BROWNBACK), the Senator from Kentucky (Mr. BUNNING) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 475, a bill to amend the Servicemembers Civil Relief Act to guarantee the equity of spouses of military personnel with regard to matters of residency, and for other purposes.

S. 491

At the request of Mr. WEBB, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 491, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 561

At the request of Mr. BINGAMAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 561, a bill to authorize a supplemental funding source for catastrophic emergency wildland fire suppression activities on Department of the Interior and National Forest System lands, to require the Secretary of the Interior and the Secretary of Agriculture to develop a cohesive wildland fire management strategy, and for other purposes.

S. 581

At the request of Mr. BENNET, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 581, a bill to amend the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 to require the exclusion of combat pay from income for purposes of determining eligibility for child nutrition programs and the special supplemental nutrition program for women, infants, and children.

S. 614

At the request of Mrs. HUTCHISON, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 614, a bill to award a Congressional Gold Medal to the Women Airforce Service Pilots (''WASP'').

S. 638

At the request of Mrs. MURRAY, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 638, a bill to provide grants to promote financial and economic literacy.

S. 700

At the request of Mr. BINGAMAN, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Pennsylvania (Mr. CASEY) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 700, a bill to amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for Medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, and for other purposes.

S. 799

At the request of Mr. DURBIN, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 799, a bill to designate as wilderness certain Federal portions of the red rock canyons of the Colorado Plateau and the Great Basin Deserts in the State of Utah for the benefit of present and future generations of people in the United States.

S. 816

At the request of Mr. CRAPO, the names of the Senator from Utah (Mr. HATCH), the Senator from South Carolina (Mr. GRAHAM) and the Senator from Wyoming (Mr. BARRASSO) were added as cosponsors of S. 816, a bill to preserve the rights granted under second amendment to the Constitution in national parks and national wildlife refuge areas.

S. 849

At the request of Mr. CARPER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 849, a bill to require the Administrator of the Environmental Protection Agency to conduct a study on black carbon emissions.

S. 870

At the request of Mrs. LINCOLN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 870, a bill to amend the Internal Revenue Code of 1986 to expand the credit for renewable electricity production to include electricity produced from biomass for on-site use and to modify the credit period for certain facilities producing electricity from open-loop biomass.

S. 930

At the request of Mrs. MURRAY, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 930, a bill to promote secure ferry transportation and for other purposes.

S. 934

At the request of Mr. HARKIN, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Michigan (Ms. STABENOW), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 934, a bill to amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren and protect the Federal investment in the national school lunch and breakfast programs by updating the national school nutrition standards for foods and beverages sold outside of school meals to conform to current nutrition science.

S. 941

At the request of Mr. CRAPO, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 941, a bill to reform the Bureau of Alcohol, Tobacco, Firearms, and Explosives, modernize firearm laws and regulations, protect the community from criminals, and for other purposes.

S. 943

At the request of Mr. THUNE, the name of the Senator from Iowa (Mr. GRASSLEY) 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. 962

At the request of Mr. KERRY, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 962, a bill to authorize appropriations for fiscal years 2009 through 2013 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes.

S. 982

At the request of Mr. DORGAN, his name was added as a cosponsor of S. 982, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

At the request of Mrs. SHAHEEN, her name was added as a cosponsor of S. 982, supra.

At the request of Ms. KLOBUCHAR, her name was added as a cosponsor of S. 982, supra.

S.J. RES. 14

At the request of Mr. BROWNBACK, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S.J. Res. 14, a joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the Federal Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

S. RES. 7

At the request of Mr. INOUYE, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. Res. 7, a resolution expressing the sense of the Senate regarding designation of the month of November as ''National Military Family Month''.

S. RES. 111

At the request of Mr. KOHL, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. Res. 111, a resolution recognizing June 6, 2009, as the 70th anniversary of the tragic date when the M.S. St. Louis, a ship carrying Jewish refugees from Nazi Germany, returned to Europe after its passengers were refused admittance to the United States.

AMENDMENT NO. 1036

At the request of Mr. KERRY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 1036 proposed to S. 896, a bill to prevent mortgage foreclosures and enhance mortgage credit availability.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE (for herself and Mr. BINGAMAN):

S. 983. A bill to reform the essential air service program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to join my colleague, Senator BINGAMAN, to introduce the bipartisan Rural Aviation Improvement Act. I am proud to join the senior Senator from New Mexico, a steadfast and resolute guardian of commercial aviation service to all communities, particularly rural areas that would otherwise be deprived of any air service.

It has always been true that reliable air service to our Nation's rural areas is not simply a luxury or a convenience. It is an imperative. Ask any town manager or mayor of a small community how critical aviation is to economic development. All of us in the Senate who come from rural states understand the vital role aviation plays in the moving of people and goods to and from areas that would otherwise face a paucity of transportation options. Quite frankly, I have long held serious concerns about the impact deregulation of the airline industry has had on small cities and smaller towns in rural areas, like those in my home State of Maine. That fact is, since deregulation, many of these communities across the country have experienced a decline in flights and size of aircraft while seeing an increase in fares. More than 300 have lost air service altogether.

This legislation will serve to improve the long-underfunded Essential Air Service program. The additional commitment of resources will augment the ability of the program to achieve its desired goals, reducing the impact on the general fund while providing small communities with a greater degree of certainty when planning future improvements or bringing enhanced service to their airports. The bill also gives those same communities a greater role in retaining and determining the sort of air service which they receive, and assists in making that service sustainable.

Increasingly, the Essential Air Service program has been plagued with a decline in the number of airlines willing to provide this critical link to the national transportation network. Not only have we lost a rash of participants in the program due to wildly fluctuating fuel costs and the omnipresent economic downturn, but in addition, a few 'bad actors' have jeopardized commercial aviation for entire regions by submitting low-ball contracts to the Department of Transportation and then reneging on their commitment to the extent and quality of their service. Our bill will not only establish a system of minimum requirements for contracts to protect these small cities that rely on EAS, but it will also extend those contracts to 4 years from the current 2. This gives a heightened degree of stability in terms of air service, rather than having communities negotiating new contracts or receiving service from entirely new carriers every 18 months. Actively encouraging communities to get involved in the process, and build relationships with the carriers who serve them, can only bolster the quality of the program.

In the final analysis, everyone benefits when our Nation is at its strongest economically. Most importantly in this case, greater prosperity everywhere will, in the long run, mean more passengers for the airlines. We cannot afford to ignore rural America—which contains nearly a quarter of the population—as we move forward with aviation policy and the next generation air traffic system. Therefore, it is very much in our national interests to ensure that every region has reasonable, consistent access to commercial air service. That is why I strongly believe the federal government has an obligation to fulfill the commitment it made to these communities when Congress deregulated the airlines in 1978; to safeguard their ability to continue commercial air service.

By Mrs. BOXER (for herself, Mr. BOND, and Mr. KENNEDY):

S. 984. A bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. BOXER. Mr. President, today I am pleased to join Senator KENNEDY and Senator BOND in introducing the Arthritis Prevention, Control and Cure Act, which makes a national commitment to find new ways to prevent and treat arthritis, and care for the patients that suffer from it.

Many people do not know that arthritis is the leading cause of disability in the U.S. As many as 46 million Americans, including almost 300,000 children, live every day with the pain of arthritis. Not only does this disease affect the health and quality of life of millions of Americans, arthritis also costs our Nation's economy an estimated $128 billion annually in visits to physicians, surgeries and missed work days.

By the year 2030, an estimated 67 million Americans will suffer from the debilitating pain and limited mobility caused by arthritis. It is past time that we came together to find a cure for arthritis and invest in the scientific research needed to conquer this disease.

