

each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated in writing to the applicable Inspector General and to the Attorney General.

"(8) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority, including United States Marshals Service special deputation."

(b) **PROMULGATION OF INITIAL GUIDELINES.**—

(1) **DEFINITION.**—In this subsection, the term "memoranda of understanding" means the agreements between the Department of Justice and the Inspector General offices described under section 6(e)(3) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) that—

(A) are in effect on the date of enactment of this Act; and

(B) authorize such offices to exercise authority that is the same or similar to the authority under section 6(e)(1) of such Act.

(2) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Attorney General shall promulgate guidelines under section 6(e)(4) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) applicable to the Inspector General offices described under section 6(e)(3) of that Act.

(3) **MINIMUM REQUIREMENTS.**—The guidelines promulgated under this subsection shall include, at a minimum, the operational and training requirements in the memoranda of understanding.

(4) **NO LAPSE OF AUTHORITY.**—The memoranda of understanding in effect on the date of enactment of this Act shall remain in effect until the guidelines promulgated under this subsection take effect.

(c) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Subsection (a) shall take effect 180 days after the date of enactment of this Act.

(2) **INITIAL GUIDELINES.**—Subsection (b) shall take effect on the date of enactment of this Act.

ANNUITY COMPUTATION ADJUSTMENT FOR PERIODS OF DISABILITY

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 716, S. 2936.

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

The legislative clerk read as follows:

A bill (S. 2936) to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percent relating to periods of receiving disability payments, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with an amendment and an amendment to the title.

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 2936

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

SECTION 1. ANNUITY COMPUTATION ADJUSTMENT FOR PERIODS OF DISABILITY.

[Section 8415 of title 5, United States Code, is amended—

[(1) by redesignating the second subsection (i) and subsection (j) as subsections (j) and (k), respectively; and

[(2) by adding at the end the following:

"[(1) In the case of any annuity computation under this section that includes, in the aggregate, at least 1 year of credit under section 8411(d) for any period while receiving benefits under subchapter I of chapter 81, the percentage otherwise applicable under this section for that period so credited shall be increased by 1 percent.".]

SECTION 1. ANNUITY COMPUTATION ADJUSTMENT FOR PERIODS OF DISABILITY.

(a) **IN GENERAL.**—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (i) as subsection (k); and

(2) by adding at the end the following:

"[(1) In the case of any annuity computation under this section that includes, in the aggregate, at least 1 year of credit under section 8411(d) for any period while receiving benefits under subchapter I of chapter 81, the percentage otherwise applicable under this section for that period so credited shall be increased by 1 percentage point."]

(b) **CONFORMING AMENDMENT.**—Section 8422(d)(2) of title 5, United States Code (as added by section 122(b)(2) of Public Law 107-135), is amended by striking "8415(i)" and inserting "8415(k)".

(c) **APPLICABILITY.**—The amendments made by this section shall apply with respect to any annuity entitlement which is based on a separation from service occurring on or after the date of enactment of this Act.

Amend the title so as to read: "A bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments, and for other purposes."

Mr. ALLEN. Mr. President, today I rise to thank my colleagues for their unanimous support of S. 2936 which will adjust Federal employees retirement computations to offset reductions in their retirement arising from on-the-job injuries covered by the Workers Compensation program. An extraordinary amount of hard work went into this legislation and I would like to thank my colleague from New York, Senator CLINTON, for her most valuable assistance on her side of the aisle in pushing this important measure through the legislative process. I would also like to thank Senators AKAKA, COCHRAN, LIEBERMAN, and THOMPSON of the Governmental Affairs Committee for their advice and bipartisan support, and Senator WARNER for his support from the first day I introduced this bill.

S. 2936 addresses a problem in the retirement program for federal employees that has been recognized but unresolved since 1986 when the current retirement system was established. Unfortunately, complications arising from the Tax Code and the Workers Rehabilitation Act of 1973 have blocked any solution.

