

## S. RES. 20

At the request of Mr. VOINOVICH, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Res. 20, a resolution celebrating the 60th anniversary of the North Atlantic Treaty Organization.

## S. RES. 60

At the request of Mrs. SHAHEEN, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Indiana (Mr. BAYH) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. Res. 60, a resolution commemorating the 10-year anniversary of the accession of the Czech Republic, the Republic of Hungary, and the Republic of Poland as members of the North Atlantic Treaty Organization.

## AMENDMENT NO. 593

At the request of Mr. MCCAIN, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of amendment No. 593 proposed to H.R. 1105, a bill making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 546. A bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation; to the Committee on Armed Services.

Mr. REID. Mr. President, I take a great deal of pride in the work done by the 110th Congress to fulfill our Government's obligations to our Nation's veterans. Our legislative accomplishments in those 2 years were significant.

We significantly increased funding for the Department of Veterans Affairs; we enacted a comprehensive program that provides tuition and benefits to every veteran who serves after 9/11; we refused to allow our wounded warriors to fall through the cracks, remedying the substandard care that many were receiving, and broadening eligibility for treatment programs to address the war's physical and psychological toll; we brought attention and funding to veterans' mental health issues, improving the level of care and access to treatment for both veterans and their family members; and we added provisions to the Housing and Economic Recovery Act to help protect our veterans from becoming victims of the housing crisis.

Indeed, we can be proud of these accomplishments, but I rise today to bring to light one area in which Congress can and must do more. For eight years I have been working to eliminate

an unconscionable policy under which a veteran who is classified as 'disabled' by the Veterans Administration is required, in essence, to pay his or her own disability compensation out of retirement pay received from the Department of Defense.

As it stands now, a disabled veteran is, by law, prevented from collecting both disability pay and retired pay. Despite the fact that a veteran is eligible for each for a different reason, the law prohibits receiving both. The end result of this prohibition known as "Concurrent Receipt" is that for every dollar a veteran receives as disability compensation, a dollar is deducted from his or her retirement pay. In some cases, this ban takes away a veteran's full retirement pay, wiping away the benefits he or she earned in 20 or more years of service.

Since 2000, I have been working to end this absurd policy. In 2003, Congress passed the first legislation in this vein, which allowed veterans with at least a 50 percent disability rating to become eligible for concurrent receipt of benefits over a 10-year phase-in period. The following year we successfully eliminated the ten year phase-in for those veterans with a 100 percent disability rating. In 2005, we passed legislation that permitted the concurrent receipt of retired and disability compensation to veterans who have been classified by the VA as "unemployable," however this group of veterans has had to wait until this year to receive the benefit of this legislation. Our Nation's veterans should have to wait no longer.

It is past time to eliminate the remaining bar to concurrent receipt of disability compensation and military retirement pay. I am proud to introduce the Retired Pay Restoration Act of 2009.

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. 546

*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 "Retired Pay Restoration Act of 2009".

## SEC. 2. ELIGIBILITY FOR PAYMENT OF BOTH RETIRED PAY AND VETERANS' DISABILITY COMPENSATION FOR CERTAIN MILITARY RETIREES WITH COMPENSABLE SERVICE-CONNECTED DISABILITIES.

(a) EXTENSION OF CONCURRENT RECEIPT AUTHORITY TO RETIREES WITH SERVICE-CONNECTED DISABILITIES RATED LESS THAN 50 PERCENT.—

(1) REPEAL OF 50 PERCENT REQUIREMENT.—Section 1414 of title 10, United States Code, is amended by striking paragraph (2) of subsection (a).

(2) COMPUTATION.—Paragraph (1) of subsection (c) of such section is amended by adding at the end the following new subparagraph:

"(G) For a month for which the retiree receives veterans' disability compensation for

a disability rated as 40 percent or less or has a service-connected disability rated as zero percent, \$0."

## (b) CLERICAL AMENDMENTS.—

(1) The heading of section 1414 of such title is amended to read as follows:

"1414. Members eligible for retired pay who are also eligible for veterans' disability compensation: concurrent payment of retired pay and disability compensation".

