

After graduating from Oglala Community High School in Pine Ridge, SD, Gordon joined the Armed Forces and served in the Air Force until his discharge in 1954. Eventually, he returned home to Pine Ridge to work as a police officer.

Gordon went on to serve the Flandreau Santee Sioux Tribe in a number of leadership positions, including tribal chairman, treasurer, trustee, and judge. His knowledgeable and competent abilities remained evident throughout his service in each of these official tribal roles. Gordon also fought for the interests of Indian Country during his time with the Bureau of Indian Affairs and as the executive director of the Flandreau Santee Sioux Gaming Commission. His leadership and guidance while with the Commission resulted in greater accountability within Indian gaming in the form of the National Indian Gaming Regulations, which he was instrumental in developing.

Gordon's lifelong service to veterans and citizens of South Dakota is reflected in his membership in the American Indian Veteran Lodge, the American Legion, the Flandreau Bible Church, the Kiwanis, the Shriners, and the VFW. Gordon was the longest serving member of the South Dakota Human Rights Commission which he served on from 1985 and resigned in 2001 due to health issues. He was the legion chaplain for South Dakota from 1997–1998. This type of active and continuous involvement stands as a testament to Gordon's commitment to his community and his fellow South Dakotans. It is this type of selfless volunteerism which makes South Dakota truly great.

Gordon's opinions and actions influenced policies and decisions at all levels of government. His involvement within his local community, his service to his tribe and State, his time in the Armed Forces and his testimony before U.S. congressional leaders all speak to the great devotion and passion which Gordon demonstrated throughout his life. His many accomplishments show the enormous difference a single life can have on so many others. South Dakota is better because of the life and efforts of Gordon. This life of active service and involved citizenship provides an example for each of us to follow.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MEASURES PLACED ON THE CALENDAR

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

H.R. 3962. An act to provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes.

#### 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 Mr. BAUCUS (for himself, Mr. GRASSLEY, and Mr. CRAPO):

S. 2771. A bill to amend the Internal Revenue Code of 1986 to limit the penalty for failure to disclose reportable transactions based on resulting tax benefits, and for other purposes; to the Committee on Finance.

By Mr. WHITEHOUSE (for himself, Mr. CORNYN, and Mr. LEAHY):

S. 2772. A bill to establish a criminal justice reinvestment grant program to help States and local jurisdictions reduce spending on corrections, control growth in the prison and jail populations, and increase public safety; to the Committee on the Judiciary.

By Ms. COLLINS:

S. 2773. A bill to require the Secretary of Energy to carry out a program to support the research, demonstration, and development of commercial applications for offshore wind energy, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY:

S. 2774. A bill to amend title XVIII of the Social Security Act to prevent Medicare payments being lost to fraud, waste, or abuse; to the Committee on Finance.

By Mr. SCHUMER (for himself and Mrs. GILLIBRAND):

S. 2775. A bill to provide authority and sanction for the granting and issuance of programs for residential and commuter toll, user fee and fare discounts by States, municipalities, other localities, as well as all related agencies and departments thereof, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ALEXANDER (for himself and Mr. WEBB):

S. 2776. A bill to amend the Energy Policy Act of 2005 to create the right business environment for doubling production of clean nuclear energy and other clean energy and to create mini-Manhattan projects for clean energy research and development; to the Committee on Energy and Natural Resources.

By Ms. SNOWE:

S. 2777. A bill to repeal the American Recovery Capital loan program of the Small Business Administration; to the Committee on Small Business and Entrepreneurship.

By Mrs. BOXER (for herself, Mr. INHOFE, Mr. BAUCUS, Mr. VOINOVICH, Mr. MERKLEY, and Mr. VITTER):

S. 2778. A bill to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; to the Committee on Environment and Public Works.

By Ms. KLOBUCHAR:

S. 2779. A bill to promote Department of the Interior efforts to provide a scientific

basis for the management of sediment and nutrient loss in the Upper Mississippi River Basin, and for other purposes; to the Committee on Energy and Natural Resources.

