.—

(i) IN GENERAL.—A State, through its attorney general, or a local government or Indian tribe that levies an excise tax on tobacco products, through its chief law enforcement officer, may in a civil action in a United States district court obtain appropriate relief with respect to a violation of this section. Appropriate relief includes injunctive and equitable relief and damages equal to the amount of unpaid taxes on tobacco products made non-mailable under this section to addresses in that State, locality, or tribal land.

(ii) DEFINITION.—In this subsection, ‘State’ has the meaning given that term in section 1716(k).

(iii) EXCEPTION.—Nothing in this subsection shall be deemed to authorize or constitute a waiver of any sovereign immunity of a State or local government or Indian tribe against any unconsented lawsuit under this subsection, or to expand, modify or any sovereign immunity of a State or local government or Indian tribe.

(iv) ATTORNEY GENERAL REFERRAL.—A State, through its attorney general, or a local government or Indian tribe that levies an excise tax on tobacco products, through its chief law enforcement officer, may in a civil action in a United States district court obtain appropriate relief with respect to a violation of this section to the Attorney General for the purpose of enforcing this subsection.

(v) USE OF PENALTIES.—There is established a separate account in the Treasury, to be known as the ‘PACT Postal Service Fund’. Notwithstanding any other provision of law, any amount equal to any fine or civil penalty, or other monetary penalties collected by the Federal Government for the purpose of enforcing this section shall be deposited into the PACT Postal Service Fund and shall be available to the Postmaster General for the purpose of enforcing this subsection.

(vi) COORDINATION OF EFFORTS.—The Postmaster General shall cooperate and coordinate efforts to enforce this section with related enforcement activities of any other agency or agency of any State, local, or tribal government, whenever appropriate.

(vi) USE OF PENALTIES.—There is established a separate account in the Treasury, to be known as the ‘PACT Postal Service Fund’. Notwithstanding any other provision of law, any amount equal to any fine or civil penalty, or other monetary penalties collected by the Federal Government for the purpose of enforcing this section shall be deposited into the PACT Postal Service Fund and shall be available to the Postmaster General for the purpose of enforcing this subsection.

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(vi) USE OF PENALTIES.—There is established a separate account in the Treasury, to be known as the ‘PACT Postal Service Fund’. Notwithstanding any other provision of law, any amount equal to any fine or civil penalty, or other monetary penalties collected by the Federal Government for the purpose of enforcing this section shall be deposited into the PACT Postal Service Fund and shall be available to the Postmaster General for the purpose of enforcing this subsection.

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(vi) USE OF PENALTIES.—There is established a separate account in the Treasury, to be known as the ‘PACT Postal Service Fund’. Notwithstanding any other provision of law, any amount equal to any fine or civil penalty, or other monetary penalties collected by the Federal Government for the purpose of enforcing this section shall be deposited into the PACT Postal Service Fund and shall be available to the Postmaster General for the purpose of enforcing this subsection.

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by inserting after the item relating to section 1716D the following:

"1716E. Tobacco products as nonmailable.".

SEC. 04. INSPECTION BY BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES OF RECORDS OF CERTAIN CIGARETTE AND SMOKLESS TOBACCO MANUFACTURERS, CIVIL PENALTIES.

Section 2343(c) of title 18, United States Code, is amended to read as follows:

"(c)(1) Any officer of the Bureau of Alcohol, Tobacco, Firearms, and Explosives shall, during normal business hours, enter the premises of any person described in subsection (a) or (b) for the purposes of inspecting—

"(A) any records or information required to be maintained by the person under this chapter; or

"(B) any cigarettes or smokeless tobacco kept or stored by the person at the premises.

(2) The district courts of the United States shall have the authority to order any civil action under this subsection to compel inspections authorized by paragraph (1).

"(3) Whoever denies access to an officer under paragraph (1), or who fails to comply with an order issued under paragraph (2), shall be subject to a civil penalty in an amount not to exceed $10,000.

SEC. 05. EXCLUSIONS REGARDING INDIAN TRIBES AND TRIBAL MATTERS.