Specifically, the Arthritis Prevention, Control and Cure Act would authorize the Secretary of Health and Human Services, HHS, to implement a National Arthritis Action Plan that includes grants for the coordination of research and training, education and outreach, and grants to States and Indian tribes to support comprehensive arthritis control and prevention programs.

I am especially pleased that this legislation would also increase support for efforts to address juvenile arthritis. While there are almost 300,000 children suffering from pediatric arthritis in the U.S., there are only 200 pediatric rheumatologists in the country to treat them. There are 9 States that do not have even one doctor trained specifically to treat these children.

This legislation will provide loan repayment to physicians who agree to practice pediatric rheumatology in underserved areas—so children do not have to travel to another state just to see a doctor.

The bill would also allow the Centers for Disease Control and Prevention to coordinate and expand programs related to juvenile arthritis, collect data and develop a National Juvenile Arthritis Patient Registry.

I hope that my colleagues will join me, Senator BOND and Senator KENNEDY, as well as the Arthritis Foundation, the American College of Rheumatology, and the American Academy of Pediatrics in support of the Arthritis Prevention, Control and Cure Act, to take a critical step forward in helping millions of Americans living with this devastating disease.

By Mr. DURBIN (for himself, Ms. SNOWE, Mr. WHITEHOUSE, Mr. BROWN, and Mrs. MURRAY):

S. 987. A bill to protect girls in developing countries through the prevention of child marriage, and for other purposes; to the Committee on Foreign Relations.

Mr. DURBIN. 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 placed in the RECORD, as follows:

S. 987

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 ''International Protecting Girls by Preventing Child Marriage Act of 2009''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Child marriage, also known as ''forced marriage'' or ''early marriage'', is a harmful traditional practice that deprives girls of their dignity and human rights.

(2) Child marriage as a traditional practice, as well as through coercion or force, is a violation of article 16 of the Universal Declaration of Human Rights, which states, ''Marriage shall be entered into only with the free and full consent of intending spouses.''.

(3) According to the United Nations Children's Fund (UNICEF), an estimated 60,000,000 girls in developing countries now ages 20-24 were married under the age of 18, and if present trends continue more than 100,000,000 more girls in developing countries will be married as children over the next decade, according to the Population Council.

(4) Child marriage ''treats young girls as property'' and ''poses grave risks not only to women's basic rights but also their health, economic independence, education, and status in society'', according to the Department of State in 2005.

(5) In 2005, the Department of State conducted a world-wide survey and found child marriage to be a concern in 64 out of 182 countries surveyed, with child marriage most common in sub-Saharan Africa and parts of South Asia.

(6) In Ethiopia's Amhara region, about ½ of all girls are married by age 14, with 95 percent not knowing their husbands before marriage, 85 percent unaware they were to be

married, and 70 percent reporting their first sexual initiation within marriage taking place before their first menstrual period, according to a 2004 Population Council survey.

(7) In some areas of northern Nigeria, 45 percent of girls are married by age 15 and 73 percent by age 18, with age gaps between girls and the husbands averaging between 12 and 18 years.

(8) Between ½ and ¾ of all girls are married before the age of 18 in Niger, Chad, Mali, Bangladesh, Guinea, the Central African Republic, Mozambique, Burkina Faso, and Nepal, according to Demographic Health Survey data.

(9) Factors perpetuating child marriage include poverty, a lack of educational or employment opportunities for girls, parental concerns to ensure sexual relations within marriage, the dowry system, and the perceived lack of value of girls.

(10) Child marriage has negative effects on the health of girls, including significantly increased risk of maternal death and morbidity, infant mortality and morbidity, obstetric fistula, and sexually transmitted diseases, including HIV/AIDS.

(11) According to the United States Agency for International Development (USAID), increasing the age at first birth for a woman will increase her chances of survival. Currently, pregnancy and childbirth complications are the leading cause of death for women 15 to 19 years old in developing countries.

(12) In developing countries, girls 15 years of age are 5 times more likely to die in childbirth than women in their 20s.

(13) Child marriage can result in bonded labor or enslavement, commercial sexual exploitation, and violence against the victims, according to UNICEF.

(14) Out-of-school or unschooled girls are at greater risk of child marriage while girls in school face pressure to withdraw from school when secondary school requires monetary costs, travel, or other social costs, including lack of lavatories and supplies for menstruating girls and increased risk of sexual violence.

(15) In Mozambique 60 percent of girls with no education are married by age 18, compared to 10 percent of girls with secondary schooling and less than 1 percent of girls with higher education.

(16) According to UNICEF, in 2005 it was estimated that ''about half of girls in Sub-Saharan Africa who drop out of primary school do so because of poor water and sanitation facilities''.

(17) UNICEF reports that investments in improving school sanitation resulted in a 17 percent increase in school enrollment for girls in Guinea and an 11 percent increase for girls in Bangladesh.

(18) Investments in girls' schooling, creating safe community spaces for girls, and programs for skills building for out-of-school girls are all effective and demonstrated strategies for preventing child marriage and creating a pathway to empower girls by addressing conditions of poverty, low status, and norms that contribute to child marriage.

(19) Most countries with high rates of child marriage have a legally-established minimum age of marriage, yet child marriage persists due to strong traditional norms and the failure to enforce existing laws.

(20) In Afghanistan, where the legal age of marriage for girls is 16 years, 57 percent of marriages involve girls below the age of 16, including girls younger than 10 years, according to the United Nations Children's Fund (UNICEF).

(21) Secretary of State Hillary Clinton has stated that ''child marriage is a clear and unacceptable violation of human rights, and that the Department of State denounces all cases of child marriage as child abuse''.

SEC. 3. CHILD MARRIAGE DEFINED.

In this Act, the term ''child marriage'' means the marriage of a girl or boy, not yet the minimum age for marriage stipulated in law in the country in which the girl or boy is a resident.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) child marriage is a violation of human rights and the prevention, and elimination of child marriage should be a foreign policy goal of the United States;

(2) the practice of child marriage undermines United States investments in foreign assistance to promote education and skills building for girls, reduce maternal and child mortality, reduce maternal illness, halt the transmission of HIV/AIDS, prevent gender-based violence, and reduce poverty; and

(3) expanding educational opportunities for girls, economic opportunities for women, and reducing maternal and child mortality are critical to achieving the Millennium Development Goals and the global health and development objectives of the United States, including efforts to prevent HIV/AIDS.

SEC. 5. ASSISTANCE TO PREVENT THE INCIDENCE OF CHILDHOOD MARRIAGE IN DEVELOPING COUNTRIES.

(a) ASSISTANCE AUTHORIZED.—The President is authorized to provide assistance, including through multilateral, nongovernmental, and faith-based organizations, to prevent the incidence of child marriage in developing countries and to promote the educational, health, economic, social, and legal empowerment of girls and women as part of the strategy established pursuant to section 6 to prevent child marriage in developing countries.

(b) PRIORITY.—In providing assistance authorized under subsection (a), the President shall give priority to—

(1) areas or regions in developing countries in which 15 percent of girls under the age of 15 are married or 40 percent of girls under the age of 18 are married; and

(2) activities to—

(A) expand and replicate existing community-based programs that are successful in preventing the incidence of child marriage;

(B) establish pilot projects to prevent child marriage; and

(C) share evaluations of successful programs, program designs, experiences, and lessons.

