

## MESSAGE FROM THE HOUSE

## ENROLLED BILLS SIGNED

At 2:18 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1687. An act to designate the federally occupied building located at McKinley Avenue and Third Street, SW., Canton, Ohio, as the "Ralph Regula Federal Building and United States Courthouse".

H.R. 2053. An act to designate the United States courthouse located at 525 Magoffin Avenue in El Paso, Texas, as the "Albert Armendariz, Sr., United States Courthouse".

H.R. 2121. An act to authorize the Administrator of General Services to convey a parcel of real property in Galveston, Texas, to the Galveston Historical Foundation.

H.R. 2498. An act to designate the Federal building located at 844 North Rush Street in Chicago, Illinois, as the "William O. Lipinski Federal Building".

H.R. 2913. An act to designate the United States courthouse located at 301 Simonton Street in Key West, Florida, as the "Sidney M. Aronovitz United States Courthouse".

S. 1289. An act to improve title 18 of the United States Code.

## MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1751. A bill to prohibit the Federal Government from awarding contracts, grants, or other agreements to, providing any other Federal funds to, or engaging in activities that promote the Association of Community Organizations for Reform Now or any other entity which has been indicted for or convicted of violations of laws governing election administration or campaign financing.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. BOXER (for herself, Mr. MERKLEY, Mr. LIEBERMAN, and Mr. BAYH):

S. 1754. A bill to amend the Internal Revenue Code of 1986 to provide for a standard home office deduction in the case of certain uses of the office; to the Committee on Finance.

By Mr. LIEBERMAN (for himself and Ms. COLLINS):

S. 1755. A bill to direct the Department of Homeland Security to undertake a study on emergency communications; to the Committee on Homeland Security and Governmental Affairs.

By Mr. HARKIN (for himself, Mr. LEAHY, Mr. DURBIN, Mr. SPECTER, Mr. KOHL, Mr. SCHUMER, Mr. FRANKEN, Mr. SANDERS, Mr. BROWN, Mr. CARDIN, Mr. MERKLEY, Mrs. FEINSTEIN, Mr. DODD, Mrs. BOXER, Mr. LAUTENBERG, Mr. KAUFMAN, and Mr. NELSON of Florida):

S. 1756. A bill to amend the Age Discrimination in Employment Act of 1967 to clarify the appropriate standard of proof; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BENNETT:

S. 1757. A bill to provide for the prepayment of a repayment contract between the

United States and the Uintah Water Conservancy District, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BENNETT (for himself and Mr. HATCH):

S. 1758. A bill to provide for the allocation of costs to project power with respect to power development within the Diamond Fork System, and for other purposes; to the Committee on Energy and Natural Resources.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WYDEN (for himself and Mr. MERKLEY):

S. Res. 303. A resolution expressing the sense of the Senate that October 17, 1984, the date of the restoration by the Federal Government of Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, should be memorialized; to the Committee on Indian Affairs.

By Mr. INOUE (for himself and Mr. AKAKA):

S. Res. 304. A resolution commemorating the canonization of Father Damien de Veuster, S.S.C.C. to sainthood; considered and agreed to.

By Mrs. FEINSTEIN (for herself, Mr. KERRY, and Mr. LUGAR):

S. Res. 305. A resolution expressing support for the victims of the natural disasters in Indonesia, Samoa, American Samoa, Tonga, Vietnam, Cambodia, and the Philippines; considered and agreed to.

By Mr. REED (for himself, Ms. COLLINS, Mr. KERRY, Mr. CARDIN, Mr. WHITEHOUSE, Mr. DODD, Mr. COCHRAN, Mr. ISAKSON, Mr. BROWN, Mr. NELSON of Nebraska, Mrs. BOXER, and Mr. JOHANNIS):

S. Res. 306. A resolution designating the week of October 18 through October 24, 2009, as "National Childhood Lead Poisoning Prevention Week"; considered and agreed to.

By Mr. SPECTER (for himself, Mr. CASEY, Mr. NELSON of Florida, Ms. KLOBUCHAR, Mr. FRANKEN, Mrs. BOXER, and Mrs. FEINSTEIN):

S. Con. Res. 45. A concurrent resolution encouraging the Government of Iran to allow Joshua Fattal, Shane Bauer, and Sarah Shourd to reunite with their families in the United States as soon as possible; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 144

At the request of Mr. KERRY, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 144, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 169

At the request of Mr. ISAKSON, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 169, a bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government.

