

Statement of
Senator Susan M. Collins

Business Meeting

Committee on Homeland Security and Governmental Affairs

July 29, 2009

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We have a very full agenda, so I will discuss only three of the many bills that the Committee is scheduled to consider today.

The Committee will consider a bill that purports to address the financial crisis confronting the Postal Service by modifying the payments it is required to make to its Retiree Health Benefits Fund under the Postal Reform Act.

Two-and-a-half years after Congress passed crucial reforms that removed the Postal Service from GAO's High Risk List, the Postal Service is once again in a financial crisis. The Postal Service lost \$2.8 billion in

2008 and projects it will post a net loss of about \$7 billion this year. Just yesterday, the GAO announced that it was adding the Postal Service back to the High Risk List.

This financial predicament is the unfortunate, yet predictable, outcome of the Postal Service's failure to make bold reforms to correct serious structural problems as well as the impact of the worst recession since the Great Depression.

Faced with these dire financial conditions, the Postmaster General has informed Congress that the Postal Service will be unable to make the required annual payment into the Retiree Health Benefits Fund this year.

A financially hobbled Postal Service threatens to undermine our universal mail delivery system, cost our

country many jobs, and disrupt the smooth operations of millions of American businesses. The current state of affairs is unacceptable, and the Postal Service needs to work with Congress to undertake meaningful, fiscally responsible reforms to survive this economic storm.

In the Postal Reform Act, we mandated a stream of payments to the Fund to drastically cut the significant unfunded liability facing the Postal Service for future retiree health benefits.

I am concerned that the legislation proposed today would provide a measure of relief to the Postal Service in the short-term, but will undermine its long-term fiscal health.

I have filed several amendments that will provide some limited, short-term relief while pushing the Postal

Service to adopt more meaningful long-term changes. I believe my amendments offer a more fiscally sound approach, and hope my colleagues will carefully consider and support these proposals.

Another bill on our agenda is the PASS ID Act.

In its report on the terrorist attacks of September 11, 2001, the 9/11 Commission recommended strengthening the security of drivers' licenses because they are "as important as weapons" to the terrorists who target the United States.

The effort to implement this recommendation has proven difficult. The House's REAL ID Act prematurely ended the collaborative rulemaking approach that Senator Lieberman and I had enacted as part of our intelligence reform bill.

The REAL ID Act prompted negative reactions from many states. The states' actions were not surprising. The REAL ID Act imposed unreasonable and costly burdens on the states, did not provide adequate privacy protections for citizens, and mandated technical solutions that may not yet be practical.

Senators Akaka and Voinovich have worked closely with the Department of Homeland Security and the National Governors Association to draft the PASS ID Act. Rather than an outright repeal of REAL ID, this bill would address the most problematic portions of current law through specific refinements.

At the same time, PASS ID would not turn back the clock on the progress that many states have made to improve the security of their drivers' licenses since 2001.

Nonetheless, I remain very troubled by language in the bill that could have serious unintended consequences on the security of air travel.

Specifically, I am referring to the provision that would not allow TSA to prevent a passenger from boarding a plane based “solely” on the fact that he or she did not have a compliant license. This provision eliminates an important incentive for states to adopt federal standards for secure licenses. Moreover, it could have a real chilling effect on the efforts of security officials who believe, for legitimate reasons, that a passenger without a compliant card should not board a plane.

While I would have preferred to simply strike this text, I will support an amendment proposed by Senator Voinovich, which represents a compromise among all of

us, including the Department of Homeland Security and Senators Lieberman, Akaka, and Voinovich. The amendment would protect TSA Security officials from potential litigation when they exercise their skills, judgment, and experience and refuse to permit a passenger without a compliant license to board a plane.

The Lieberman-Collins substitute amendment addresses additional concerns raised at our hearing earlier this month.

If these changes are adopted by the Committee, then the bill will strike the proper balance between the goal of improved security and the concerns about cost and privacy.

The third bill I will mention is the Whistleblowers Protection Enhancement Act.

For many years now, I have worked closely with Senators Akaka, Voinovich, and Lieberman to pass legislation that would increase safeguards for federal employee whistleblowers. The Whistleblower Protection Enhancement Act of 2009, and the substitute amendment that we will soon introduce, are a direct result of those efforts.

Whistleblowers play a crucial role in Congress's efforts to prevent waste, fraud, and abuse and to help ensure the effectiveness of government programs. They provide crucial information that Congress and our Committee need to conduct proper oversight of the federal government.

During the last Congress, this Committee unanimously passed a whistleblower protection bill through the Senate. That legislation would have

improved the review of whistleblower claims before the Merit Systems Protection Board. It also would have increased protections for federal employees who report waste, fraud, and abuse associated with classified programs.

Unfortunately, the bill stalled when the House of Representatives insisted on two significant and controversial changes to existing law.

First, in provisions opposed by the Intelligence Committee, the Director of National Intelligence, the Attorney General, and two prior Administrations, the House bill would have fundamentally changed the whistleblower protections afforded under existing law for intelligence community and FBI personnel. These provisions raised concerns about appropriate protection for intelligence sources and methods.

Second, the House's bill would have allowed federal employees to sue the government in federal court - effectively circumventing the MSPB process that we had worked so carefully to improve in the Senate bill.

Federal managers and the Administration raised serious objections to these House provisions, noting the potential damaging effect on federal employee relations.

Working closely with Senators Akaka, Voinovich, Lieberman, and the Obama Administration, we have developed a compromise on these two issues.

First, the compromise would increase whistleblower protections for intelligence community and FBI personnel by establishing an Intelligence Community Whistleblower Protection Board. This independent Board will act as a secure forum to consider whistleblower complaints and

to ensure that any classified information is relayed to the Congress in a secure manner.

Second, if the MSPB is unable to render a timely decision in highly complex, challenging cases or the case is otherwise meritorious, the bill would allow a whistleblower the option to transfer the case to federal court. This compromise preserves the important role of the MSPB in enforcing our federal personnel policies without unduly delaying the consideration of significant whistleblower claims. To ensure an evaluation of the impact, the provisions will sunset in five years.

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