(c) COORDINATION.—Assistance authorized under subsection (a) shall be integrated with existing United States programs for advancing appropriate age and grade-level basic and secondary education through adolescence, ensure school enrollment and completion for girls, health, income generation, agriculture development, legal rights, and democracy building and human rights, including—

(1) support for community-based activities that encourage community members to address beliefs or practices that promote child marriage and to educate parents, community leaders, religious leaders, and adolescents of the health risks associated with child marriage and the benefits for adolescents, especially girls, of access to education, health care, livelihood skills, microfinance, and savings programs;

(2) enrolling girls in primary and secondary school at the appropriate age and keeping them in age-appropriate grade levels through adolescence;

(3) reducing education fees, and enhancing safe and supportive conditions in primary and secondary schools to meet the needs of girls, including—

(A) access to water and suitable hygiene facilities, including separate lavatories and latrines for girls;

(B) assignment of female teachers;

(C) safe routes to and from school; and

(D) eliminating sexual harassment and other forms of violence and coercion;

(4) ensuring access to health care services and proper nutrition for adolescent girls, which is essential to both their school performance and their economic productivity;

(5) increasing training for adolescent girls and their parents in financial literacy and access to economic opportunities, including livelihood skills, savings, microfinance, and small-enterprise development;

(6) supporting education, including through community and faith-based organizations and youth programs, that helps remove gender stereotypes and the bias against girls used to justify child marriage, especially efforts targeted at men and boys, promotes zero tolerance for violence, and promotes gender equality, which in turn help to increase the perceived value of girls;

(7) creating peer support and female mentoring networks and safe social spaces specifically for girls; and

(8) supporting local advocacy work to provide legal literacy programs at the community level and ensure that governments and law enforcement officials are meeting their obligations to prevent child and forced marriage.

SEC. 6. STRATEGY TO PREVENT CHILD MARRIAGE IN DEVELOPING COUNTRIES.

(a) STRATEGY REQUIRED.—The President, acting through the Secretary of State, shall establish a multi-year strategy to prevent child marriage in developing countries and promote the empowerment of girls at risk of child marriage in developing countries, including by addressing the unique needs, vulnerabilities, and potential of girls under age 18 in developing countries.

(b) CONSULTATION.—In establishing the strategy required by subsection (a), the President shall consult with Congress, relevant Federal departments and agencies, multilateral organizations, and representatives of civil society.

(c) ELEMENTS.—The strategy required by subsection (a) shall—

(1) focus on areas in developing countries with high prevalence of child marriage; and

(2) encompass diplomatic initiatives between the United States and governments of developing countries, with attention to human rights, legal reforms and the rule of law, and programmatic initiatives in the areas of education, health, income generation, changing social norms, human rights, and democracy building.

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report that includes—

(1) the strategy required by subsection (a);

(2) an assessment, including data disaggregated by age and gender to the extent possible, of current United States-funded efforts to specifically assist girls in developing countries; and

(3) examples of best practices or programs to prevent child marriage in developing countries that could be replicated.

SEC. 7. RESEARCH AND DATA COLLECTION.

The Secretary of State shall work through the Administrator of the United States Agency for International Development and any other relevant agencies of the Department of State, and in conjunction with relevant executive branch agencies as part of their ongoing research and data collection activities, to—

(1) collect and make available data on the incidence of child marriage in countries that receive foreign or development assistance from the United States where the practice of child marriage is prevalent; and

(2) collect and make available data on the impact of the incidence of child marriage and the age at marriage on progress in meeting key development goals.

SEC. 8. DEPARTMENT OF STATE'S COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.

The Foreign Assistance Act of 1961 is amended—

(1) in section 116 (22 U.S.C. 2151n), by adding at the end the following new subsection:

''(g) The report required by subsection (d) shall include for each country in which child marriage is prevalent at rates at or above 40 percent in at least one sub-national region, a description of the status of the practice of child marriage in such country. In this subsection, the term 'child marriage' means the marriage of a girl or boy, not yet the minimum age for marriage stipulated in law in the country in which such girl or boy is a resident.''; and

(2) in section 502B (22 U.S.C. 2304), by adding at the end the following new subsection:

''(i) The report required by subsection (b) shall include for each country in which child marriage is prevalent at rates at or above 40 percent in at least one sub-national region, a description of the status of the practice of child marriage in such country. In this subsection, the term 'child marriage' means the marriage of a girl or boy, not yet the minimum age for marriage stipulated in law in the country in which such girl or boy is a resident.''.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

To carry out this Act and the amendments made by this Act, there are authorized to be appropriated such sums as may be necessary for fiscal years 2010 through 2014.

By Ms. SNOWE (for herself, Mr. BOND, and Mr. BINGAMAN):

S. 988. A bill to amend the Internal Revenue Code of 1986 to allow small businesses to set up simple cafeteria plans to provide nontaxable employee benefits to their employees, to make changes in the requirements for cafeteria plans, flexible spending accounts, and benefits provided under such plans or accounts, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the SIMPLE Cafeteria Plan Act of 2009, which will increase the access to quality, affordable health care for millions of small business owners and their employees. I am pleased that my good friends, Senator BOND from Missouri and Senator BINGAMAN from New Mexico, have agreed to cosponsor this critical, bipartisan piece of legislation. We have introduced this legislation together since 2005.

In order to help small businesses increase their employees' access to health insurance and other benefits, and help them compete for talented workers, we are introducing the SIMPLE Cafeteria Plan Act. This bill will enable small business employees to purchase health insurance with tax-free dollars in the same way that many employees of large companies already do—in their cafeteria plans. This legislation is modeled after the Savings Incentive Match Plan for Employees SIMPLE, Pension Plan enacted in 1996.

As former Chair and now Ranking Member of the Senate Small Business Committee, if there's one concern I've heard time and again—from small businesses in Maine and across the country—it's the exorbitant cost to small businesses of providing health insurance to their employees. Throughout America, health insurance premiums have increased by a staggering 89 percent since 2000—far outpacing inflation and wage gains. In Maine, the annual premium for the most heavily subscribed policy in the small group insurance market is $5,400 for individual coverage, and over $16,000 for a family plan.

Clearly our Nation's health care system is terribly broken—and the majority of the uninsured—52 percent—are either self-employed, work for a small business with 100 or fewer employees, or are dependent upon someone who does. I am pleased that the Congress is now in the midst of a serious reform effort that will result in a much better system of delivering health care. In order to address the problem of the working uninsured, we must address access and affordability in small businesses. The bill we are introducing today will do just that.

So why are our Nation's small businesses, which are our country's job creators and the true engine of our economic growth, not offering health insurance? Survey after survey tells us that the main reason is that they cannot afford to offer it, or other benefits. Still other small firms can only afford to pay a portion of their employees' health insurance premiums. As a result, countless employees of small business must try to obtain health insurance from the individual market rather than through their work place. As we debate reforming health insurance, we must consider cafeteria plans—Section 125 plans, as they are often known—which are a proven vehicle for access, and should be a key component to reform. I would like to add that another component to reform that must be considered is the SHOP Act, which I reintroduced yesterday with Senators DURBIN and LINCOLN, which would also help to reverse the pernicious problems of access and affordability of health insurance.

Currently, many large employers, and even the Federal Government, allow employees to purchase health insurance, and other qualified benefits, with tax-free dollars. Cafeteria plans allow employers to offer health benefits with pre-tax dollars. As the name suggests, cafeteria plans are programs where employees can purchase a variety of qualified benefits. Specifically, cafeteria plans offer employees great flexibility in selecting their desired benefits while allowing them to disregard those benefits that do not fit their particular needs. Moreover, the employees are usually purchasing benefits at a lower cost because their employers are often able to obtain a reduced group rate prices.