(a) IN GENERAL.—Nothing in this title or the amendments made by this title shall be construed to amend, modify, or otherwise affect—

(1) any agreements, compacts, or other intergovernmental arrangements between any State or local government and any government of an Indian tribe (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 454));

(2) any State laws that authorize or otherwise pertain to any such intergovernmental arrangements or create special rules or procedures for the collection of taxes on cigarettes or smokeless tobacco sold in Indian country;

(3) any limitations under Federal or State law, including Federal common law and treaties, on State, local, and tribal tax and regulatory policies with respect to the sale, use, or distribution of cigarettes and smokeless tobacco by or to Indian tribes, tribal members, tribal enterprises, or Indian country;

(4) any Federal law, including Federal common law and treaties, regarding State jurisdiction, or lack thereof, over any tribe, tribal members, tribal enterprises, tribal reservations, or other lands held by the United States in trust for one or more Indian tribes; or

(5) any State or local government authority to bring enforcement actions against persons located in Indian country.

(b) LAW ENFORCEMENT.—Nothing in this title or the amendments made by this title shall be construed to prohibit or otherwise affect any coordinated law enforcement activity by 1 or more States or other jurisdictions, including Indian tribes, through interstate compact or otherwise, that—

(1) provides for the administration of tobacco product laws or laws pertaining to interstate sales or other sales of tobacco products;

(2) provides for the seizure of tobacco products or other property related to a violation of such laws; or

(3) establishes cooperative programs for the administration of such laws.

(c) TREATMENT OF STATE AND LOCAL GOVERNMENTS.—Nothing in this title or the amendments made by this title shall be construed to authorize, deputize, or commission States or local governments as instrumentalties of the United States.

(d) ENFORCEMENT THROUGH INDIAN COUNTRY.—Nothing in this title or the amendments made by this title shall prohibit, limit, or restrict enforcement by the Attorney General of the United States of this title or an amendment made by this title within Indian country.

(e) AMBIGUITY.—Any ambiguity between the language of this section or its application and any other provision of this title shall be resolved in favor of this section.

(f) DEFINITIONS.—In this section—

(1) the term ‘Indian country’ has the meaning given that term in section 1 of the Jenkins Act, as amended by this title; and

(2) the term ‘tribal enterprise’ means any business enterprise, regardless of whether incorporated or unincorporated under Federal or tribal law, of an Indian tribe or group of Indian tribes.

SEC. 06. ENHANCED CONTRABAND TOBACCO ENFORCEMENT.

(a) REQUIREMENTS.—The Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives shall—

(1) not later than the end of the 3-year period beginning on the effective date of this title, create a regional contraband tobacco trafficking team in each of New York, New York; the District of Columbia, Detroit, Michigan; Los Angeles, California; Seattle, Washington; and Miami, Florida;

(2) create a Tobacco Intelligence Center to oversee investigations and monitor and coordinate ongoing investigations and to serve as the coordinating body for ongoing tobacco diversion investigations within the Bureau of Alcohol, Tobacco, Firearms, and Explosives, in the United States and, where applicable, with law enforcement organizations around the world;

(3) establish a covert national warehouse for undercover operations; and

(4) create a computer database that will track and analyze information from retail buyers of tobacco products that sell through the Internet or by mail order or make other non-face-to-face sales.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (a) $8,500,000 for each of fiscal years 2010 through 2014.

SEC. 07. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title shall take effect on the date that is the subject of an application under section 913 of this title.

(b) BATFE AUTHORITY.—The amendments made by section 904 of this title shall take effect on the date of enactment of this Act.

(c) SEVERABILITY.

If any provision of this title, or any amendment made by this title, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect the provision of this title or the application of the title to any other person or circumstance not affected thereby.

SEC. 09. SEVENTH CONGRESS CONCERNING THE PRECEDENTIAL EFFECT OF THIS TITLE.

It is the sense of Congress that unique harms are presented by online cigarette sales, including problems with verifying the ages of consumers in the digital market and the long-term health problems associated with the use of tobacco products. This title was enacted recognizing the long-standing interest of Congress in ensuring compliance with States’ laws regulating remote sales of tobacco products to citizens of those States, including the passage of the Jenkins Act over 50 years ago, which established reporting requirements for out-of-State companies that sell certain tobacco products to citizens of the taxing States, and which gave authority to the Department of the Treasury to impose certain tobacco, firearms, and explosives taxes on Federal and State companies that sell certain tobacco products only. This title is in no way meant to create a precedent regarding the collection of State sales or use taxes by, or the validation of efforts to impose other types of taxes on, out-of-State entities that do not have a physical presence within the taxing State.

SA 1272. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 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:

The appropriate place, insert the following:

SEC. 09. LABELING CHANGES.