S. 213

At the request of Mrs. BOXER, the name of the Senator from Louisiana

(Ms. LANDRIEU) was added as a cosponsor of S. 213, a bill to amend title 49, United States Code, to ensure air passengers have access to necessary services while on a grounded air carrier, and for other purposes.

S. 257

At the request of Mr. WHITEHOUSE, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 257, a bill to amend title 11, United States Code, to disallow certain claims resulting from high cost credit debts, and for other purposes.

S. 332

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 332, a bill to establish a comprehensive interagency response to reduce lung cancer mortality in a timely manner.

S. 451

At the request of Ms. COLLINS, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 451, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of the Girl Scouts of the United States of America.

S. 473

At the request of Mr. DURBIN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 473, a bill to establish the Senator Paul Simon Study Abroad Foundation.

S. 575

At the request of Mr. CARPER, the names of the Senator from Florida (Mr. NELSON) and the Senator from Colorado (Mr. BENNETT) were added as cosponsors of S. 575, a bill to amend title 49, United States Code, to develop plans and targets for States and metropolitan planning organizations to develop plans to reduce greenhouse gas emissions from the transportation sector, and for other purposes.

S. 831

At the request of Mr. KERRY, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Minnesota (Mr. FRANKEN) were added as cosponsors of S. 831, a bill to amend title 10, United States Code, to include service after September 11, 2001, as service qualifying for the determination of a reduced eligibility age for receipt of non-regular service retired pay.

S. 883

At the request of Mr. KERRY, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 883, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the Medal of Honor in 1861, America's highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States, to honor the American military men and women

who have been recipients of the Medal of Honor, and to promote awareness of what the Medal of Honor represents and how ordinary Americans, through courage, sacrifice, selfless service and patriotism, can challenge fate and change the course of history.

S. 1065

At the request of Mr. CASEY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1065, a bill to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of \$20,000,000 or more in Iran's energy sector, and for other purposes.

At the request of Mr. BROWNBACK, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1065, *supra*.

S. 1301

At the request of Mr. MENENDEZ, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1301, a bill to direct the Attorney General to make an annual grant to the A Child Is Missing Alert and Recovery Center to assist law enforcement agencies in the rapid recovery of missing children, and for other purposes.

S. 1348

At the request of Mr. CHAMBLISS, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1348, a bill to recognize the heritage of hunting and provide opportunities for continued hunting on Federal public land.

S. 1545

At the request of Mrs. GILLIBRAND, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1545, a bill to expand the research and awareness activities of the National Institute of Arthritis and Musculoskeletal and Skin Diseases and the Centers for Disease Control and Prevention with respect to scleroderma, and for other purposes.

S. 1652

At the request of Mr. HARKIN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1652, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part.

S. 1655

At the request of Mr. NELSON of Nebraska, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1655, a bill to authorize the Secretary of Education to award grants for the support of full-service community schools, and for other purposes.

S. 1660

At the request of Ms. KLOBUCHAR, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 1660, a bill to amend the Toxic Substances Control Act to reduce the emissions of formaldehyde from composite wood products, and for other purposes.

S. 1672

At the request of Mr. REED, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1672, a bill to reauthorize the National Oilheat Research Alliance Act of 2000.

S. 1678

At the request of Mr. CARDIN, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from Nebraska (Mr. JOHANNIS) were added as cosponsors of S. 1678, a bill to amend the Internal Revenue Code of 1986 to extend the first-time homebuyer tax credit, and for other purposes.

S. 1682

At the request of Ms. CANTWELL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1682, a bill to provide the Commodity Futures Trading Commission with clear antimarket manipulation authority, and for other purposes.

S. 1683

At the request of Mr. BENNET, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1683, a bill to apply recaptured taxpayer investments toward reducing the national debt.

S. 1700

At the request of Mr. LUGAR, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1700, a bill to require certain issuers to disclose payments to foreign governments for the commercial development of oil, natural gas, and minerals, to express the sense of Congress that the President should disclose any payment relating to the commercial development of oil, natural gas, and minerals on Federal land, and for other purposes.

S. 1709

At the request of Ms. STABENOW, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1709, a bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to establish a grant program to promote efforts to develop, implement, and sustain veterinary services, and for other purposes.