My resolve to address the problem was inspired by Ms. Louise Kurtz, a

federal employee who was severely injured in the September 11 attack on the Pentagon. She suffered burns over 70% of her body, lost her fingers, yet fights daily in rehabilitation and hopes to return to work some day. Current law does not allow Mrs. Kurtz to contribute to her retirement program while she is recuperating and receiving Worker's Compensation disability payments. As a result, after returning to work and eventually retiring, she will find herself inadequately prepared and unable to afford to retire because of the lack of contributions during her recuperation.

As Ms. Kurtz's situation reveals, federal employees under the Federal Employees Retirement System who have sustained an on-the-job injury and are receiving disability compensation from the Department of Labor's Office of Workers' Compensation Programs are unable to make contributions or payments into Social Security or the Thrift Savings Plan. Therefore, the future retirement benefits from both sources are reduced.

This legislation offsets the reductions in Social Security and Thrift Savings Plan retirement benefits by increasing the Federal Employees Retirement System Direct Benefit calculation by one percentage point for extended periods of disability.

The passage of this bill ensures that the pensions of our hard-working federal employees will be kept whole during a period of injury and recuperation, especially now that many of them are on the frontlines of protecting our homeland security in this new war on terror. By protecting the retirement security of injured federal employees, we have provided an incentive for them to return to work and increased our ability to retain our most dedicated and experienced federal workers. This is a reasonable and fair approach in which the whole Senate has acted in a logical and compassionate manner.

I wish to reiterate my gratitude to Senators LIEBERMAN and THOMPSON and their staffs for their assistance in passing this legislation. I also wish to thank Office of Personnel Management Director Kay Coles James and Harry Wolf, Ted Newland, and Mary Ellen Wilson of her staff for helping craft this legislative solution to a heretofore insolvable problem. They are truly wonderful, creative, caring, and principled leaders who worked long hours to accomplish this equitable solution.

I am glad to see the Senate come together and pass this important legislation and again thank my colleague from New York for her leadership. I have truly enjoyed working with her for the successful passage of this positive and constructive legislation that will improve the retirement security of America's dedicated federal employees.

Mr. REID. Mr. President, I ask that the Senate agree to the committee substitute; the bill, as amended, be read a third time and passed, the title amendment be agreed to, the motion to reconsider be laid upon the table with no

intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The title amendment was agreed to.

The bill (S. 2936), as amended, was read a third time and passed.

IMPROPER PAYMENTS REDUCTION ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 727, H.R. 4878.

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

The legislative clerk read as follows:

A bill (H.R. 4878) to provide for estimates and reports of improper payments by Federal agencies.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with an amendment.

[Strike the part shown in black brackets and insert the part shown in italic.]

H.R. 4878

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 "Improper Payments Information Act of 2002".]

SEC. 2. ESTIMATES OF IMPROPER PAYMENTS AND REPORTS ON ACTIONS TO REDUCE THEM.

[(a) IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES.—The head of each agency shall, in accordance with guidance prescribed by the Director of the Office of Management and Budget, annually review all programs and activities that it administers and identify all such programs and activities that may be susceptible to significant improper payments.]

[(b) ESTIMATION OF IMPROPER PAYMENT.—With respect to each program and activity identified under subsection (a), the head of the agency concerned shall—

[(1) estimate the annual amount of improper payments; and

[(2) include that estimate in its annual budget submission.]

[(c) REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.—With respect to any program or activity of an agency with estimated improper payments under subsection (b) that exceed one percent of the total program or activity budget or \$1,000,000 annually (whichever is less), the head of the agency shall provide with the estimate under subsection (b) a report on what actions the agency is taking to reduce the improper payments, including—

[(1) a statement of whether the agency has the information systems and other infrastructure it needs in order to reduce improper payments to minimal cost-effective levels;

[(2) if the agency does not have such systems and infrastructure, a description of the resources the agency has requested in its budget submission to obtain the necessary information systems and infrastructure; and

[(3) a description of the steps the agency has taken to ensure that agency managers (including the agency head) are held accountable for reducing improper payments.]