Section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) is amended by adding at the end the following:

"(10) If the proposed labeling of a drug that is the subject of an application under this subsection is different from the labeling of the listed drug at the time of approval of the application under this subsection, the drug that is the subject of such application shall, notwithstanding any other provision of this Act, be eligible for approval and shall not be considered misbranded under section 502 if—

"(A) a revision to the labeling of the listed drug has been approved by the Secretary within 60 days of the expiration of the patent exclusivity period or, if no exclusivity period is in effect, prohibited the approval of the drug under this subsection;

"(B) the Secretary has not determined the applicability of the text of the labeling revision of the drug that is the subject of the application under this subsection at the time of expiration of such patent or exclusivity period;

"(C) the labeling revision described under subparagraph (A) does not include a change to the 'Warnings' section of the labeling;

"(D) the Secretary does not deem that the absence of such revision to the labeling of the drug that is the subject of the application under this subsection would adversely impact the safe use of the drug;

"(E) the sponsor of the application under this subsection agrees to revise the labeling of the drug that is the subject of such application not later than 60 days after the notification of any changes to such labeling required by the Secretary; and

"(F) such application otherwise meets the applicable requirements for approval under this subsection."

SA 1273. Mr. WEBB 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:

(1) authorize the issuance of an electronic voucher, subject to the specifications set forth in subsection (c), to offset the purchase price or lease price of a qualifying lease of an automobile manufactured after model year 2006, upon the surrender of an eligible trade-in vehicle to a dealer participating in the Program; and

(2) certify dealers for participation in the Program. Producers as provided in this section as partial payment or down payment for the purchase or qualifying lease of an automobile manufactured after model year 2006, offered for sale or lease by that dealer; and

(3) in consultation with the Secretary of the Treasury, make electronic payments to dealers for vouchers accepted by such dealers, in accordance with the regulations promulgated under subsection (d);

(4) in consultation with the Secretary of the Treasury, provide for the payment of rebates to persons who qualify for a rebate under subsection (c)(2); and

(5) 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.—

(1) NEW AUTOMOBILES.—A $4,000 voucher shall be issued under the Program to offset the purchase price or lease price of a new automobile, upon the surrender of an eligible trade-in vehicle to a dealer participating in the Program.

(2) USED AUTOMOBILES.—A $3,000 voucher shall be issued under the Program to offset the purchase price or lease price of a used automobile manufactured after model year 2006, upon the surrender of an eligible trade-in vehicle to a dealer participating in the Program.

(c) PROGRAM SPECIFICATIONS.—

(1) LIMITATIONS.—

(A) GENERAL PERIOD OF ELIGIBILITY.—A voucher under the Program shall be used only for the purchase or qualifying lease of automobiles manufactured after model year 2006 that occur between—

(i) March 30, 2009, and September 30, 2009; and

(ii) the date that is 1 year after the date on which the regulations promulgated under subsection (d) are implemented.

(B) NUMBER AND VALUE 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 purchase or qualifying lease 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 qualifying lease of an automobile manufactured after model year 2006.

(D) COMBINATION WITH OTHER INCENTIVES PERMITTED.—The availability or use of a Federal, State, or local incentive or a State-issued voucher for the purchase or lease of a new or used automobile manufactured after model year 2006 shall not limit the value or issuance of a voucher under the Program to any person otherwise eligible to receive such a voucher.

(E) NO ADDITIONAL FEES.—A dealer participating in the Program may not charge a person purchasing or leasing an automobile manufactured after model year 2006 any additional fees associated with the use of a voucher under the Program.

(F) NUMBER AND AMOUNT.—The total number and value of vouchers issued under the Program may not exceed the amounts appropriated under subsection (d); and

(g) RECORDKEEPING AND REPORT.—

(1) DATABASE.—The Secretary shall maintain a database of the automobile identification numbers of all automobile manufactured after model year 2006, which have been purchased or leased under the Program.

(2) REPORT.—Not later than 5 years after the termination date described in subsection (c)(1)(A)(ii), the Secretary shall submit a report to the Committee on Energy and Commerce establishing a database of the automobile identification numbers of all automobile manufactured after model year 2006, which have been purchased or leased under the Program.

(3) PERIODIC REPORTS.—In accordance with this section and the regulations promulgated under subsection (d), the Secretary shall prepare periodic reports on the amounts appropriated and expended under the Program and the number and amount of vouchers issued under the Program.