S. 1710

At the request of Mr. VITTER, the names of the Senator from Georgia (Mr. ISAKSON), the Senator from Texas (Mr. CORNYN), the Senator from Kentucky (Mr. BUNNING), the Senator from Nevada (Mr. ENSIGN), the Senator from South Carolina (Mr. DEMINT), the Senator from Iowa (Mr. GRASSLEY), the Senator from South Dakota (Mr. THUNE), the Senator from Idaho (Mr. CRAPO), the Senator from Oklahoma (Mr. INHOFE), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Kentucky (Mr. MCCONNELL), the Senator from Ohio (Mr. VOINOVICH), the Senator from Alabama (Mr. SESSIONS), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Oklahoma (Mr. COBURN), the Senator from Tennessee (Mr. CORKER), the Senator from

Mississippi (Mr. WICKER), the Senator from Idaho (Mr. RISCH) and the Senator from Nebraska (Mr. JOHANNIS) were added as cosponsors of S. 1710, a bill to prohibit recipients of TARP assistance from funding ACORN, and for other purposes.

S. 1749

At the request of Mr. FEINGOLD, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1749, a bill to amend title 18, United States Code, to prohibit the possession or use of cell phones and similar wireless devices by Federal prisoners.

S. RES. 263

At the request of Mr. GRASSLEY, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. Res. 263, a resolution designating October 2009 as "National Medicine Abuse Awareness Month".

AMENDMENT NO. 2570

At the request of Mrs. FEINSTEIN, the names of the Senator from West Virginia (Mr. BYRD), the Senator from Maryland (Mr. CARDIN), the Senator from Pennsylvania (Mr. CASEY), the Senator from Illinois (Mr. DURBIN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from South Dakota (Mr. JOHNSON), the Senator from Vermont (Mr. SANDERS) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of amendment No. 2570 intended to be proposed to H.R. 3326, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2588

At the request of Mr. FRANKEN, the names of the Senator from Maryland (Mr. CARDIN), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Massachusetts (Mr. KERRY), the Senator from Oregon (Mr. MERKLEY), the Senator from Florida (Mr. NELSON), the Senator from California (Mrs. FEINSTEIN), the Senator from Ohio (Mr. BROWN) and the Senator from New Hampshire (Mrs. SHAHEEN) were added as cosponsors of amendment No. 2588 proposed to H.R. 3326, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2594

At the request of Mr. SHELBY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of amendment No. 2594 proposed to H.R. 3326, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2596

At the request of Mr. BOND, the names of the Senator from Florida (Mr. LEMIEUX) and the Senator from Utah (Mr. HATCH) were added as cosponsors of amendment No. 2596 proposed to H.R. 3326, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2616

At the request of Mr. LIEBERMAN, the names of the Senator from Utah (Mr. HATCH) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of amendment No. 2616 proposed to H.R. 3326, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN (for himself, Mr. LEAHY, Mr. DURBIN, Mr. SPENCER, Mr. KOHL, Mr. SCHUMER, Mr. FRANKEN, Mr. SANDERS, Mr. BROWN, Mr. CARDIN, Mr. MERKLEY, Mrs. FEINSTEIN, Mr. DODD, Mrs. BOXER, Mr. LAUTENBERG, Mr. KAUFMAN, and Mr. NELSON of Florida):

S. 1756. A bill to amend the Age Discrimination in Employment Act of 1967 to clarify the appropriate standard of proof; to the Committee on Health, Education, Labor, and Pensions.

Mr. LEAHY. Mr. President, today, I am pleased to join Senator HARKIN and other Senators to introduce the Protecting Older Workers Against Discrimination Act. This legislation overturns the Supreme Court's recent decision in *Gross v. FBL Financial Services*, a divided case that thwarted congressional intent, overturned well-established precedent, and delivered a major blow to the ability of older workers to fight age discrimination. This bill restores the intent of Congress to fully empower older workers to seek redress in the courts, and to root out discrimination in the workplace.

I thank Senator HARKIN for introducing this bill, and I commend him for his commitment and dedication over the years to ensure that the promise of equal opportunity is real for all Americans. We worked hard last year to enact into law the ADA Amendments Act, which clarified and expanded protections for Americans with disabilities. I am proud to once again join as an original cosponsor of legislation that will do the same for older workers. I am also pleased that Congressman GEORGE MILLER will introduce a companion bill in the House today as well.

This Nation was founded on the promise of equal rights and equal opportunity for all Americans. To fulfill this promise, Congress has enacted a full slate of civil rights laws to eliminate discrimination in society, including the workplace. In 1967, Congress passed the Age Discrimination and Employment Act, ADEA, with the intent to extend protections against workplace discrimination to older workers. We strengthened those protections in the Civil Rights Act of 1991, which the Senate passed by a vote of 93 to 5.