#### ADDITIONAL COSPONSORS

S. 254

At the request of Mrs. LINCOLN, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 254, a bill to amend title XVIII of the Social Security Act to provide for the coverage of home infusion therapy under the Medicare Program.

S. 491

At the request of Mr. WEBB, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 491, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 524

At the request of Mr. FEINGOLD, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 524, a bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority.

S. 557

At the request of Mr. KOHL, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 557, a bill to encourage, enhance, and integrate Silver Alert plans throughout the United States, to authorize grants for the assistance of organizations to find missing adults, and for other purposes.

S. 686

At the request of Ms. MIKULSKI, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 686, a bill to establish the Social Work Reinvestment Commission to advise Congress and the Secretary of Health and Human Services on policy issues associated with the profession of social work, to authorize the Secretary to make grants to support recruitment for, and retention, research, and reinvestment in, the profession, and for other purposes.

S. 727

At the request of Ms. LANDRIEU, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 727, a bill to amend title 18, United States Code, to prohibit certain conduct relating to the use of horses for human consumption.

S. 1057

At the request of Mr. TESTER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1057, a bill to amend the Public Health Service Act to provide for the participation of physical therapists in the National Health Service Corps Loan Repayment Program, and for other purposes.

S. 1067

At the request of Mr. FEINGOLD, the name of the Senator from Tennessee

(Mr. CORKER) was added as a cosponsor of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1076

At the request of Mr. MENENDEZ, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1076, a bill to improve the accuracy of fur product labeling, and for other purposes.

S. 1130

At the request of Mr. CONRAD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1130, a bill to provide for a demonstration project regarding Medicaid reimbursements for stabilization of emergency medical conditions by non-publicly owned or operated institutions for mental diseases.

S. 1147

At the request of Mr. KOHL, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1147, a bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

S. 1153

At the request of Mr. SCHUMER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1153, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage for employees' spouses and dependent children to coverage provided to other eligible designated beneficiaries of employees.

S. 1160

At the request of Mr. SCHUMER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1160, a bill to provide housing assistance for very low-income veterans.

S. 1228

At the request of Mr. AKAKA, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1228, a bill to amend chapter 63 of title 5, United States Code, to modify the rate of accrual of annual leave for administrative law judges, contract appeals board members, and immigration judges.

S. 1345

At the request of Mr. REED, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1345, a bill to aid and support pediatric involvement in reading and education.

S. 1366

At the request of Mrs. BOXER, the name of the Senator from New York

(Mrs. GILLIBRAND) was added as a cosponsor of S. 1366, a bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate a portion of their income tax payment to provide assistance to homeless veterans, and for other purposes.

S. 1389

At the request of Mr. NELSON of Nebraska, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1389, a bill to clarify the exemption for certain annuity contracts and insurance policies from Federal regulation under the Securities Act of 1933.

S. 1545

At the request of Mrs. GILLIBRAND, the name of the Senator from Massachusetts (Mr. KERRY) 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. 1559

At the request of Mr. KERRY, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 1559, a bill to consolidate democracy and security in the Western Balkans by supporting the Governments and people of Bosnia and Herzegovina and Montenegro in reaching their goal of eventual NATO membership, and to welcome further NATO partnership with the Republic of Serbia, and for other purposes.

S. 1608

At the request of Ms. STABENOW, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1608, a bill to prepare young people in disadvantaged situations for a competitive future.

S. 1646

At the request of Mr. REED, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1646, a bill to keep Americans working by strengthening and expanding short-time compensation programs that provide employers with an alternative to layoffs.

S. 1653

At the request of Mr. LEAHY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1653, a bill to provide for the appointment of additional Federal circuit and district judges, and for other purposes.

S. 1709

At the request of Mr. THUNE, the name of the Senator from Ohio (Mr. VOINOVICH) 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. 1798

At the request of Mr. SANDERS, the name of the Senator from Oregon (Mr.