(h) EXCLUSION OF VOUCHERS AND REBATES FROM INCOME.—

(1) FEDERAL PROGRAMS.—A voucher issued under the Program or a cash rebate issued under subsection (c)(3) shall not be regarded as income and shall not be regarded as a resource for the month of receipt of the voucher or rebate and the following 12 months, for purposes of determining the eligibility of the recipient of the voucher or rebate (or the recipient’s spouse or other family or household members) for benefits or assistance, or the amount or extent of benefits or assistance, under the Federal programs.

(2) TAXATION.—A voucher issued under the Program or a cash rebate issued under subsection (c)(3) shall not be considered as gross income for purposes of the Internal Revenue Code of 1986.

(i) DEFINITIONS.—As used in this section—

(1) the term “automobile” means an automobile or a work truck (as such terms are defined in section 32901(a) of title 49, United States Code);

(2) the term “dealer” means a person licensed by a State who engages in the sale of new or used automobiles to ultimate purchasers;

(3) 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) and purchased or leased under the Program for the purpose of replacing such vehicle;

(4) the term “person” means an individual, partnership, corporation, business trust, or any organized group of persons.

(5) the term “Program” means the Automobile Voucher Program established under this section;

(6) the term “qualifying lease” means a lease of an automobile for a period of not less than 5 years.

(7) the term “Secretary” means the Secretary of Transportation acting through the National Highway Traffic Safety Administration; and

(8) the term “vehicle identification number” means the 17-character number used by the automobile industry to identify individual automobiles.

SEC. 02. REALLOCATION OF APPROPRIATIONS.

From the amounts appropriated under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), the Administrator of the Office of Management and Budget may allocate not more than $4,000,000,000 to carry out...
the Automobile Voucher Program established under this title.

SEC. 03. EMERGENCY DESIGNATION.

For purposes of Senate enforcement, this title is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

NOTICE OF HEARING

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 business meeting has been scheduled before the Committee on Energy and Natural Resources. The business meeting will be held on Tuesday, June 9, 2009, at 10 a.m., in room SD-366 of the Dirksen Senate office building.

The purpose of the business meeting is to consider pending energy legislation.

For further information, please contact Sam Fowler at (202) 224-7571 or Amanda Kelly at (202) 224-6836.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, June 4, 2009, at 9:30 a.m. in room 106 of the Dirksen Senate office building.

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

COMMITTEE ON ARMED SERVICES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 4, 2009, at 9:30 a.m.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, June 4, 2009, at 9:30 a.m.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a business meeting on Thursday, June 4, 2009 at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building.

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

PRIVILEGES OF THE FLOOR

Mr. AKAKA. Madam President, I ask unanimous consent that my fellow, Louise Kitamura, be granted the privileges of the floor for today.

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

Mr. VOINOVICH. Mr. President, I ask unanimous consent that T.J. Kim, a fellow in my office, be granted floor privileges for today.

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

Mr. SANDERS. Mr. President, I ask unanimous consent that Gail Hansen, a fellow in my office, be granted the privilege of the floor.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BROWN. I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 168, the nomination of David Heyman to be an Assistant Secretary of Homeland Security; that the nomination be confirmed, the motion to reconsider be laid upon the table; that no further motions be in order and any statements relating thereto be printed in the RECORD; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

The nomination considered and confirmed is as follows:

DEPARTMENT OF HOMELAND SECURITY

David Heyman, of the District of Columbia, to be an Assistant Secretary of Homeland Security.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

UNANIMOUS CONSENT AGREEMENT—H.R. 1256

Mr. BROWN. I ask unanimous consent that the cloture vote on the Dodd substitute amendment occur at 5:30 p.m., Monday, June 8, and that the filing deadline for first-degree amendments be 3 p.m., Monday, and the filing deadline for second-degree amendments be 4:30 p.m., Monday.

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

UNANIMOUS CONSENT AGREEMENT—S. 1023

Mr. BROWN. I ask unanimous consent that notwithstanding the adjournment of the Senate, the Commerce Committee be authorized to report S. 1023, the Travel Promotion Act, on Friday, June 5, from 10 a.m. to noon.

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

COMMEMDING THE UNIVERSITY OF WASHINGTON WOMEN’S SOFTBALL TEAM

Mr. BROWN. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 168, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 168) commending the University of Washington women’s softball team for winning the 2009 NCAA Women’s College World Series.

There being no objection, the Senate proceeded to consider the resolution.