

EXECUTIVE REPORTS OF  
COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEVIN for the Committee on Armed Services.

\*Air Force nomination of Lt. Gen. Douglas M. Fraser, to be General.

\*Army nomination of Lt. Gen. Stanley A. McChrystal, to be General.

\*Navy nomination of Adm. James G. Stavridis, to be Admiral.

By Mr. BINGAMAN for the Committee on Energy and Natural Resources.

\*Catherine Radford Zoi, of California, to be an Assistant Secretary of Energy (Energy, Efficiency, and Renewable Energy).

\*William F. Brinkman, of New Jersey, to be Director of the Office of Science, Department of Energy.

\*Anne Castle, of Colorado, to be an Assistant Secretary of the Interior.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

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. SCHUMER:

S. 1211. A bill to designate the facility of the United States Postal Service located at 60 School Street, Orchard Park, New York, as the "Jack F. Kemp Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DURBIN:

S. 1212. A bill to amend the antitrust laws to ensure competitive market-based fees and terms for merchants' access to electronic payment systems; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself and Mr. CONRAD):

S. 1213. A bill to amend title XI of the Social Security Act to provide for the conduct of comparative effectiveness research and to amend the Internal Revenue Code of 1986 to establish a Patient-Centered Outcomes Research Trust Fund, and for other purposes; to the Committee on Finance.

By Mr. LIEBERMAN (for himself, Mr. CASEY, Mr. BOND, Ms. STABENOW, Mr. CARDIN, Mr. SANDERS, Mr. WHITEHOUSE, and Mr. CRAPO):

S. 1214. A bill to conserve fish and aquatic communities in the United States through partnerships that foster fish habitat conservation, to improve the quality of life for the people of the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CASEY (for himself and Mr. SCHUMER):

S. 1215. A bill to amend the Safe Drinking Water Act to repeal a certain exemption for hydraulic fracturing, and for other purposes; to the Committee on Environment and Public Works.

By Ms. KLOBUCHAR (for herself and Mr. NELSON of Florida):

S. 1216. A bill to amend the Consumer Product Safety Act to require residential carbon monoxide detectors to meet the applicable ANSI/UL standard by treating that standard as a consumer product safety rule, to encourage States to require the installa-

tion of such detectors in homes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. STABENOW (for herself, Mrs. LINCOLN, and Mr. BEGICH):

S. 1217. A bill to amend title XIX of the Social Security Act to improve and protect rehabilitative services and case management services provided under Medicaid to improve the health and welfare of the nation's most vulnerable seniors and children; to the Committee on Finance.

By Mr. MENENDEZ (for himself and Mr. LAUTENBERG):

S. 1218. A bill to amend title XVIII of the Social Security Act to preserve access to urban Medicare-dependent hospitals; to the Committee on Finance.

By Mr. KOHL:

S. 1219. A bill to amend subtitle A of the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 to extend the operation of such subtitle for a 1-year period ending June 22, 2010; to the Committee on the Judiciary.

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

S. 1220. A bill to require that certain complex diagnostic laboratory tests performed by an independent laboratory after a hospital outpatient encounter or inpatient stay during which the specimen involved was collected shall be treated as services for which payment may be made directly to the laboratory under part B of title XVIII of the Social Security Act; to the Committee on Finance.

By Mr. SPECTER (for himself and Mr. ROBERTS):

S. 1221. A bill to amend title XVIII of the Social Security Act to ensure more appropriate payment amounts for drugs and biologicals under part B of the Medicare Program by excluding customary prompt pay discounts extended to wholesalers from the manufacturer's average sales price; to the Committee on Finance.

By Mrs. LINCOLN (for herself, Ms. SNOWE, Mr. KERRY, Ms. LANDRIEU, Mr. VITTER, Ms. CANTWELL, Mrs. GILLIBRAND, Mr. BURRIS, and Mr. SCHUMER):

S. 1222. A bill to amend the Internal Revenue Code of 1986 to extend and expand the benefits for business operating in empowerment zones, enterprise communities, or renewal communities, and for other purposes; to the Committee on Finance.

By Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Mr. MCCAIN, and Mr. DURBIN):

S.J. Res. 17. A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND  
SENATE RESOLUTIONS

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

By Mr. CRAPO:

S. Res. 173. A resolution supporting National Men's Health Week; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BOND (for himself, Mr. ROBERTS, Mr. BROWNBACK, and Mrs. MCCASKILL):

S. Res. 174. A resolution recognizing the region from Manhattan, Kansas to Columbia, Missouri as the Kansas City Animal Health Corridor; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. NELSON of Nebraska:

S. Res. 175. A resolution expressing the sense of the Senate that the Federal Govern-

ment is a reluctant shareholder in the ownership of General Motors and Chrysler; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FEINGOLD (for himself, Mr. ISAKSON, Mr. KERRY, Mr. INHOFE, Mr. BURRIS, Mr. WHITEHOUSE, Mr. NELSON of Florida, Mr. DURBIN, Mr. CARDIN, and Mr. BROWNBACK):

S. Res. 176. A resolution expressing the sense of the Senate on United States policy during the political transition in Zimbabwe, and for other purposes; considered and agreed to.

By Mr. HARKIN:

S. Res. 177. A resolution recognizing the 10th anniversary of the International Labour Organization's unanimous adoption of Convention 182, "Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour"; considered and agreed to.

By Mr. DURBIN (for himself, Mr. UDALL of Colorado, Mr. BURRIS, Mr. BENNETT, Mr. BENNET, and Mr. HATCH):

S. Res. 178. A resolution supporting Olympic Day on June 23, 2009, and encouraging the International Olympic Committee to select Chicago, Illinois as the host city for the 2016 Olympic and Paralympic Games; considered and agreed to.

By Mr. KAUFMAN:

S. Res. 179. A resolution congratulating the American Society of Mechanical Engineers on its 125 years of codes and standards development; considered and agreed to.

By Mr. REID (for himself and Mr. MCCONNELL):

S. Res. 180. A resolution to authorize testimony and legal representation in United States v Edward Bloomer, Frank Cordaro, Elton Davis, Chester Guinn, and Renee Espeland; considered and agreed to.

By Mr. MENENDEZ (for himself and Ms. STABENOW):

S. Con. Res. 25. A concurrent resolution recognizing the value and benefits that community health centers provide as health care homes for over 18,000,000 individuals, and the importance of enabling health centers and other safety net providers to continue to offer accessible, affordable, and continuous care to their current patients and to every American who lacks access to preventive and primary care services; to the Committee on Finance.

## ADDITIONAL COSPONSORS

S. 214

At the request of Mr. BINGAMAN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 214, a bill to amend title XXI of the Social Security Act to permit qualifying States to use their allotments under the State Children's Health Insurance Program for any fiscal year for certain Medicaid expenditures.

S. 254

At the request of Mrs. LINCOLN, the names of the Senator from Idaho (Mr. RISCH) and the Senator from Mississippi (Mr. WICKER) were added as cosponsors 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. 292

At the request of Mr. SPECTER, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor

of S. 292, a bill to repeal the imposition of withholding on certain payments made to vendors by government entities.

S. 301

At the request of Mr. GRASSLEY, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 301, a bill to amend title XI of the Social Security Act to provide for transparency in the relationship between physicians and manufacturers of drugs, devices, biologicals, or medical supplies for which payment is made under Medicare, Medicaid, or SCHIP.

S. 316

At the request of Mrs. LINCOLN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 316, a bill to amend the Internal Revenue Code of 1986 to make permanent the reduction in the rate of tax on qualified timber gain of corporations, and for other purposes.

S. 500

At the request of Mr. DURBIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 500, a bill to amend the Truth in Lending Act to establish a national usury rate for consumer credit transactions.

S. 535

At the request of Mr. NELSON of Florida, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 535, a bill to amend title 10, United States Code, to repeal requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

S. 538

At the request of Mrs. LINCOLN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 538, a bill to increase the recruitment and retention of school counselors, school social workers, and school psychologists by low-income local educational agencies.

S. 547

At the request of Mr. BINGAMAN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of 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.

S. 572

At the request of Ms. MIKULSKI, her name was added as a cosponsor of S. 572, a bill to provide for the issuance of a "forever stamp" to honor the sacrifices of the brave men and women of the armed forces who have been awarded the Purple Heart.

S. 655

At the request of Mr. JOHNSON, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor

of S. 655, a bill to amend the Pittman-Robertson Wildlife Restoration Act to ensure adequate funding for conservation and restoration of wildlife, and for other purposes.

