

“(1) **TERMINATION DATE.**—The authority provided by this section terminates on September 30, 2013.

“SEC. 380U. COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subtitle, to remain available until expended.

“SEC. 380V. TRANSITION PROVISIONS.

“(a) TOBACCO STOCKS.—

“(1) **IN GENERAL.**—To provide for the orderly disposition of quota tobacco held by an association that has entered into a loan agreement with the Commodity Credit Corporation under section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2) (referred to in this section as an ‘association’), loan pool stocks for each kind of tobacco held by the association shall be disposed of in accordance with this subsection.

“(2) **ASSOCIATIONS.**—For each kind of tobacco held by an association, the proportion of loan pool stocks for each kind of tobacco held by the association that shall be transferred to the association shall be equal to—

“(A) the amount of funds held by the association in the No Net Cost Tobacco Fund and the No Net Cost Tobacco Account established under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2), respectively, for the kind of tobacco; divided by

“(B) the average list price per pound for the kind of tobacco, as determined by the Secretary.

“(3) **COMMODITY CREDIT CORPORATION.**—Any loan pool stocks of a kind of tobacco of an association that are not disposed of in accordance with paragraph (2) shall be—

“(A) transferred by the association to the Commodity Credit Corporation; and

“(B) disposed of in a manner determined by the Secretary.

“(b) NO NET COST FUNDS.—

“(1) **IN GENERAL.**—Any funds in the No Net Cost Tobacco Fund or the No Net Cost Tobacco Account of an association established under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2), respectively, that remain after the application of subsection (a) and sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445, 1445–1) (as in effect before the effective date of this subtitle) shall be transferred to the association for distribution to traditional producers of tobacco in accordance with a plan approved by the Secretary.

“(2) **ASSOCIATIONS WITH NO LOAN POOL STOCKS.**—In the case of an association that does not hold any loan pool stocks that are covered by subsection (a)(2), any funds in the No Net Cost Tobacco Fund or the No Net Cost Tobacco Account of the association established under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2), respectively, shall be transferred to the association for distribution to traditional producers of tobacco in accordance with a plan approved by the Secretary.

“(c) **REIMBURSEMENT TO COMMODITY CREDIT CORPORATION.**—There shall be transferred from the Tobacco Trust Fund to each No Net Cost Tobacco Fund or the No Net Cost Tobacco Account of an association established under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2), respectively, such amounts as the Secretary determines will be adequate to reimburse the Commodity Credit Corporation for any net losses that the Corporation may sustain under its loan agreements with the association.”.

SEC. 1152. TOBACCO INSURANCE RESEARCH AND DEVELOPMENT.

(a) **IN GENERAL.**—Section 522(b)(1) of the Federal Crop Insurance Act (7 U.S.C. 1522(b)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting appropriately;

(2) by striking “The Corporation” and inserting the following—

“(A) **IN GENERAL.**—The”; and

(3) by adding at the end the following:

“(B) **TOBACCO RESEARCH AND DEVELOPMENT.**—Subject to the availability of funds under subsection (e)(5), the Corporation shall provide a payment to reimburse an applicant for research and development costs directly related to a policy that is—

“(i) submitted to the Board and approved by the Board under section 508(h) for reinsurance;

“(ii) if applicable, offered for sale to producers; and

“(iii) addresses risk in the production of tobacco.”.

(b) **ASSESSMENTS.**—Section 522(e) of the Federal Crop Insurance Act (7 U.S.C. 1522(e)) is amended by adding at the end the following:

“(5) **TOBACCO ASSESSMENT.**—

“(A) **IN GENERAL.**—Effective for each marketing year for a kind of tobacco for which a commodity-specific plan of insurance is offered under this Act, subject to subparagraphs (B) through (D), each producer and purchaser of that kind of tobacco shall remit to the Insurance Fund established under section 516(c) a non-refundable marketing assessment in an amount determined by the Secretary pursuant to subparagraphs (B) and (C).

“(B) **TOTAL AMOUNT.**—The total amount of producer and purchaser assessments for a kind of tobacco collected under this paragraph shall be equal to the amount that is necessary to carry out subsection (b)(1)(B).

“(C) **ADMINISTRATION.**—Producer and purchaser assessments for a kind of tobacco under this paragraph—

“(ii) shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in paying assessments required under this paragraph; and

“(iii) shall not exceed 5 cents per pound.

“(D) **TERMINATION.**—Effective beginning with the 2010 crop of each kind of tobacco, the Secretary may terminate the collection of assessments for that kind of tobacco if the Secretary determines that further research and development under subsection (b)(1)(B) would not be productive.”.