(2) The item relating to such section in the table of sections at the beginning of chapter 71 of such title is amended to read as follows: "1414. Members eligible for retired pay who are also eligible for veterans' disability compensation: concurrent payment of retired pay and disability compensation".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2009, and shall apply to payments for months beginning on or after that date.

## SEC. 3. COORDINATION OF SERVICE ELIGIBILITY FOR COMBAT-RELATED SPECIAL COMPENSATION AND CONCURRENT RECEIPT.

## (a) AMENDMENTS TO STANDARDIZE SIMILAR PROVISIONS.—

(1) QUALIFIED RETIREES.—Subsection (a) of section 1414 of title 10, United States Code, as amended by section 2(a), is amended—

(A) by striking "a member or" and all that follows through "retiree)" and inserting "a qualified retiree"; and

(B) by adding at the end the following new paragraph:

"(2) QUALIFIED RETIREES.—For purposes of this section, a qualified retiree, with respect to any month, is a member or former member of the uniformed services who—

"(A) is entitled to retired pay (other by reason of section 12731b of this title); and

"(B) is also entitled for that month to veterans' disability compensation."

(2) DISABILITY RETIREES.—Paragraph (2) of subsection (b) of section 1414 of such title is amended to read as follows:

"(2) SPECIAL RULE FOR RETIREES WITH FEWER THAN 20 YEARS OF SERVICE.—The retired pay of a qualified retiree who is retired under chapter 61 of this title with fewer than 20 years of creditable service is subject to reduction by the lesser of—

"(A) the amount of the reduction under sections 5304 and 5305 of title 38; or

"(B) the amount (if any) by which the amount of the member's retired pay under such chapter exceeds the amount equal to 2½ percent of the member's years of creditable service multiplied by the member's retired pay base under section 1406(b)(1) or 1407 of this title, whichever is applicable to the member."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2009, and shall apply to payments for months beginning on or after that date.

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

S. 547. A bill to amend title XIX of the Social Security Act to reduce the costs of prescription drugs for enrollees of Medicaid managed care organizations by extending the discounts offered under fee-for-service Medicaid to such organizations; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I am introducing legislation today with Senators CASEY, STABENOW, and WHITEHOUSE entitled the Drug Rebate Equalization Act of 2009.

The Medicaid drug rebate ensures that State Medicaid programs receive

the best price for prescription drugs for their beneficiaries. Unfortunately, health plans that serve over 10 million Medicaid beneficiaries cannot access the same discounts through the federal drug rebate program. Plans typically get no rebate on generic drugs and about a third of the rebate on branded drugs that states receive. States are paying more for the acquisition of prescription drugs for these health plan enrollees than for beneficiaries in fee-for-service Medicaid, thereby raising costs for Federal and State governments. In fact, the December 2008 Congressional Budget Office Health Options report found that equalizing the drug rebate between Medicaid fee-for-service and managed care would save Federal taxpayers \$11 billion over 10 years.

Even with this price disadvantage, the total cost of prescription drugs for health plans is less on a per member per month basis because of health plans' greater use of generics and case management. Unfortunately, many States are considering, or have already begun, carving out prescription drugs from health plans for the sole purpose of obtaining savings under the rebate—this undermines the plans' ability to maintain a comprehensive care and disease management program that includes prescription drugs. Not only will this legislation save money, it will eliminate this incentive and ensure that health plans can maintain a comprehensive care coordination system for their patients.

This present drug rebate policy was passed by the Senate in 2005 as part of the Deficit Reduction Act. This year's version of the bill improves on last year's bill in several important ways. First, it requires States—not health plans—to collect the rebate. To protect plans against inappropriate cuts in payment, it requires states to publicly disclose information about savings obtained under the legislation. Second, the bill will reiterate that nothing in the legislation prevents a State from maintaining oversight control of its contracts with the health plans. Finally, the bill maintains the fee-for-service prohibition against health plans "double dipping" into the Medicaid drug rebate and the 340b discount drug pricing program. These changes significantly improve the bill and will help improve its chances of passage.