Typically, in cafeteria plans, a combination of employer contributions and employee contributions are used to fund the accounts that employees used to buy specific benefits. Under current law, qualified benefits include health insurance, dependent-care reimbursement, life and disability insurance. Unfortunately, long term care insurance is not currently a qualified benefit available for purchase in cafeteria plans. I will come back to long term care insurance in a moment.

Again, cafeteria plans already have a proven record of providing good benefits to a wide group of employees. However, in order for companies to qualify for cafeteria plans they must satisfy the tax code's strict non-discrimination rules and these rules are a major impediment to small employers being able to offer benefits to employees. These rules exist to ensure that companies offer the same benefits to their low-wage employees along with their highly compensated employees.

Now, I want to be clear. I believe that these non-discrimination rules serve a legitimate purpose and are necessary employee protections. Indeed, we need to ensure that employers are not able to game the tax system to benefit only upper income employees or the business owners. As with the SIMPLE pension plan, a small business employer that is willing to make a minimum contribution for all employees, or who is willing to match contributions, will be permitted to waive the non-discrimination rules that currently prevent them from otherwise offering these benefits. This structure has worked extraordinarily well in the pension area with little risk of abuse. I am confident that it will be just as successful when it comes to broad-based benefits offered through cafeteria plans. The SIMPLE Cafeteria Plan Act requires the employer to either match contributions of 3 percent of an employee's income or contribute 2 percent without the employee's contribution.

An essential change allows small business owners themselves to participate in cafeteria plans generally. Current law punitively prohibits the owners of small businesses from participating in these benefit plans. As a result, if a business owner is unable to obtain any benefit for himself or his own family he is unlikely to undertake the time and financial commitment of offering the benefit. It is time to remove this punitive prohibition which I believe will expand access to this flexible platform for employee benefits.

Another improvement generally applicable to all cafeteria plan law updates the rules regarding depended care flexible spending accounts, DCFSA. The bill increases the amount that can be excluded to $7,500 for one dependent or $10,000 for two or more dependents. Had the original $5,000 limit for DCFSA been indexed for inflation when it was created in 1986, it would have risen to $9,692. The bill also indexes these amounts for future inflation so that families will not see an erosion of their benefit in the future. In order for millions of working moms to be able to

work outside of the home, they must have help in addressing child care costs. It is critical to note that it is not just working parents but an increasing number of baby-boom adults who need help caring for aging dependent parents. Increasing the dependent care exclusion in flexible spending accounts is an essential update to cafeteria plan law for working families.

Another provision of the bill generally revises the use it or lose it rule under current law, and permits participants to carry over up to $500 left in a health-care or dependent-care flexible spending account to the next plan year. Such unused contributions could also be carried over to the employee's retirement account, such as a 401(k) plan, or to a Health Savings Account. In either case, any carried over contributions will reduce the amount that the employee could contribute to the flexible spending account or pension plan in the subsequent year. The bill indexes the carry-over amount for inflation.

Finally, the bill also works to address our aging populations' need for long-term care insurance which is also a probable component to the debate on health care reform. In the U.S., nearly half of all seniors age 65 or older will need long-term care at some point in their life. Unfortunately, most seniors have not adequately prepared for this possibility, just as many working age individuals have not given much thought to their eventual long-term care needs. With the cost of a private room in a nursing home averaging more than $74,000 annually, many Americans risk losing their life savings—and jeopardizing their children's inheritance—by failing to properly plan for the long-term care services they will need as they grow older.

To address this problem, this bill would allow employees to purchase long-term care insurance coverage through their cafeteria plans and flexible spending arrangements. Expanding eligibility of these benefits will make long-term care insurance more affordable and help Americans prepare for their future long-term care needs.

If more small business owners are able to offer their employees the chance to enjoy a variety of employee benefits these firms will be more likely to attract, recruit, and retain talented workers. This will ultimately make small enterprises more competitive. Therefore, I urge my colleagues to join Senator BOND and Senator BINGAMAN and me in cosponsoring this important legislation as we work together to achieve broader health care reform.

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

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

S. 988

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

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''SIMPLE Cafeteria Plan Act of 2009''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. ESTABLISHMENT OF SIMPLE CAFETERIA PLANS FOR SMALL BUSINESSES.

(a) IN GENERAL.—Section 125 (relating to cafeteria plans) is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

''(i) SIMPLE CAFETERIA PLANS FOR SMALL BUSINESSES.—

''(1) IN GENERAL.—An eligible employer maintaining a simple cafeteria plan with respect to which the requirements of this subsection are met for any year shall be treated as meeting any applicable nondiscrimination requirement with respect to benefits provided under the plan during such year.

''(2) SIMPLE CAFETERIA PLAN.—For purposes of this subsection, the term 'simple cafeteria plan' means a cafeteria plan—

''(A) which is established and maintained by an eligible employer, and

''(B) with respect to which the contribution requirements of paragraph (3), and the eligibility and participation requirements of paragraph (4), are met.

''(3) CONTRIBUTIONS REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph are met if, under the plan—

''(i) the employer makes matching contributions on behalf of each employee who is eligible to participate in the plan and who is not a highly compensated or key employee in an amount equal to the elective plan contributions of the employee to the plan to the extent the employee's elective plan contributions do not exceed 3 percent of the employee's compensation, or

''(ii) the employer is required, without regard to whether an employee makes any elective plan contribution, to make a contribution to the plan on behalf of each employee who is not a highly compensated or key employee and who is eligible to participate in the plan in an amount equal to at least 2 percent of the employee's compensation.

''(B) MATCHING CONTRIBUTIONS ON BEHALF OF HIGHLY COMPENSATED AND KEY EMPLOYEES.—The requirements of subparagraph (A)(i) shall not be treated as met if, under the plan, the rate of matching contribution with respect to any elective plan contribution of a highly compensated or key employee at any rate of contribution is greater than that with respect to an employee who is not a highly compensated or key employee.

''(C) SPECIAL RULES.—

''(i) TIME FOR MAKING CONTRIBUTIONS.—An employer shall not be treated as failing to meet the requirements of this paragraph with respect to any elective plan contributions of any compensation, or employer contributions required under this paragraph with respect to any compensation, if such contributions are made no later than the 15th day of the month following the last day of the calendar quarter which includes the date of payment of the compensation.

''(ii) FORM OF CONTRIBUTIONS.—Employer contributions required under this paragraph may be made either to the plan to provide benefits offered under the plan or to any person as payment for providing benefits offered under the plan.

''(iii) ADDITIONAL CONTRIBUTIONS.—Subject to subparagraph (B), nothing in this paragraph shall be treated as prohibiting an employer from making contributions to the plan in addition to contributions required under subparagraph (A).

''(D) DEFINITIONS.—For purposes of this paragraph—

''(i) ELECTIVE PLAN CONTRIBUTION.—The term 'elective plan contribution' means any amount which is contributed at the election of the employee and which is not includible in gross income by reason of this section.

''(ii) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' has the meaning given such term by section 414(q).

''(iii) KEY EMPLOYEE.—The term 'key employee' has the meaning given such term by section 416(i).

''(4) MINIMUM ELIGIBILITY AND PARTICIPATION REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph shall be treated as met with respect to any year if, under the plan—

''(i) all employees who had at least 1,000 hours of service for the preceding plan year are eligible to participate, and

''(ii) each employee eligible to participate in the plan may, subject to terms and conditions applicable to all participants, elect any benefit available under the plan.