S. 688

At the request of Ms. SNOWE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 688, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 700

At the request of Mr. BINGAMAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 700, a bill to amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for Medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, and for other purposes.

S. 711

At the request of Ms. MIKULSKI, her name was added as a cosponsor of S. 711, a bill to require mental health screenings for members of the Armed Forces who are deployed in connection with a contingency operation, and for other purposes.

S. 823

At the request of Ms. SNOWE, the names of the Senator from Pennsylvania (Mr. SPECTER), the Senator from South Carolina (Mr. GRAHAM) and the Senator from Florida (Mr. MARTINEZ) were added as cosponsors of S. 823, a bill to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of operating losses, and for other purposes.

S. 831

At the request of Ms. MIKULSKI, her name was added as a cosponsor 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. 841

At the request of Mr. KERRY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 841, a bill to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation.

S. 908

At the request of Mr. BAYH, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 910

At the request of Mr. WARNER, the name of the Senator from Montana

(Mr. TESTER) was added as a cosponsor of S. 910, a bill to amend the Emergency Economic Stabilization Act of 2008, to provide for additional monitoring and accountability of the Troubled Asset Relief Program.

S. 941

At the request of Mr. CRAPO, the names of the Senator from Idaho (Mr. RISCH) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 941, a bill to reform the Bureau of Alcohol, Tobacco, Firearms, and Explosives, modernize firearm laws and regulations, protect the community from criminals, and for other purposes.

S. 990

At the request of Ms. STABENOW, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 990, a bill to amend the Richard B. Russell National School Lunch Act to expand access to healthy afterschool meals for school children in working families.

S. 1023

At the request of Mr. DORGAN, the names of the Senator from New York (Mrs. GILLIBRAND), the Senator from Missouri (Mr. BOND), the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1023, a bill to establish a non-profit corporation to communicate United States entry policies and otherwise promote leisure, business, and scholarly travel to the United States.

At the request of Mr. DURBIN, his name was added as a cosponsor of S. 1023, *supra*.

S. 1034

At the request of Ms. STABENOW, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 1034, a bill to amend titles XIX and XXI of the Social Security Act to ensure payment under Medicaid and the State Children's Health Insurance Program for covered items and services furnished by school-based health clinics.

S. 1136

At the request of Ms. STABENOW, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of S. 1136, a bill to establish a chronic care improvement demonstration program for Medicaid beneficiaries with severe mental illnesses.

S. 1156

At the request of Mr. HARKIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1156, a bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to reauthorize and improve the safe routes to school program.

S. 1185

At the request of Mr. BINGAMAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1185, a bill to amend titles XVIII and XIX of the Social Security

Act to ensure that low-income beneficiaries have improved access to health care under the Medicare and Medicaid programs.

S. 1203

At the request of Mr. BAUCUS, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1203, a bill to amend the Internal Revenue Code of 1986 to extend the research credit through 2010 and to increase and make permanent the alternative simplified research credit, and for other purposes.

At the request of Mr. HATCH, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 1203, supra.

AMENDMENT NO. 1230

At the request of Mr. JOHANNIS, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of amendment No. 1230 intended to be proposed to H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

AMENDMENT NO. 1256

At the request of Mr. LIEBERMAN, the names of the Senator from Alaska (Ms. MURKOWSKI), the Senator from Maryland (Ms. MIKULSKI), the Senator from Hawaii (Mr. INOUE), the Senator from Alaska (Mr. BEGICH), the Senator from Wisconsin (Mr. KOHL) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of amendment No. 1256 proposed to H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

AMENDMENT NO. 1270

At the request of Mr. CORKER, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of amendment No. 1270 intended to be proposed to H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN:

S. 1212. A bill to amend the antitrust laws to ensure competitive market-

based fees and terms for merchants' access to electronic payment systems; to the Committee on the Judiciary.

Mr. DURBIN. 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. 1212

*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 "Credit Card Fair Fee Act of 2009".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) ACCESS.—The term "access"—

(A) when used as a verb means to use to conduct transaction authorization, clearance, and settlement involving the acceptance of credit cards or debit cards from consumers for payment for goods or services and the receipt of payment for such goods or services; and

(B) when used as a noun means the permission or authority to use to conduct transactions described in subparagraph (A).

