

# AUTHORITY FOR COMMITTEES TO MEET

## COMMITTEE ON ARMED SERVICES

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 11, 2010, at 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on March 11, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on March 11, 2010, at 10 a.m., in room 406 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON FOREIGN RELATIONS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on March 11, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled "A Fair Share for All: Pay Equity in the New American Workplace" on March 11, 2010. The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON THE JUDICIARY

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on March 11, 2010, at 10 a.m. in SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AD HOC SUBCOMMITTEE ON STATE, LOCAL, AND PRIVATE SECTOR PREPAREDNESS AND INTEGRATION

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on State, Local, and Private Sector Preparedness and Integration of the Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on March 11, 2010, at 11 a.m. to

conduct a hearing entitled, "New Border War: Corruption of U.S. Officials by Drug Cartels."

The PRESIDING OFFICER. Without objection, it is so ordered.

## SELECT COMMITTEE ON INTELLIGENCE

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 11, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SUBCOMMITTEE ON COMMUNICATIONS, TECHNOLOGY, AND THE INTERNET

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Subcommittee on Communications, Technology, and the Internet of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on March 11, 2010, at 10 a.m., in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that Chris Goble, a legislative fellow with the Senate Finance Committee, be granted the privilege of the floor during the consideration of H.R. 1586.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

Mr. DURBIN. Mr. President, I ask the Chair to lay before the Senate a message from the House with respect to H.R. 2847, the Commerce, Justice, Science Appropriations Act.

The PRESIDING OFFICER. The Chair lays before the Senate a message from the House.

The legislative clerk read as follows:

Resolved, that the House agree to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 2847) entitled "An Act making appropriations for the Departments of Commerce and Justice and Science, and Related Agencies for fiscal year ending September 30, 2010, and for other purposes," with a House amendment to the Senate amendment to the House amendment to the Senate amendment.

## CLOTURE MOTION

Mr. DURBIN. I move to concur in the House amendments to the Senate amendment to the House amendment to the Senate amendment to the bill, and I have a cloture motion at the desk on the motion to concur.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the

Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendments to the Senate amendment to the House amendment to the Senate amendment to H.R. 2847, the Commerce, Justice, Science Appropriations Act.

Byron L. Dorgan, Carl Levin, Dianne Feinstein, Jack Reed, Mark R. Warner, Patrick J. Leahy, Benjamin L. Cardin, Debbie Stabenow, Daniel K. Akaka, Robert P. Casey, Jr., Michael F. Bennett, Maria Cantwell, John D. Rockefeller, IV, Barbara Boxer, Charles E. Schumer, Patty Murray, Christopher J. Dodd.

## AMENDMENT NO. 3498

Mr. DURBIN. I move to concur in the House amendments to the Senate amendment to the House amendment to the Senate amendment to the bill with an amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] moves to concur in the House amendments to the Senate amendment to the House amendment to the Senate amendment with an amendment numbered 3498.

The amendment is as follows:

On page 3, in the first House amendment strike

"SUBTITLE E—DISADVANTAGED BUSINESS ENTERPRISES

SEC 451. DISADVANTAGED BUSINESS ENTERPRISES."

and insert

"SUBTITLE E—UNPROFITABLE BUSINESS ENTERPRISES"

Mr. DURBIN. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

## AMENDMENT NO. 3499 TO AMENDMENT NO. 3498

Mr. DURBIN. I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 3499 to amendment No. 3498.

The amendment is as follows:

At the end of the pending amendment insert the following:

SEC. 451. UNPROFITABLE BUSINESS ENTERPRISES.

Mr. DURBIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

## AMENDMENT NO. 3500

Mr. DURBIN. I have a motion to refer with instructions at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] moves to refer the House message to the Senate Committee on Appropriations with

instructions to report back forthwith with the following amendment numbered 3500.

The amendment is as follows:

At the end, insert the following:

The Senate Committee on Appropriations is requested to study the impact of any delays in enactment on the creation of any jobs on a regional basis.

Mr. DURBIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

AMENDMENT NO. 3501 TO AMENDMENT NO. 3500

Mr. DURBIN. I have an amendment to my instructions at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 3501 to the instructions to refer H.R. 2847.

The amendment is as follows:

At the end, insert the following:

"and include any local statistics."

Mr. DURBIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

AMENDMENT NO. 3502 TO AMENDMENT NO. 3501

Mr. DURBIN. I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 3502 to Amendment No. 3501.

The amendment is as follows:

At the end, insert the following:

"including specific information on the types of jobs created.

Mr. DURBIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. DURBIN. I ask unanimous consent that the mandatory quorum be waived with respect to the cloture motion and that the cloture vote occur at 5:30 p.m. on Monday, March 15.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PREVENT ALL CIGARETTE TRAFFICKING ACT OF 2009

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 216, S. 1147.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1147) to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which

had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE; FINDINGS; PURPOSES.

(a) *SHORT TITLE*.—This Act may be cited as the "Prevent All Cigarette Trafficking Act of 2009" or "PACT Act".