Last month, Senators from both sides of the aisle joined together to celebrate the life and accomplishments of

Senator Ted Kennedy, whose legacy includes authoring and shepherding these civil rights measures into law. As Senator Kennedy said, "It has long been clear that effective enforcement of civil rights and fair labor practices is possible only if individuals themselves are able to seek relief in court."

However, contrary to the intent of Congress, the Supreme Court's decision in *Gross* will make it more difficult for older workers victimized by age discrimination to seek relief in court, and more difficult for those victims who actually get their day in court to vindicate their rights.

In passing the ADEA, Congress aimed to eliminate all forms of age discrimination in the workplace. Consistent with this goal, courts have for decades interpreted the ADEA to lessen the burdens on older workers victimized by discrimination. Victims of age discrimination were only required to show that age was a "motivating factor" for an employer's adverse action, though other factors may have also motivated a company's firing or termination of an employee.

In *Gross*, however, the Supreme Court misinterpreted the intent of Congress and ignored the longstanding precedent in a way that resulted in weakening core civil rights protections for older workers. In a 5-4 decision, a majority of the Court concluded that under the ADEA an employee must now prove that age was the sole cause of an employer's adverse action. As a result, despite our intent to provide the same protections for older workers in the ADEA as we provided for racial minorities in Title VII of the Civil Rights Act of 1964, today older workers now have less protection against workplace discrimination.

I am concerned that the *Gross* decision will allow employers to discriminate on the basis of age with impunity as long as it is paired with other reasons. Older workers, who make up nearly 50 percent of the American workforce, are particularly vulnerable to suffering discrimination during difficult economic times. In fact, age discrimination complaints filed with the Equal Employment Opportunity Commission jumped nearly 30 percent between 2007 and 2008. I fear that in the wake of *Gross* few, if any, of these victims will attain justice.

The Protecting Older Workers Against Discrimination Act, which is modeled on the Civil Rights Act of 1991, would reverse the *Gross* decision, strengthen the safeguards of the ADEA, and restore fundamental fairness. The bill eliminates the high burden of proof that victims of age discrimination must meet after *Gross*. It clarifies that the standard for proving discrimination under the ADEA and other anti-discrimination and anti-retaliation laws is the same as the standard for proving race discrimination under Title VII. The bill makes clear that when a litigant shows that age was a motivating factor for an adverse

employment action, the burden is on the employer to prove it complied with the law. This bill restores the law to what it was for decades before the Court rewrote the rule.

The bill also ensures that all workers will be treated equally in the workplace. Today, some lower courts have already applied *Gross* to weaken the protections in other anti-discrimination statutes. The legislation clarifies that the "motivating factor" standard applies to all anti-discrimination and anti-retaliation laws, and reflects a broader commitment to address the needs of all persons who suffer discrimination. It reaffirms that Americans' rights will be honored. It also restores the faith of the public that our civil rights laws are just and fair. Those are timeless American values that we can all embrace.

We have drafted this measure after long and thoughtful consideration with the Leadership Conference on Civil Rights, a broad coalition of hundreds of civil rights and workers' rights organizations. The bill also has the support of AARP, the National Senior Citizens Law Center, the National Women's Law Center and the National Employment Lawyers Association. Their support gives me confidence that this legislation will improve the lives of all Americans.

Time has shown that the ADEA has been one of our Nation's most effective tools in combating discrimination. Its continued effectiveness is important to ensure that the great progress we have made in widening the doors of opportunity for all Americans continues in the future. The Protecting Older Workers Against Discrimination Act will restore vital protections that have long secured the promise of equal rights and equal opportunity for older workers. I hope all Senators will support passing this critical civil rights measure this year.

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 303—EX-PRESSING THE SENSE OF THE SENATE THAT OCTOBER 17, 1984, THE DATE OF THE RESTORATION BY THE FEDERAL GOVERNMENT OF FEDERAL RECOGNITION TO THE CONFEDERATED TRIBES OF COOS, LOWER UMPQUA, AND SIUSLAW INDIANS, SHOULD BE MEMORIALIZED

Mr. WYDEN (for himself and Mr. MERKLEY) submitted the following resolution; which was referred to the Committee on Indian Affairs:

S. RES. 303

Whereas the Coos, Lower Umpqua, and Siuslaw Restoration Act (25 U.S.C. 714 et seq.), which was signed by President Ronald Reagan on October 17, 1984, restored Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians;

Whereas the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians historically inhabited land now in the State of Oregon, from Fivemile Point in the south to