(2) ACCESS AGREEMENT.—The term "access agreement" means an agreement between 1 or more merchants and 1 or more providers giving the merchant access to a covered electronic payment system, conditioned solely upon the merchant complying with the fees and terms specified in the agreement.

(3) ACQUIRER.—The term "acquirer"—

(A) means a financial institution that provides services allowing merchants to access an electronic payment system to accept credit cards or debit cards for payment; and

(B) does not include an independent third party processor that may act as the agent of a financial institution described in subparagraph (A) in processing general-purpose credit card or debit card transactions.

(4) ADJUDICATION.—The term "adjudication" has the meaning given that term in section 551 of title 5, United States Code, and does not include mediation.

(5) ANTITRUST LAWS.—The term "antitrust laws"—

(A) has the meaning given that term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)); and

(B) includes—

(i) section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent section 5 applies to unfair methods of competition; and

(ii) State antitrust laws.

(6) CHAIRMAN.—The term "Chairman" means the Chairman of the Federal Trade Commission.

(7) COVERED ELECTRONIC PAYMENT SYSTEM.—The term "covered electronic payment system" means an electronic payment system that routes information and data to facilitate transaction authorization, clearance, and settlement for not less than 10 percent of the combined dollar value of credit card or debit card payments processed in the United States in the most recent full calendar year.

(8) CREDIT CARD.—The term "credit card" means any general-purpose card or other credit device issued or approved for use by a financial institution for use in allowing the cardholder to obtain goods or services on credit on terms specified by that financial institution.

(9) DEBIT CARD.—The term "debit card" means any general-purpose card or other device issued or approved for use by a financial institution for use in debiting the account of a cardholder for the purpose of that card-

holder obtaining goods or services, whether authorization is signature-based or PIN-based.

(10) ELECTRONIC PAYMENT SYSTEM.—The term "electronic payment system" means the proprietary services, infrastructure, and software that route information and data to facilitate transaction authorization, clearance, and settlement and that merchants are required to access in order to accept a specific brand of general-purpose credit cards or debit cards as payment for goods or services.

(11) ELECTRONIC PAYMENT SYSTEM JUDGES.—The term "Electronic Payment System Judges" means the Electronic Payment System Judges appointed under section 4(a).

(12) FEES.—The term "fees" means any monetary charges, rates, assessments, or other payments imposed by a provider upon a merchant for the merchant to access an electronic payment system.

(13) FINANCIAL INSTITUTION.—The term "financial institution" has the meaning given that term in section 603(t) of the Fair Credit Reporting Act (15 U.S.C. 1681a(t)).

(14) ISSUER.—The term "issuer"—

(A) means a financial institution that issues credit cards or debit cards or approves the use of other devices for use in an electronic payment system; and

(B) does not include an independent third party processor that may act as the agent of a financial institution described in subparagraph (A) in processing general-purpose credit or debit card transactions.

(15) MARKET POWER.—The term "market power" means the ability to profitably raise prices above those that would be charged in a perfectly competitive market.

(16) MERCHANT.—The term "merchant" means any person who accepts or who seeks to accept credit cards or debit cards in payment for goods or services provided by the person.

(17) NEGOTIATING PARTY.—The term "negotiating party" means 1 or more providers of a covered electronic payment system or 1 or more merchants who have access to or who are seeking access to that covered electronic payment system, as the case may be, and who are in the process of negotiating or who have executed a voluntarily negotiated access agreement that is still in effect.

(18) NORMAL RATE OF RETURN.—The term "normal rate of return" means the average rate of return that a firm would receive in an industry when conditions of perfect competition prevail.

(19) PROCEEDING PARTY.—The term "proceeding party" means collectively all providers of a covered electronic payment system or collectively all merchants who have access to or who are seeking access to that covered electronic payment system, as the case may be, during the period in which the Electronic Payment System Judges are conducting a proceeding under this Act relating to that covered electronic payment system.

(20) PERSON.—The term "person" has the meaning given that term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(21) PROVIDER.—The term "provider" means any person who owns, operates, controls, serves as an issuer for, or serves as an acquirer for a covered electronic payment system.

(22) STATE.—The term "State" has the meaning given that term in section 4G(2) of the Clayton Act (15 U.S.C. 15g(2)).

(23) TERMS.—The term "terms" means any and all rules and conditions that are applicable to providers of an electronic payment system or to merchants, as the case may be, and that are required in order for merchants to access that electronic payment system.