[(d) DEFINITIONS.—For the purposes of this section:

[(1) AGENCY.—The term "agency" means an executive agency, as that term is defined in section 102 of title 31, United States Code.]

[(2) IMPROPER PAYMENT.—The term "improper payment"—

[(A) means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

[(B) includes any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment, payments for services not received, and any payment that does not account for credit for applicable discounts.]

[(3) PAYMENT.—The term "payment" means any payment (including a commitment for future payment, such as a loan guarantee) that is—

[(A) made by a Federal agency, a Federal contractor, or a governmental or other organization administering a Federal program or activity; and

[(B) derived from Federal funds or other Federal resources or that will be reimbursed from Federal funds or other Federal resources.]

[(e) APPLICATION.—This section—

[(1) applies with respect to the administration of programs, and improper payments under programs, in fiscal years after fiscal year 2002; and

[(2) requires the inclusion of estimates under subsection (b)(2) only in annual budget submissions for fiscal years after fiscal year 2003.]

[(f) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall prescribe guidance to implement the requirements of this section.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Improper Payments Information Act of 2002".

SEC. 2. ESTIMATES OF IMPROPER PAYMENTS AND REPORTS ON ACTIONS TO REDUCE THEM.

(a) IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES.—The head of each agency shall, in accordance with guidance prescribed by the Director of the Office of Management and Budget, annually review all programs and activities that it administers and identify all such programs and activities that may be susceptible to significant improper payments.

(b) ESTIMATION OF IMPROPER PAYMENT.—With respect to each program and activity identified under subsection (a), the head of the agency concerned shall—

(1) estimate the annual amount of improper payments; and

(2) submit those estimates to Congress before March 31 of the following applicable year, with all agencies using the same method of reporting, as determined by the Director of the Office of Management and Budget.

(c) REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.—With respect to any program or activity of an agency with estimated improper payments under subsection (b) that exceed \$10,000,000, the head of the agency shall provide with the estimate under subsection (b) a report on what actions the agency is taking to reduce the improper payments, including—

(1) a discussion of the causes of the improper payments identified, actions taken to correct those causes, and results of the actions taken to address those causes;

(2) a statement of whether the agency has the information systems and other infrastructure it needs in order to reduce improper payments to minimal cost-effective levels;

(3) if the agency does not have such systems and infrastructure, a description of the re-

sources the agency has requested in its budget submission to obtain the necessary information systems and infrastructure; and

(4) a description of the steps the agency has taken to ensure that agency managers (including the agency head) are held accountable for reducing improper payments.

(d) DEFINITIONS.—For the purposes of this section:

(1) AGENCY.—The term "agency" means an executive agency, as that term is defined in section 102 of title 31, United States Code.

(2) IMPROPER PAYMENT.—The term "improper payment"—

(A) means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(B) includes any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment, payments for services not received, and any payment that does not account for credit for applicable discounts.

(3) PAYMENT.—The term "payment" means any payment (including a commitment for future payment, such as a loan guarantee) that is—

(A) made by a Federal agency, a Federal contractor, or a governmental or other organization administering a Federal program or activity; and

(B) derived from Federal funds or other Federal resources or that will be reimbursed from Federal funds or other Federal resources.

(e) APPLICATION.—This section—

(1) applies with respect to the administration of programs, and improper payments under programs, in fiscal years after fiscal year 2002; and

(2) requires the inclusion of estimates under subsection (b)(2) only in annual budget submissions for fiscal years after fiscal year 2003.

(f) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—Not later than 6 months after the date of enactment of this Act, the Director of the Office of Management and Budget shall prescribe guidance to implement the requirements of this section.

Mr. REID. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (H.R. 4878), as amended, was read a third time and passed.

THE MEDICAL DEVICE USER FEE AND MODERNIZATION ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the consideration of H.R. 5651.

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

The legislative clerk read as follows:

A bill (H.R. 5651) to amend the Federal Food, Drug and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes.

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

Mr. KENNEDY. Mr. President, I am pleased to support passage of H.R. 5651, "The Medical Device User Fee and