WYDEN) was added as a cosponsor of S. 1798, a bill to provide for the automatic enrollment of demobilizing members of the National Guard and Reserve in health care and dental care programs of the Department of Veterans Affairs, and for other purposes.

S. 1963

At the request of Mr. AKAKA, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1963, a bill to amend title 38, United States Code, to provide assistance to caregivers of veterans, to improve the provision of health care to veterans, and for other purposes.

S. 2736

At the request of Mr. FRANKEN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2736, a bill to reduce the rape kit backlog and for other purposes.

S. 2758

At the request of Ms. STABENOW, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 2758, a bill to amend the Agricultural Research, Extension, and Education Reform Act of 1998 to establish a national food safety training, education, extension, outreach, and technical assistance program for agricultural producers, and for other purposes.

S. 2767

At the request of Mr. CORNYN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2767, a bill to provide additional resources and funding for construction and infrastructure improvements at United States land ports of entry, to open additional inspection lanes, to hire more inspectors, and to provide recruitment and retention incentives for United States Customs and Border Protection officers who serve on the Southern Border.

S. RES. 341

At the request of Mr. CARDIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. Res. 341, a resolution supporting peace, security, and innocent civilians affected by conflict in Yemen.

S. RES. 345

At the request of Mrs. BOXER, the names of the Senator from Tennessee (Mr. CORKER) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. Res. 345, a resolution deploring the rape and assault of women in Guinea and the killing of political protesters.

AMENDMENT NO. 2759

At the request of Mr. DURBIN, the names of the Senator from Illinois (Mr. BURRIS), the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Montana (Mr. TESTER) were added as cosponsors of amendment No. 2759 proposed to H.R. 3082, a bill making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

## AMENDMENT NO. 2760

At the request of Mr. DURBIN, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Montana (Mr. TESTER) were withdrawn as cosponsors of amendment No. 2760 proposed to H.R. 3082, a bill making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

## AMENDMENT NO. 2774

At the request of Mr. INHOFE, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from Texas (Mr. CORNYN) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of amendment No. 2774 proposed to H.R. 3082, a bill making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

STATEMENTS ON INTRODUCED  
BILLS AND JOINT RESOLUTIONS

By Mr. BAUCUS (for himself, Mr. GRASSLEY, and Mr. CRAPO):

S. 2771. A bill to amend the Internal Revenue Code of 1986 to limit the penalty for failure to disclose reportable transactions based on resulting tax benefits, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Today, I am pleased to introduce the Small Business Penalty Relief Act of 2009 with my good friend and Ranking Member of the Finance Committee, CHUCK GRASSLEY.

The bill provides much needed penalty relief to small businesses across America that are being assessed large penalties by the Internal Revenue Service because they unknowingly invested in something called a "listed tax shelter transaction."

Many of these businesses thought they were putting their money into sound investments for the benefit of their employees and learned only after they were audited by the IRS that they instead had invested in something the IRS considers to be a tax shelter.

Most small businesses do not have the resources to pay sophisticated tax lawyers and accountants to review all their business decisions. They have to do the best they can on their own. And that is how they ended up in the middle of a nightmare with the IRS.

When a business invests in a listed tax shelter, the law requires that business to attach a form to the tax return telling the IRS about the shelter. If the business doesn't attach the form, it can be subject to a penalty of \$200,000 per year. If the business has elected Subchapter S status, an additional \$100,000 penalty applies at the individual level. Total penalties can add up to \$300,000 each year. Multiply that by several years, and you can easily approach \$1 million or more in penalties for a tax shelter you didn't even know you had.

In the case of many small businesses, the annual tax benefit from their in-

vestment is quite minor—perhaps as small as \$15,000. The \$300,000 penalty plainly is out of whack.

Just to be clear, Senator GRASSLEY and I are not soft on tax shelters. We spearheaded legislation in 2004 that gave the IRS better tools to stop individuals and big companies from cleverly manipulating the tax code to avoid paying the taxes they owed. Our efforts were focused on egregious deals that cheated the U.S. Government out of millions and billions of dollars. Our efforts have made a serious dent in the proliferation of abusive tax scams and schemes.