''(B) CERTAIN EMPLOYEES MAY BE EXCLUDED.—For purposes of subparagraph (A)(i), an employer may elect to exclude under the plan employees—

''(i) who have less than 1 year of service with the employer as of any day during the plan year,

''(ii) who have not attained the age of 21 before the close of a plan year,

''(iii) who are covered under an agreement which the Secretary of Labor finds to be a collective bargaining agreement if there is evidence that the benefits covered under the cafeteria plan were the subject of good faith bargaining between employee representatives and the employer, or

''(iv) who are described in section 410(b)(3)(C) (relating to nonresident aliens working outside the United States).

A plan may provide a shorter period of service or younger age for purposes of clause (i) or (ii).

''(5) ELIGIBLE EMPLOYER.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'eligible employer' means, with respect to any year, any employer if such employer employed an average of 100 or fewer employees on business days during either of the 2 preceding years. For purposes of this subparagraph, a year may only be taken into account if the employer was in existence throughout the year.

''(B) EMPLOYERS NOT IN EXISTENCE DURING PRECEDING YEAR.—If an employer was not in existence throughout the preceding year, the determination under subparagraph (A) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current year.

''(C) GROWING EMPLOYERS RETAIN TREATMENT AS SMALL EMPLOYER.—If—

''(i) an employer was an eligible employer for any year (a 'qualified year'), and

''(ii) such employer establishes a simple cafeteria plan for its employees for such year, then, notwithstanding the fact the employer fails to meet the requirements of subparagraph (A) for any subsequent year, such employer shall be treated as an eligible employer for such subsequent year with respect to employees (whether or not employees during a qualified year) of any trade or business which was covered by the plan during any qualified year. This subparagraph shall cease to apply if the employer employs an average of 200 more employees on business days during any year preceding any such subsequent year.

''(D) SPECIAL RULES.—

''(i) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

''(ii) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (n) or (o) of section 414, shall be treated as one person.

''(6) APPLICABLE NONDISCRIMINATION REQUIREMENT.—For purposes of this subsection, the term 'applicable nondiscrimination requirement' means any requirement under subsection (b) of this section, section 79(d), section 105(h), or paragraph (2), (3), (4), or (8) of section 129(d).

''(7) COMPENSATION.—The term 'compensation' has the meaning given such term by section 414(s).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2009.

SEC. 3. MODIFICATIONS OF RULES APPLICABLE TO CAFETERIA PLANS.

(a) APPLICATION TO SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Section 125(d) (defining cafeteria plan) is amended by adding at the end the following new paragraph:

''(3) EMPLOYEE TO INCLUDE SELF-EMPLOYED.—

''(A) IN GENERAL.—The term 'employee' includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

''(B) LIMITATION.—The amount which may be excluded under subsection (a) with respect to a participant in a cafeteria plan by reason of being an employee under subparagraph (A) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the cafeteria plan is established.''.

(2) APPLICATION TO BENEFITS WHICH MAY BE PROVIDED UNDER CAFETERIA PLAN.—

(A) GROUP-TERM LIFE INSURANCE.—Section 79 (relating to group-term life insurance provided to employees) is amended by adding at the end the following new subsection:

''(f) EMPLOYEE INCLUDES SELF-EMPLOYED.—

''(1) IN GENERAL.—For purposes of this section, the term 'employee' includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

''(2) LIMITATION.—The amount which may be excluded under the exceptions contained in subsection (a) or (b) with respect to an individual treated as an employee by reason of paragraph (1) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the individual is so treated.''.

(B) ACCIDENT AND HEALTH PLANS.—Subsection (g) of section 105 (relating to amounts received under accident and health plans) is amended to read as follows:

''(g) EMPLOYEE INCLUDES SELF-EMPLOYED.—

''(1) IN GENERAL.—For purposes of this section, the term 'employee' includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

''(2) LIMITATION.—The amount which may be excluded under this section by reason of subsection (b) or (c) with respect to an individual treated as an employee by reason of paragraph (1) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the accident or health insurance was established.''.

(C) CONTRIBUTIONS BY EMPLOYERS TO ACCIDENT AND HEALTH PLANS.—

(i) IN GENERAL.—Section 106, as amended by subsection (b), is amended by inserting after subsection (b) the following new subsection:

''(c) EMPLOYER TO INCLUDE SELF-EMPLOYED.—

''(1) IN GENERAL.—For purposes of this section, the term 'employee' includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

''(2) LIMITATION.—The amount which may be excluded under subsection (a) with respect to an individual treated as an employee by reason of paragraph (1) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the accident or health insurance was established.''.

(ii) CLARIFICATION OF LIMITATIONS ON OTHER COVERAGE.—The first sentence of section 162(l)(2)(B) is amended to read as follows: ''Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any subsidized health plan maintained by any employer (other than an employer described in section 401(c)(4)) of the taxpayer or the spouse of the taxpayer.''.

(b) LONG-TERM CARE INSURANCE PERMITTED TO BE OFFERED UNDER CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.—

(1) CAFETERIA PLANS.—The last sentence of section 125(f) (defining qualified benefits) is amended to read as follows: ''Such term shall include the payment of premiums for any qualified long-term care insurance contract (as defined in section 7702B) to the extent the amount of such payment does not exceed the eligible long-term care premiums (as defined in section 213(d)(10)) for such contract.''.

(2) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106 (relating to contributions by employer to accident and health plans) is amended by striking subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 4. MODIFICATION OF RULES APPLICABLE TO FLEXIBLE SPENDING ARRANGEMENTS.

(a) MODIFICATION OF RULES.—

(1) IN GENERAL.—Section 125, as amended by section 2, is amended by redesignating subsections (j) and (k) as subsections (k) and (l), respectively, and by inserting after subsection (i) the following new subsection:

''(j) SPECIAL RULES APPLICABLE TO FLEXIBLE SPENDING ARRANGEMENTS.—

''(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a flexible spending or similar arrangement solely because under the plan or arrangement—

''(A) the amount of the reimbursement for covered expenses at any time may not exceed the balance in the participant's account for the covered expenses as of such time,

''(B) except as provided in paragraph (4)(A)(ii), a participant may elect at any time specified by the plan or arrangement to make or modify any election regarding the covered benefits, or the level of covered benefits, of the participant under the plan, and

''(C) a participant is permitted access to any unused balance in the participant's accounts under such plan or arrangement in the manner provided under paragraph (2) or (3).

''(2) CARRYOVERS AND ROLLOVERS OF UNUSED BENEFITS IN HEALTH AND DEPENDENT CARE ARRANGEMENTS.—

''(A) IN GENERAL.—A plan or arrangement may permit a participant in a health flexible spending arrangement or dependent care flexible spending arrangement to elect—

''(i) to carry forward any aggregate unused balances in the participant's accounts under such arrangement as of the close of any year to the succeeding year, or

''(ii) to have such balance transferred to a plan described in subparagraph (E).

Such carryforward or transfer shall be treated as having occurred within 30 days of the close of the year.

''(B) DOLLAR LIMIT ON CARRYFORWARDS.—

''(i) IN GENERAL.—The amount which a participant may elect to carry forward under subparagraph (A)(i) from any year shall not exceed $500. For purposes of this paragraph, all plans and arrangements maintained by an employer or any related person shall be treated as 1 plan.

''(ii) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2010, the $500 amount under clause (i) shall be increased by an amount equal to—

''(I) $500, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting '2009' for '1992' in subparagraph (B) thereof.

If any dollar amount as increased under this clause is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.

''(C) EXCLUSION FROM GROSS INCOME.—No amount shall be required to be included in gross income under this chapter by reason of any carryforward or transfer under this paragraph.