(c) **INSURANCE FUND.**—Section 516(c)(1) of the Federal Crop Insurance Act (7 U.S.C. 1516(c)(1)) is amended by inserting “assessments for tobacco research made available under section 522(e)(5),” after “under subsection (a)(2),”.

SEC. 1153. CONFORMING AMENDMENTS.

Section 320B(c)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h(c)(1)) is amended—

(1) by inserting “(A)” after “(1)”;

(2) by striking “by” at the end and inserting “or”; and

(3) by adding at the end the following:

“(B) in the case of the 2003 marketing year, the price support rate for the kind of tobacco involved in effect under section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) at the time of the violation; by”.

CHAPTER 3—IMPLEMENTATION

SEC. 1161. REGULATIONS.

(a) **IN GENERAL.**—The Secretary of Agriculture may promulgate such regulations as are necessary to implement this subtitle and the amendments made by this subtitle.

(b) **PROCEDURE.**—The promulgation of the regulations and administration of this subtitle and the amendments made by this subtitle shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(c) **CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.**—In carrying out this section, the Sec-

retary shall use the authority provided under section 808 of title 5, United States Code.

SEC. 1162. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall apply to the 2004 and subsequent crops of each kind of tobacco.

NOMINATION OF WILLIAM GERRY MYERS III

Mr. FRIST. Mr. President, as in executive session, I would have asked unanimous consent that on Monday, July 19, at a time determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to executive session for the consideration of the nomination of William Myers to be U.S. circuit judge for the Ninth Circuit. That would have been objected to. The unanimous consent request would have gone on to say 5 hours of debate, to be equally divided, to be followed by a vote on the confirmation at 2:15 on Tuesday, July 20, with no intervening action or debate. That unanimous consent would have been objected to by the other side of the aisle.

EXECUTIVE SESSION

NOMINATION OF WILLIAM GERRY MYERS III TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

Mr. FRIST. Mr. President, at this juncture, I now move to proceed to executive session for the consideration of Calendar No. 603.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the motion.

The motion was agreed to.

The Senate will now go into executive session and proceed to the nomination of William Gerry Myers III, of Idaho, to be United States Circuit Judge for the Ninth Circuit, which the clerk will report.

The legislative clerk read the nomination of William Gerry Myers III, of Idaho, to be United States Circuit Judge for the Ninth Circuit.

CLOTURE MOTION

Mr. FRIST. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 603, William Gerry Myers III of Idaho, to be United States Circuit Judge for the Ninth Circuit, Vice Thomas G. Nelson, retiring.

Bill Frist, Orrin Hatch, Christopher Bond, Chuck Hagel, Ted Stevens, John Cornyn, Wayne Allard, Lindsey Graham, Sam Brownback, Gordon Smith, Lisa Murkowski, Lamar Alexander, Robert Bennett, Elizabeth

Dole, Don Nickles, James Inhofe, and Conrad Burns.

Mr. FRIST. Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived, that the vote on cloture occur at 2:15 on Tuesday, July 20, and further that the Senate now resume legislative session.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

THRIFT SAVINGS PLAN OPEN ELECTIONS ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 606, S. 2479.

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

The legislative clerk read as follows:

A bill (S. 2479) to amend chapter 84 of title 5, United States Code, to provide for Federal employees to make elections to make, modify, and terminate contributions to the Thrift Savings Fund at any time, and for other purposes.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 2479) was read the third time and passed, as follows:

S. 2479

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

SECTION 1. ELECTIONS FOR THRIFT SAVINGS PLAN CONTRIBUTIONS.

(a) SHORT TITLE.—This Act may be cited as the “Thrift Savings Plan Open Elections Act of 2004”.

(b) IN GENERAL.—Section 8432(b)(1)(A) of title 5, United States Code, is amended—

(1) in the first sentence—

(A) by inserting “(i)” before “The Executive Director”; and

(B) by striking “shall be afforded a reasonable period every 6 months to elect to” and inserting “may”;

(2) by striking the second sentence; and

(3) by adding at the end the following:

“(ii) An election to make contributions under this paragraph—

“(I) may be made at any time;

“(II) shall take effect on the earliest date after the election that is administratively feasible; and

“(III) shall remain in effect until modified or terminated.”.