But we didn't intend that the 2004 legislation would end up threatening the existence of small businesses in Montana and across America, and the livelihoods of their employees who risk losing their jobs if the business goes under.

Small businesses are struggling already. They don't need the added and unfair burden of a penalty that can be as much as 20 times larger than the taxes they saved.

This bill changes the way the penalty is calculated. The penalty is based on a percentage of the tax benefit resulting from the investment. It is fairer and won't drive these companies out of business.

Small businesses are the backbone of our Nation. Particularly in these tough economic times, we must make sure the tax laws reflect the important role that small business plays in our Nation's economic health and our citizens' economic security.

By Mr. WHITEHOUSE (for himself, Mr. CORNYN, and Mr. LEAHY):

S. 2772. A bill to establish a criminal justice reinvestment grant program to help States and local jurisdictions reduce spending on corrections, control growth in the prison and jail populations, and increase public safety; to the Committee on the Judiciary.

Mr. WHITEHOUSE. Mr. President, I am proud today to join Senators CORNYN and LEAHY in introducing the Criminal Justice Reinvestment Act of 2009, a bill designed to help States and localities approach spending on corrections in a more rational manner, better manage growth in the prison and jail populations, and increase public safety.

Over 2,200,000 American adults are incarcerated in state and local prisons and jails; the prison population alone nearly tripled between 1987 and 2007, from 585,000 to almost 1,600,000 inmates. States, in turn, have increased spending on corrections by \$40 billion in the past 20 years. Despite the continued growth of the inmate population, about half the states plan to cut corrections budgets for fiscal year 2010 amid budget shortfalls.

Most policymakers have limited access to detailed, data-driven explanations about changes in crime, arrests, convictions, and prison and jail population trends. The Criminal Jus-

tice Reinvestment Act will provide them with the resources to undergo a thorough analysis of the drivers of growth, and to create and implement policy options to manage that growth.

Specifically, the legislation will create a two-part grant program for governments to analyze criminal justice trends, develop policy options to address growth in the corrections system, and implement and measure the impact of the policy changes. Through Phase 1 grants, government entities will be able to conduct a comprehensive analysis of corrections data, evaluate the cost-effectiveness of state and local spending on corrections, and develop policy options suggested by the analysis. Phase 2 grants will provide funds to help government entities implement those policy options and to measure their effectiveness.

Model programs in several states have already found this kind of data study helpful in managing the costs of a growing inmate population. An analysis of prison data in my home state of Rhode Island, for example, prompted legislation to standardize the calculation of earned time credits, establish risk reduction program credits, and require the use of risk assessments to inform parole release decisions. In Texas, the home State of one of my cosponsors, Senator CORNYN, the solution was much different but equally effective—following its analysis, the State invested \$227 million on treatment programs and residential facilities to curb population growth, which averted spending \$523 million on new prisons.

The Criminal Justice Reinvestment Act will help state and local governments spend their limited corrections budgets in a more targeted, rational way to both manage inmate population growth and protect public safety. I urge my colleagues to support this legislation.

Mr. LEAHY. Mr. President, I am pleased to join Senators WHITEHOUSE and CORNYN in introducing the Criminal Justice Reinvestment Act of 2009. This important bipartisan legislation would help jurisdictions control the increased costs facing correctional systems across the country, while also improving public safety and reducing recidivism.

In recent years, Federal and State governments have passed many new criminal laws creating more and longer sentences for more and more crimes. As a former prosecutor, I strongly believe in securing tough and appropriate prison sentences for people who break our laws. But while it is important to ensure that serious crimes result in significant sentences, we must also work to make our criminal justice system as effective and efficient as possible. That is why I have long championed legislation like the Second Chance Act, which helps ensure that when people get out of prison, they enter our communities as productive members of society, so we can start to reverse the dangerous cycles of recidivism and violence.