''(D) COORDINATION WITH LIMITS.—

''(i) CARRYFORWARDS.—The maximum amount which may be contributed to a health flexible spending arrangement or dependent care flexible spending arrangement for any year to which an unused amount is carried under this paragraph shall be reduced by such amount.

''(ii) ROLLOVERS.—Any amount transferred under subparagraph (A)(ii) shall be treated as an eligible rollover under section 219, 223(f)(5), 401(k), 403(b), or 457, whichever is applicable, except that—

''(I) the amount of the contributions which a participant may make to the plan under any such section for the taxable year including the transfer shall be reduced by the amount transferred, and

''(II) in the case of a transfer to a plan described in clause (ii) or (iii) of subparagraph (E), the transferred amounts shall be treated as elective deferrals for such taxable year.

''(E) PLANS.—A plan is described in this subparagraph if it is—

''(i) an individual retirement plan,

''(ii) a qualified cash or deferred arrangement described in section 401(k),

''(iii) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b),

''(iv) an eligible deferred compensation plan described in section 457, or

''(v) a health savings account described in section 223.

''(3) DISTRIBUTION UPON TERMINATION.—

''(A) IN GENERAL.—A plan or arrangement may permit a participant (or any designated heir of the participant) to receive a cash payment equal to the aggregate unused account balances in the plan or arrangement as of the date the individual is separated (including by death or disability) from employment with the employer maintaining the plan or arrangement.

''(B) INCLUSION IN INCOME.—Any payment under subparagraph (A) shall be includible in gross income for the taxable year in which such payment is distributed to the employee.

''(4) TERMS RELATING TO FLEXIBLE SPENDING ARRANGEMENTS.—

''(A) FLEXIBLE SPENDING ARRANGEMENTS.—

''(i) IN GENERAL.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions).

''(ii) ELECTIONS REQUIRED.—A plan or arrangement shall not be treated as a flexible spending arrangement unless a participant may at least 4 times during any year make or modify any election regarding covered benefits or the level of covered benefits.

''(B) HEALTH AND DEPENDENT CARE ARRANGEMENTS.—The terms 'health flexible spending arrangement' and 'dependent care flexible spending arrangement' means any flexible spending arrangement (or portion thereof) which provides payments for expenses incurred for medical care (as defined in section 213(d)) or dependent care (within the meaning of section 129), respectively.''.

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 125 is amended by inserting ''and flexible spending arrangements'' after ''plans''.

(B) The item relating to section 125 in the table of sections for part III of subchapter B of chapter 1 is amended by inserting ''and flexible spending arrangements'' after ''plans''.

(b) TECHNICAL AMENDMENTS.—

(1) Section 106 is amended by striking subsection (e) (relating to FSA and HRA Terminations to Fund HSAs).

(2) Section 223(c)(1)(B)(iii)(II) is amended to read as follows:

''(II) the individual is transferring the entire balance of such arrangement as of the end of the plan year to a health savings account pursuant to section 125(j)(2)(A)(ii), in accordance with rules prescribed by the Secretary.''.

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

SEC. 5. RULES RELATING TO EMPLOYER-PROVIDED HEALTH AND DEPENDENT CARE BENEFITS.

(a) HEALTH BENEFITS.—Section 106, as amended by section 4(b)(1), is amended by adding at the end the following new subsection:

''(e) LIMITATION ON CONTRIBUTIONS TO HEALTH FLEXIBLE SPENDING ARRANGEMENTS.—

''(1) IN GENERAL.—Gross income of an employee for any taxable year shall include employer-provided coverage provided through 1 or more health flexible spending arrangements (within the meaning of section 125(j)) to the extent that the amount otherwise excludable under subsection (a) with regard to such coverage exceeds the applicable dollar limit for the taxable year.

''(2) APPLICABLE DOLLAR LIMIT.—For purposes of this subsection—

''(A) IN GENERAL.—The applicable dollar limit for any taxable year is an amount equal to the sum of—

''(i) $7,500, plus

''(ii) if the arrangement provides coverage for 1 or more individuals in addition to the employee, an amount equal to one-third of the amount in effect under clause (i) (after adjustment under subparagraph (B)).

''(B) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning in any calendar year after 2010, the $7,500 amount under subparagraph (A) shall be increased by an amount equal to—

''(i) $7,500, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting '2009' for '1992' in subparagraph (B) thereof.

If any dollar amount as increased under this subparagraph is not a multiple of $100, such dollar amount shall be rounded to the next lowest multiple of $100.''.

(b) DEPENDENT CARE.—

(1) EXCLUSION LIMIT.—

(A) IN GENERAL.—Section 129(a)(2) (relating to limitation on exclusion) is amended—

(i) by striking ''$5,000'' and inserting ''the applicable dollar limit'', and

(ii) by striking ''$2,500'' and inserting ''one-half of such limit''.

(B) APPLICABLE DOLLAR LIMIT.—Section 129(a) is amended by adding at the end the following new paragraph:

''(3) APPLICABLE DOLLAR LIMIT.—For purposes of this subsection—

''(A) IN GENERAL.—The applicable dollar limit is $7,500 ($10,000 if dependent care assistance is provided under the program to 2 or more qualifying individuals of the employee).

''(B) COST-OF-LIVING ADJUSTMENTS.—In the case of taxable years beginning after 2010, each dollar amount under subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting '2009' for '1992' in subparagraph (B) thereof.

If any dollar amount as increased under this clause is not a multiple of $100, such dollar amount shall be rounded to the next lowest multiple of $100.''.

(2) AVERAGE BENEFITS TEST.—

(A) IN GENERAL.—Section 129(d)(8)(A) (relating to benefits) is amended—

(i) by striking ''55 percent'' and inserting ''60 percent'', and

(ii) by striking ''highly compensated employees'' the second place it appears and inserting ''employees receiving benefits''.

(B) SALARY REDUCTION AGREEMENTS.—Section 129(d)(8)(B) (relating to salary reduction agreements) is amended—

(i) by striking ''$25,000'' and inserting ''$30,000'', and

(ii) by adding at the end the following: ''In the case of years beginning after 2010, the $30,000 amount in the first sentence shall be adjusted at the same time, and in the same manner, as the applicable dollar amount is adjusted under subsection (a)(3)(B).''.

(3) PRINCIPAL SHAREHOLDERS OR OWNERS.—Section 129(d)(4) (relating to principal shareholders and owners) is amended by adding at the end the following: ''In the case of any failure to meet the requirements of this paragraph for any year, amounts shall only be required by reason of the failure to be included in gross income of the shareholders or owners who are members of the class described in the preceding sentence.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

THE SIMPLE CAFETERIA PLAN ACT OF 2009

Small businesses face a crisis when it comes to securing affordable, quality health care and other benefits for their employees. Of the working uninsured, who make up a majority of the uninsured—52 percent—are either self-employed or work for a small business with 100 or fewer employees or are dependent upon someone who does. The SIMPLE Cafeteria Plan Act is modeled after the Savings Incentive Match Plan for Employees (SIMPLE) pension plan enacted in 1996 and it will address access and affordability for health insurance coverage and for other employee benefits. The legislation also updates current law for all cafeteria plans for dependent care flexible spending accounts (DCFSA) and long-term care insurance.

First, the SIMPLE Cafeteria Plan Act will increase access to quality, affordable health care for millions of small business owners and their employees by amending the nondiscrimination rules so that the employer must either: (1) make a minimum 3% matching contribution to amounts contributed by non-highly compensated employees to the SIMPLE Cafeteria Plan; or (2) contribute a minimum of 2% of compensation on behalf of each non-highly compensated employee eligible to participate in the plan. The bill eliminates the prohibition against small business owners' participation in cafeteria plans.