(b) *FINDINGS*.—Congress finds that—

(1) the sale of illegal cigarettes and smokeless tobacco products significantly reduces Federal, State, and local government revenues, with Internet sales alone accounting for billions of dollars of lost Federal, State, and local tobacco tax revenue each year;

(2) Hezbollah, Hamas, al Qaeda, and other terrorist organizations have profited from trafficking in illegal cigarettes or counterfeit cigarette tax stamps;

(3) terrorist involvement in illicit cigarette trafficking will continue to grow because of the large profits such organizations can earn;

(4) the sale of illegal cigarettes and smokeless tobacco over the Internet, and through mail, fax, or phone orders, makes it cheaper and easier for children to obtain tobacco products;

(5) the majority of Internet and other remote sales of cigarettes and smokeless tobacco are being made without adequate precautions to protect against sales to children, without the payment of applicable taxes, and without complying with the nominal registration and reporting requirements in existing Federal law;

(6) unfair competition from illegal sales of cigarettes and smokeless tobacco is taking billions of dollars of sales away from law-abiding retailers throughout the United States;

(7) with rising State and local tobacco tax rates, the incentives for the illegal sale of cigarettes and smokeless tobacco have increased;

(8) the number of active tobacco investigations being conducted by the Bureau of Alcohol, Tobacco, Firearms, and Explosives rose to 452 in 2005;

(9) the number of Internet vendors in the United States and in foreign countries that sell cigarettes and smokeless tobacco to buyers in the United States increased from only about 40 in 2000 to more than 500 in 2005; and

(10) the intrastate sale of illegal cigarettes and smokeless tobacco over the Internet has a substantial effect on interstate commerce.

(c) *PURPOSES*.—It is the purpose of this Act to—

(1) require Internet and other remote sellers of cigarettes and smokeless tobacco to comply with the same laws that apply to law-abiding tobacco retailers;

(2) create strong disincentives to illegal smuggling of tobacco products;

(3) provide government enforcement officials with more effective enforcement tools to combat tobacco smuggling;

(4) make it more difficult for cigarette and smokeless tobacco traffickers to engage in and profit from their illegal activities;

(5) increase collections of Federal, State, and local excise taxes on cigarettes and smokeless tobacco; and

(6) prevent and reduce youth access to inexpensive cigarettes and smokeless tobacco through illegal Internet or contraband sales.

#### SEC. 2. COLLECTION OF STATE CIGARETTE AND SMOKELESS TOBACCO TAXES.

(a) *DEFINITIONS*.—The Act of October 19, 1949 (15 U.S.C. 375 et seq.; commonly referred to as the "Jenkins Act") (referred to in this Act as the "Jenkins Act"), is amended by striking the first section and inserting the following:

##### "SECTION 1. DEFINITIONS.

"As used in this Act, the following definitions apply:

"(1) *ATTORNEY GENERAL*.—The term 'attorney general', with respect to a State, means the attorney general or other chief law enforcement officer of the State.

"(2) *CIGARETTE*.—

"(A) *IN GENERAL*.—The term 'cigarette'—

"(i) has the meaning given that term in section 2341 of title 18, United States Code; and

"(ii) includes roll-your-own tobacco (as defined in section 5702 of the Internal Revenue Code of 1986).

"(B) *EXCEPTION*.—The term 'cigarette' does not include a cigar (as defined in section 5702 of the Internal Revenue Code of 1986).

"(3) *COMMON CARRIER*.—The term 'common carrier' means any person (other than a local messenger service or the United States Postal Service) that holds itself out to the general public as a provider for hire of the transportation by water, land, or air of merchandise (regardless of whether the person actually operates the vessel, vehicle, or aircraft by which the transportation is provided) between a port or place and a port or place in the United States.

"(4) *CONSUMER*.—The term 'consumer'—

"(A) means any person that purchases cigarettes or smokeless tobacco; and

"(B) does not include any person lawfully operating as a manufacturer, distributor, wholesaler, or retailer of cigarettes or smokeless tobacco.

"(5) *DELIVERY SALE*.—The term 'delivery sale' means any sale of cigarettes or smokeless tobacco to a consumer if—

"(A) the consumer submits the order for the sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

"(B) the cigarettes or smokeless tobacco are delivered to the buyer by common carrier, private delivery service, or other method of remote delivery, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.

"(6) *DELIVERY SELLER*.—The term 'delivery seller' means a person who makes a delivery sale.

"(7) *INDIAN COUNTRY*.—The term 'Indian country'—

"(A) has the meaning given that term in section 1151 of title 18, United States Code, except that within the State of Alaska that term applies only to the Metlakatla Indian Community, Annette Island Reserve; and

"(B) includes any other land held by the United States in trust or restricted status for one or more Indian tribes.

"(8) *INDIAN TRIBE*.—The term 'Indian tribe', 'tribe', or 'tribal' refers to an Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) or as listed pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1).

"(9) *INTERSTATE COMMERCE*.—

"(A) *IN GENERAL*.—The term 'interstate commerce' means commerce between a State and any place outside the State, commerce between a State and any Indian country in the State, or commerce between points in the same State but through any place outside the State or through any Indian country.

"(B) *INTO A STATE, PLACE, OR LOCALITY*.—A sale, shipment, or transfer of cigarettes or smokeless tobacco that is made in interstate commerce, as defined in this paragraph, shall be deemed to have been made into the State, place, or locality in which such cigarettes or smokeless tobacco are delivered.

"(10) *PERSON*.—The term 'person' means an individual, corporation, company, association, firm, partnership, society, State government, local government, Indian tribal government, governmental organization of such a government, or joint stock company.

"(11) *STATE*.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

"(12) *SMOKELESS TOBACCO*.—The term 'smokeless tobacco' means any finely cut, ground,