Extending the Medicaid drug rebate to enrollees in health plans is supported widely and includes the National Governors Association, the National Association of State Medicaid Directors, the National Medicaid Commission, the National Association of Community Health Centers, the Partnership for Medicaid, the Association for Community Affiliated Plans, and the Medicaid Health Plans of America. Last week, President Obama highlighted changes in Medicaid prescription drug rebates in his fiscal year 2010 budget to help pay for an expansion of health coverage for more Americans. I

welcome President Obama's support and look forward to working with him to make this policy a reality.

This legislation modernizes the Medicaid program, protects the ability of health plans to effectively coordinate prescription drugs as part of their care coordination systems, and will save Federal taxpayers \$11 billion over 10 years.

I urge my colleagues to join me in supporting this legislation.

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

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

S. 547

*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 "Drug Rebate Equalization Act of 2009".

**SEC. 2. EXTENSION OF PRESCRIPTION DRUG DISCOUNTS TO ENROLLEES OF MEDICAID MANAGED CARE ORGANIZATIONS.**

(a) IN GENERAL.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended—

(1) in clause (xi), by striking "and" at the end;

(2) in clause (xii), by striking the period at the end and inserting ";" and"; and

(3) by adding at the end the following:

"(xiii) such contract provides that (I) payment for covered outpatient drugs dispensed to individuals eligible for medical assistance who are enrolled with the entity shall be subject to the same rebate required by the agreement entered into under section 1927 as the State is subject to, and (II) capitation rates paid to the entity shall be based on actual cost experience related to rebates and subject to the Federal regulations requiring actuarially sound rates.".

(b) CONFORMING AMENDMENTS.—Section 1927 (42 U.S.C. 1396r-8) is amended—

(1) in subsection (d)—

(A) in paragraph (1), by adding at the end the following:

"(C) Notwithstanding the subparagraphs (A) and (B)—

"(i) a Medicaid managed care organization with a contract under section 1903(m) may exclude or otherwise restrict coverage of a covered outpatient drug on the basis of policies or practices of the organization, such as those affecting utilization management, formulary adherence, and cost sharing or dispute resolution, in lieu of any State policies or practices relating to the exclusion or restriction of coverage of such drugs, provided, however, that any such exclusions and restrictions of coverage shall be subject to any contractual requirements and oversight by the State as contained in the Medicaid managed care organization's contract with the State, and the State shall maintain approval authority over the formulary used by the Medicaid managed care organization; and

"(ii) nothing in this section or paragraph (2)(A)(xiii) of section 1903(m) shall be construed as requiring a Medicaid managed care organization with a contract under such section to maintain the same such policies and practices as those established by the State for purposes of individuals who receive medical assistance for covered outpatient drugs on a fee-for-service basis."; and

(B) in paragraph (4), by inserting after subparagraph (E) the following:

"(F) Notwithstanding the preceding subparagraphs of this paragraph, any formulary

established by Medicaid managed care organization with a contract under section 1903(m) may be based on positive inclusion of drugs selected by a formulary committee consisting of physicians, pharmacists, and other individuals with appropriate clinical experience as long as drugs excluded from the formulary are available through prior authorization, as described in paragraph (5)."; and

(2) in subsection (j), by striking paragraph (1) and inserting the following:

"(1) Covered outpatients drugs are not subject to the requirements of this section if such drugs are—

"(A) dispensed by health maintenance organizations, including Medicaid managed care organizations that contract under section 1903(m); and

"(B) subject to discounts under section 340B of the Public Health Service Act.".

(c) REPORTS.—Each State with a contract with a Medicaid managed care organization under section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) shall report to the Secretary on a quarterly basis the total amount of rebates in dollars and volume received from manufacturers (as defined in section 1927(k)(5) of such Act (42 U.S.C. 1396r-8(k)(5)) for drugs provided to individuals enrolled with such an organization as a result of the amendments made by this section for both brand-name and generic drugs. The Secretary shall review the reports submitted by States under this subsection and, after such review, make publically available the aggregate data contained in such reports.

(d) EFFECTIVE DATE.—This section and the amendments made by this section take effect on the date of enactment of this Act and apply to rebate agreements entered into or renewed under section 1927 of the Social Security Act (42 U.S.C. 1396r-8) on or after such date.