For all flexible spending accounts, the bill revises the ''use it or lose it'' rule under current law, and permits participants to carry over up to $500 left in a health-care or dependent-care flexible spending account to the next plan year. Such unused contributions could also be carried over to the employee's retirement account, such as a 401(k) plan, or to a Health Savings Account. In either case, any carried over contributions will reduce the amount that the employee could contribute to the flexible spending account or pension plan in the subsequent year. The bill indexes the carry-over amount for inflation.

The SIMPLE Cafeteria Act also updates DCFSA limits for any cafeteria plan by increasing the amount that can be excluded to $7,500 for one dependent or $10,000 for two or more dependents. Had the original $5,000 limit for DCFSA been indexed for inflation when it was created in 1986, it would have risen to $9,692. The bill also indexes these amounts for future inflation so that families will not see an erosion of their benefit in the future.

Finally, the bill allows long-term care benefits to be provided under a cafeteria plan, thereby reversing the current law prohibition against such benefits.

By Mr. INHOFE:

S. 991. A bill to declare English as the official language of the United States, to establish a uniform English language rule for naturalization, and to avoid misconstructions of the English language texts of the laws of the United States, pursuant to Congress' powers to provide for the general welfare of the United States and to establish a rule of naturalization under article I, section 8, of the Constitution; to the Committee on Homeland Security and Governmental Affairs.

Mr. INHOFE. Mr. President, today I would like to introduce two pieces of legislation that I believe are of great importance to the unity of the American people—the National Language Act, S. 992, and the English Language Unity Act, S. 991.

The National Language Act recognizes the practical reality of the role of English as our national language and makes English the national language of the U.S. Government, a status in law it has not had before, and calls on government to preserve and enhance the role of English as the national language. It clarifies that there is no entitlement to receive Federal documents and services in languages other than English, unless required by statutory law, recognizing decades of unbroken court opinions that civil rights laws protecting against national origin discrimination do not create rights to Government services and materials in languages other than English. This is especially important considering the Office of Management and Budget has estimated that the annual cost of providing multilingual assistance required by Clinton Executive Order 13166 is $1–$2 billion annually.

The National Language Act is an attempt to legislate a common sense language policy that a nation of immigrants needs one national language. Our Nation was settled by a group of people with a common vision. When members of our society cannot speak a common language, individuals miss out on many opportunities to advance in society and achieve the American Dream. By establishing that there is no entitlement to receive documents or services in languages other than English, we set the precedent that English is a common to us all in the public forum of Government.

The Language Unity Act of 2009, the second piece of legislation that I am introducing today, incorporates all the ideas of the National Language Act, and requires the establishment of a uniform language requirement for naturalization and sets the framework for uniform testing of English language ability for candidates for naturalization.

I want to empower new immigrants coming to our Nation by helping them understand and become successful in their new home. I believe that one of the most important ways immigrants can achieve success is by learning English.

There is enormous popular support for English as the National Language, according to polling that has taken place over the last few years. In polling reported only a few days ago, 86 percent of Oklahomans favor making English the official language; 87 percent of Americans support making English the official language of the U.S.; 77 percent of Hispanics believe English should be the official language of government operations; 82 percent of Americans support legislation that would require the Federal Government to conduct business solely in English; 74 percent of Americans support all election ballots and other government documents be printed in English. This polling data refers to making English an official language of the U.S., or further creating an affirmative responsibility on the part of Government to conduct its operations in English.

My colleagues who have followed this debate will remember that the National Language Act of 2009 is identical to S. 2715, legislation I introduced in the 110th Congress. Most importantly, this language is identical to the English amendments I authored which passed the Senate in 2007 as Senate Amendment 1151, and in 2006 as Senate Amendment 4064, each being part of the Comprehensive Immigration Reform Act of each respective Congress. Senate Amendment 1151 was agreed to in the Senate by a vote of 64–33. Senate Amendment 4064 was agreed to in the Senate by a vote of 62–35. As you can see, there is widespread and bipartisan support for legislation that empowers this nation's immigrants to learn English,

I am especially pleased to be introducing these bills today because just hours ago in my home State the Oklahoma State Legislature passed a joint resolution in support of English as the official language. This resolution, which passed the Oklahoma House of Representatives by an overwhelming vote of 89 to 8 and the Senate by a vote of 44 to 2, will allow the people of Oklahoma to vote on a statewide ballot for a constitutional amendment to make English the official language of Oklahoma. I am encouraged by the State Legislature's tireless efforts to affirm the importance of English as the unifying language in our society. I hope that the U.S. Congress will follow their lead and let the voice of the people be heard—a voice that overwhelmingly supports English as the official language.

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. 991

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 ''English Language Unity Act of 2009''.

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) The United States is comprised of individuals from diverse ethnic, cultural, and linguistic backgrounds, and continues to benefit from this rich diversity.

(2) Throughout the history of the United States, the common thread binding individuals of differing backgrounds has been the English language.

(3) Among the powers reserved to the States respectively is the power to establish the English language as the official language of the respective States, and otherwise to promote the English language within the respective States, subject to the prohibitions enumerated in the Constitution of the United States and in laws of the respective States.

SEC. 3. ENGLISH AS OFFICIAL LANGUAGE OF THE UNITED STATES.

(a) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following new chapter:

''CHAPTER 6—OFFICIAL LANGUAGE

''§ 161. Official language of the United States

''The official language of the United States is English.

''§ 162. Preserving and enhancing the role of the official language

''Representatives of the Federal Government shall have an affirmative obligation to preserve and enhance the role of English as the official language of the Federal Government. Such obligation shall include encouraging greater opportunities for individuals to learn the English language.

''§ 163. Official functions of Government to be conducted in English

''(a) OFFICIAL FUNCTIONS.—The official functions of the Government of the United States shall be conducted in English.

''(b) SCOPE.—For the purposes of this section, the term 'United States' means the several States and the District of Columbia, and the term 'official' refers to any function that (i) binds the Government, (ii) is required by law, or (iii) is otherwise subject to scrutiny by either the press or the public.

''(c) PRACTICAL EFFECT.—This section shall apply to all laws, public proceedings, regulations, publications, orders, actions, programs, and policies, but does not apply to—

''(1) teaching of languages;

''(2) requirements under the Individuals with Disabilities Education Act;

''(3) actions, documents, or policies necessary for national security, international relations, trade, tourism, or commerce;

''(4) actions or documents that protect the public health and safety;

''(5) actions or documents that facilitate the activities of the Bureau of the Census in compiling any census of population;

''(6) actions that protect the rights of victims of crimes or criminal defendants; or

''(7) using terms of art or phrases from languages other than English.

''§ 164. Uniform English language rule for naturalization

''(a) UNIFORM LANGUAGE TESTING STANDARD.—All citizens should be able to read and understand generally the English language text of the Declaration of Independence, the Constitution, and the laws of the United States made in pursuance of the Constitution.

''(b) CEREMONIES.—All naturalization ceremonies shall be conducted in English.

''§ 165. Rules of construction

''Nothing in this chapter shall be construed—

''(1) to prohibit a Member of Congress or any officer or agent of the Federal Government, while performing official functions, from communicating unofficially through any medium with another person in a language other than English (as long as official functions are performed in English);

''(2) to limit the preservation or use of Native Alaskan or Native American languages (as defined in the Native American Languages Act);

''(3) to disparage any language or to discourage any person from learning or using a language; or

''(4) to be inconsistent with the Constitution of the United States.