(c) CONTINUATION OF NOT MAKING IMMEDIATE AGENCY CONTRIBUTIONS.—Section 8432(b)(4)(C) of title 5, United States Code, is amended—

(1) by inserting “(i)” after “(C)”; and

(2) by adding at the end the following:

“(ii) Notwithstanding subparagraph (A) or (B), contributions under paragraphs (1) and (2) of subsection (c) shall not begin to be

made with respect to an employee or Member described under paragraph (2)(A) or (B) until the date that such contributions would have begun to be made in accordance with this paragraph as administered on the date preceding the date of enactment of the Thrift Savings Plan Open Elections Act of 2004.”.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CIVIL SERVICE RETIREMENT SYSTEM PARTICIPATION.—Section 8351(a)(2) of title 5, United States Code, is amended by striking “only during a period” and inserting “as”.

(2) CONTRIBUTIONS BY PREVIOUSLY INELIGIBLE EMPLOYEES.—Section 8432(b)(2) of title 5, United States Code, is amended—

(A) in subparagraph (A), by striking “second period” and inserting “date”;

(B) in subparagraph (C), by striking “second period” and inserting “date”; and

(C) in subparagraph (D) by striking “other than during a period afforded” and inserting “as provided”.

(3) PROVISION OF INFORMATION.—Section 8439(c)(2) of title 5, United States Code, is amended by striking “at least 30 calendar days before the beginning of each election period under section 8432(b)(1)(A) of this title” and inserting “on a regular basis”.

(4) JUSTICES AND JUDGES.—Section 8440a(a)(2) of title 5, United States Code, is amended by striking “only during a period” and inserting “as”.

(5) BANKRUPTCY JUDGES AND MAGISTRATE JUDGES.—Section 8440b(a)(2) of title 5, United States Code, is amended by striking “only during a period” and inserting “as”.

(6) COURT OF FEDERAL CLAIMS JUDGES.—Section 8440c(a)(2) of title 5, United States Code, is amended by striking “only during a period” and inserting “as”.

(7) JUDGES OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.—Section 8440d(a)(2) of title 5, United States Code, is amended by striking “only during a period” and inserting “as”.

(8) MEMBERS OF THE UNIFORMED SERVICES.—Section 8440e(b)(2)(A) of title 5, United States Code, is amended—

(A) by striking “only during a period” and inserting “as”; and

(B) by striking all after section “8432(b)” and inserting a period.

SEC. 2. ENHANCING FINANCIAL LITERACY.

(a) IN GENERAL.—The Federal Retirement Thrift Investment Board (in this section referred to as the “Board”) shall periodically evaluate whether the tools available to participants provide the information needed to understand, evaluate, and compare financial products, services, and opportunities offered through the Thrift Savings Plan. The Board shall use these evaluations to improve its existing education program for Thrift Savings Plan participants.

(b) REPORT ON FINANCIAL LITERACY EFFORTS.—The Board shall annually report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on its Thrift Savings Plan education efforts on behalf of plan participants.

(c) STRATEGY.—As part of the retirement training offered by Office of Personnel Management under section 8350 of title 5, United States Code, the Office, in consultation with the Board, shall—

(1) not later than 6 months after the date of enactment of this Act, develop and implement a retirement financial literacy and education strategy for Federal employees that—

(A) shall educate Federal employees on the need for retirement savings and investment; and

(B) provide information related to how Federal employees can receive additional in-

formation on how to plan for retirement and calculate what their retirement investment should be in order to meet their retirement goals; and

(2) submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the strategy described under paragraph (1).

MEASURES READ THE FIRST TIME—S. 2678 AND S. 2679

Mr. FRIST. Mr. President, I understand there are two bills at the desk and I ask for their first reading, en bloc.

The PRESIDING OFFICER. The clerk will read the titles of the bills en bloc for the first time.

The legislative clerk read as follows:

A bill (S. 2678) to ensure that Members of Congress do not receive better prescription drug benefits than medicare beneficiaries.

A bill (S. 2679) to strengthen antiterrorism investigative tools, promote information sharing, punish terrorist offenses, and for other purposes.

Mr. FRIST. Mr. President, I now ask for their second reading, and, in order to place the bills on the calendar under the provisions of rule XIV, I object to further proceedings of these matters, en bloc.

The PRESIDING OFFICER. Objection is heard. The bills will receive their second reading on the next legislative day.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 108-25

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on July 16, 2004, by the President of the United States:

Protocol Amending Tax Convention with the Netherlands (Treaty Document 108-25.)

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

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

The President's message is as follows:

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification, the Protocol Amending the Convention Between the United States of America and the Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington, D.C., on March 8, 2004. Transmitted for the Senate's information is an exchange of notes with an attached Understanding, which provides clarification with respect to the application of the Convention, as