By Mr. BROWN (for himself and Mrs. HUTCHISON):

S. 554. A bill to improve the safety of motorcoaches, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BROWN. Mr. President, last week was the two year anniversary of a horrific motorcoach crash involving the Bluffton University baseball team. Seven Ohioans—Tyler Williams, Cody Holp, Scott Harmon, Zack Arend, David Joseph Betts, and Jerome and Jean Niemeyer—lost their lives that day.

As their bus rolled along Interstate-75 on March 2, 2007, the Bluffton players and coaches were hours away from beginning their spring break in Florida. But as the team slept in preparation for their season opener later in the week, their motorcoach crashed through a retaining wall and fell thirty feet to the highway below.

Since then I have talked with family members of the players on the bus that day and other passenger safety advocates, and time and again the conversations came back to one thing: we need commonsense motorcoach safety measures that will protect both passengers and other motorists on the road.

In the 110th Congress, Senator HUTCHISON and I introduced the Motorcoach Enhanced Safety Act to finally require basic safety devices like seat belts and stronger windows on motorcoaches.

Bus trips should not turn into tragedies, and that is why today we are again introducing the Motorcoach Enhanced Safety Act of 2009. We need these new standards now to ensure the safety of every rider and driver on the road.

In 2007, the American Bus Association reported that over 750 million passenger trips covering more than 60 billion miles were made by motorcoaches in the United States.

More and more people are choosing buses for their transportation, and it seems every week you read about another serious motorcoach accident . . . the crash involving a minor-league hockey team from Albany, New York; the fatal motorcoach accidents in Texas; the tour bus crash in Arizona that killed 7 passengers. The number of serious accidents and tragic deaths will only grow if we do not take action.

Our legislation directs the Secretary of the Department of Transportation to implement numerous safety regulations already recommended by the National Transportation Safety Board. Incredibly, many of these recommendations—including seatbelts, fire extinguishers, increased driver training, and stronger windows—have languished for years.

Our bill places firm timelines on the development and implementation of these rules and does so in a manner consistent with the recommendations of the National Transportation Safety Board—the guardian of our Nation's travel safety.

This includes safety belts and stronger seating systems to ensure occupants stay in their seats in a crash.

Stronger and better glazing on windows to prevent passengers from being easily ejected out of the motorcoach, crush-resistant roofs that can better withstand rollovers, improved protection against fires by reducing flammability of the motorcoach interior, and better training for operators in the case of fire.

John Betts' son David was a second baseman on the Bluffton baseball team and was on the bus when it crashed in Atlanta 2 years ago. Mr. Betts lost his son in that tragic accident, but has since been a tireless advocate for motorcoach safety reform.

In testimony before the Senate Commerce Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security, Mr. Betts said:

Motorcoach transportation may be one of the safest modes when you look at statistics of lives lost per miles traveled compared to other modes of transportation. However, as family members here today representing those who had a loved one die in such a crash, our first response is that such statistics are not comforting. As a father, am I to disregard David's death as his being one of the unlucky few? As NTSB recommendations languish here in the United States, Europe and Australia have already required basic occupant safety protection measures such as seat belts.

Mr. Betts eloquent words challenge Congress to take action so that other

Americans do not tragically, needlessly, lose their lives, and it is my hope that we will swiftly pass this long overdue bill.

#### SUBMITTED RESOLUTIONS

**SENATE RESOLUTION 69—DESIGNATING MARCH 2009 AS “NATIONAL READING MONTH” AND AUTHORIZING THE COLLECTION OF NONMONETARY BOOK DONATIONS IN SENATE OFFICE BUILDINGS DURING THE PERIOD BEGINNING MARCH 9, 2009 AND ENDING MARCH 27, 2009 FROM SENATORS AND OFFICERS AND EMPLOYEES OF THE SENATE TO ASSIST ELEMENTARY SCHOOL STUDENTS IN THE WASHINGTON, D.C. METROPOLITAN AREA**

Mr. LAUTENBERG (for himself, Mr. LEVIN, Mr. HARKIN, Mr. KENNEDY, Mr. REED, Mr. COCHRAN, Ms. SNOWE, Mr. KERRY, and Mr. JOHNSON) submitted the following resolution; which was considered and agreed to:

S. RES. 69

Whereas literacy is a learned skill that is improved through practice and regular reading;

Whereas public and school libraries play an important role in helping children learn to read and gain critical information literacy skills by providing easy and free access to books and other information on a wide range of topics;

Whereas the reading of books with children improves children's language, cognitive, and literacy skills;

Whereas research demonstrates that reading aloud with children is the single most important activity for helping them become successful readers;

Whereas quality children's books and the continued efforts of educators, parents, and volunteer reading partners can instill a love of reading that will last a lifetime;

Whereas school reading programs provide students with a chance to improve their reading skills and take pleasure in stories;

Whereas such programs have a profound and lasting positive impact on a child's life through improved reading comprehension, motivation, and achievement, as well as improved overall academic performance, classroom behavior, self-confidence, and social skills; and

Whereas all people of the United States can help celebrate the importance of reading by donating children's books, volunteering to read to and mentor young students, and supporting public policies aimed at improving literacy rates: Now, therefore, be it

*Resolved*, Notwithstanding any other rules and regulations of the Senate—

(1) the Senate designates March 2009 as “National Reading Month”;

(2) a Senator or officer or employee of the Senate may solicit another Senator or officer or employee of the Senate within Senate buildings for nonmonetary book donations during the period beginning March 9, 2009 and ending March 27, 2009 to assist elementary school students in the Washington, D.C. metropolitan area, if such solicitation does not otherwise violate any rule or regulation of the Senate or any Federal law; and

(3) a Senator or officer or employee of the Senate may work with a nonprofit organization with respect to the delivery of donations described in paragraph (2).

**SENATE RESOLUTION 70—CONGRATULATING THE PEOPLE OF THE REPUBLIC OF LITHUANIA ON THE 1000TH ANNIVERSARY OF LITHUANIA AND CELEBRATING THE RICH HISTORY OF LITHUANIA**

Mr. DURBIN (for himself, Mr. VOINOVICH, and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 70

Whereas the name “Lithuania” first appeared in European records in the year 1009, when it was mentioned in the German manuscript “Annals of Quedlinburg”;

Whereas Duke Mindaugas united various Baltic tribes and established the state of Lithuania during the period between 1236 and 1263;

Whereas, by the end of the 14th century, Lithuania was the largest country in Europe, encompassing territory from the Baltic Sea to the Black Sea;

Whereas Vilnius University was founded in 1579 and remained the easternmost university in Europe for 200 years;

Whereas the February 16, 1918, Act of Independence of Lithuania led to the establishment of Lithuania as a sovereign and democratic state;

Whereas, under the cover of the Molotov-Ribbentrop Pact, on June 17, 1940, Latvia, Estonia and Lithuania were forcibly incorporated into the Soviet Union in violation of pre-existing peace treaties;

Whereas, during 50 years of Soviet occupation of the Baltic states, Congress strongly, consistently, and on a bipartisan basis refused to legally recognize the incorporation of Latvia, Estonia, and Lithuania by the Soviet Union;

Whereas, on March 11, 1990, the Republic of Lithuania was restored and Lithuania became the first Soviet republic to declare independence;

Whereas on September 2, 1991, the United States Government formally recognized Lithuania as an independent and sovereign nation;

Whereas Lithuania has successfully developed into a free and democratic country, with a free market economy and respect for the rule of law;

Whereas Lithuania is a full and responsible member of the United Nations, the Organization for Security and Cooperation in Europe, the European Union, and the North Atlantic Treaty Organization;

Whereas, in 2007, the United States Government and the Government of Lithuania celebrated 85 years of continuous diplomatic relations;

Whereas the United States Government welcomes and appreciates efforts by the Government of Lithuania to maintain international peace and stability in Europe and around the world by contributing to international civilian and military operations in Afghanistan, Iraq, Bosnia, Kosovo, and Georgia; and

Whereas Lithuania is a strong and loyal ally of the United States, and the people of Lithuania share common values with the people of the United States: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates the people of the Republic of Lithuania on the occasion of the 1000th anniversary of Lithuania;

(2) commends the Government of Lithuania for its success in implementing political and economic reforms, for establishing political, religious and economic freedom,