''§ 166. Standing

''A person injured by a violation of this chapter may in a civil action (including an action under chapter 151 of title 28) obtain appropriate relief.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of title 4, United States Code, is amended by inserting after the item relating to chapter 5 the following new item:

''CHAPTER 6. OFFICIAL LANGUAGE''.

SEC. 4. GENERAL RULES OF CONSTRUCTION FOR ENGLISH LANGUAGE TEXTS OF THE LAWS OF THE UNITED STATES.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following new section:

''§ 8. General rules of construction for laws of the United States

''(a) English language requirements and workplace policies, whether in the public or private sector, shall be presumptively consistent with the Laws of the United States; and

''(b) Any ambiguity in the English language text of the Laws of the United States shall be resolved, in accordance with the last two articles of the Bill of Rights, not to deny or disparage rights retained by the people, and to reserve powers to the States respectively, or to the people.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, is amended by inserting after the item relating to section 7 the following new item:

''8. General Rules of Construction for Laws of the United States.''.

SEC. 5. IMPLEMENTING REGULATIONS.

The Secretary of Homeland Security shall, within 180 days after the date of enactment of this Act, issue for public notice and comment a proposed rule for uniform testing English language ability of candidates for naturalization, based upon the principles that—

(1) all citizens should be able to read and understand generally the English language text of the Declaration of Independence, the Constitution, and the laws of the United States which are made in pursuance thereof; and

(2) any exceptions to this standard should be limited to extraordinary circumstances, such as asylum.

SEC. 6. EFFECTIVE DATE.

The amendments made by sections 3 and 4 shall take effect on the date that is 180 days after the date of the enactment of this Act.

By Mr. INHOFE (for himself, Mr. ALEXANDER, Mr. ISAKSON, Mr. CHAMBLISS, Mr. BURR, Mr. SHELBY, Mr. VITTER, Mr. BUNNING, Mr. COBURN, Mr. WICKER, Mr. DEMINT, Mr. ENZI, Mr. THUNE, Mr. CORKER, and Mr. COCHRAN):

S. 992. A bill to amend title 4, United States Code, to declare English as the national language of the Government of the United States, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. INHOFE. 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. 992

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 ''National Language Act of 2009''.

SEC. 2. AMENDMENT TO TITLE 4.

(a) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following:

''CHAPTER 6—LANGUAGE OF THE GOVERNMENT

''Sec.
''161. Declaration of national language.
''162. Preserving and enhancing the role of the national language.
''163. Use of language other than English.

''§ 161. Declaration of national language

''English shall be the national language of the Government of the United States.

''§ 162. Preserving and enhancing the role of the national language

''(a) IN GENERAL.—The Government of the United States shall preserve and enhance the role of English as the national language of the United States of America.

''(b) EXCEPTION.—Unless specifically provided by statute, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than English. If an exception is made with respect to the use of a language other than English, the exception does not create a legal entitlement to additional services in that language or any language other than English.

''(c) FORMS.—If any form is issued by the Federal Government in a language other than English (or such form is completed in a language other than English), the English language version of the form is the sole authority for all legal purposes.

''§ 163. Use of language other than English

''Nothing in this chapter shall prohibit the use of a language other than English.''.

(b) CONFORMING AMENDMENT.—The table of chapters for title 4, United States Code, is amended by adding at the end the following new item:

''6. Language of the Government ..... 161''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 132—COMMENDING THE HEROIC EFFORTS OF THE PEOPLE FIGHTING THE FLOODS IN NORTH DAKOTA

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

S. RES. 132

Whereas 47 of the 53 counties in North Dakota have been declared Federal disaster areas;

Whereas wide swaths of North Dakota have faced unprecedented flooding crises, including cities along the Des Lacs, Heart, James, Knife, Missouri, Little Missouri, Park, Pembina, Red, Sheyenne, Souris, and Wild Rice Rivers and Beaver Creek;

Whereas the people of North Dakota have suffered tremendous damage to their homes, livelihoods, and communities;

Whereas the ranchers of North Dakota are estimated to have lost nearly 100,000 head of livestock;

Whereas many of the roads and bridges, and much of the other infrastructure, in North Dakota are in need of repair;

Whereas, despite terrible conditions, the people of North Dakota have shown the strength of their shared bond, coming together in large numbers to save their cities, towns, businesses, farms, and ranches;

Whereas stories of exceptional efforts abound, from people filling millions of sandbags on short notice, to people saving lives and effecting rapid emergency evacuations;

Whereas Federal, State, and local officials have provided outstanding leadership and effective service throughout the crisis in North Dakota; and

Whereas the response of the people of North Dakota to the disaster has shown the world how communities can unite, fight, and win in a crisis: Now, therefore, be it

Resolved, That the Senate—

(1) commends the people of North Dakota for their heroic efforts in fighting the floods in North Dakota;

(2) commends the many people from around the United States who assisted the people of North Dakota during this time of need;

(3) expresses appreciation to the officials of the numerous Federal agencies working on the ground in North Dakota for their consistently rapid, efficient, and effective response to the disaster; and

(4) continues to stand with the communities of North Dakota in the efforts to recover from the flooding during 2009, and to improve protections against flooding in the future.

SENATE RESOLUTION 133—DESIGNATING MAY 1 THROUGH MAY 7, 2009, AS ''NATIONAL PHYSICAL EDUCATION AND SPORT WEEK''

Ms. KLOBUCHAR (for herself and Mr. THUNE) submitted the following resolution; which was considered and agreed to:

S. RES. 133

Whereas childhood obesity has reached epidemic proportions in the United States;

Whereas the Department of Health and Human Services estimates that, by 2010, 20 percent of children in the United States will be obese;

Whereas a decline in physical activity has contributed to the unprecedented epidemic of childhood obesity;

Whereas regular physical activity is necessary to support normal and healthy growth in children;

Whereas overweight adolescents have a 70 to 80 percent chance of becoming overweight adults, increasing their risk for chronic disease, disability, and death;

Whereas Type II diabetes can no longer be referred to as ''late in life'' or ''adult onset'' diabetes because it occurs in children as young as 10 years old;

Whereas the Physical Activity Guidelines for Americans recommend that children engage in at least 60 minutes of physical activity on most, and preferably all, days of the week;

Whereas children spend many of their waking hours at school and therefore need to be active during the school day to meet the recommendations of the Physical Activity Guidelines for Americans;

Whereas teaching children about physical education and sports not only ensures that they are physically active during the school day, but also educates them on how to be physically active and its importance;

Whereas only 3.8 percent of elementary schools, 7.9 percent of middle schools, and 2.1 percent of high schools provide daily physical education or its equivalent for the entire school year, and 22 percent of schools do not require students to take any physical education at all;

Whereas research shows that fit and active children are more likely to thrive academically;

Whereas participation in sports and physical activity improves self-esteem and body image in children and adults;

Whereas the social and environmental factors affecting children are in the control of the adults and the communities in which they live, and therefore this Nation shares a collective responsibility in reversing the childhood obesity trend; and

Whereas Congress strongly supports efforts to increase physical activity and participation of youth in sports: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of May 1 through May 7, 2009, as ''National Physical Education and Sport Week'';

(2) recognizes ''National Physical Education and Sport Week'' and the central role of physical education and sports in creating a healthy lifestyle for all children and youth;

(3) calls on school districts to implement local wellness policies as defined by the Child Nutrition and WIC Reauthorization Act of 2004 that include ambitious goals for physical education, physical activity, and other activities addressing the childhood obesity epidemic and promoting child wellness; and

(4) encourages schools to offer physical education classes to students and work with community partners to provide opportunities and safe spaces for physical activities