

**SENATE RESOLUTION 467—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN THE CASE OF SOLLARS V. REID, ET AL**

Mr. McCONNELL submitted the following resolution; which was considered and agreed to:

S. RES. 467

Whereas, in the case of Sollars v. Reid, et al., Case No. 1:09-CV-361, pending in the United States District Court for the Northern District of Indiana, plaintiff has named as defendants eight Senators; and

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now therefore, be it

*Resolved*, That the Senate Legal Counsel is authorized to represent all defendant Senators in the case of Sollars v. Reid, et al.

**SENATE CONCURRENT RESOLUTION 55—COMMEMORATING THE 40TH ANNIVERSARY OF EARTH DAY AND HONORING THE FOUNDER OF EARTH DAY, THE LATE SENATOR GAYLORD NELSON OF THE STATE OF WISCONSIN**

Mr. FEINGOLD (for himself and Mr. KOHL) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 55

Whereas Gaylord Nelson, former United States Senator from the State of Wisconsin, is recognized as 1 of the leading environmentalists of the 20th century;

Whereas Gaylord Nelson helped launch an international era of environmental awareness and activism;

Whereas Gaylord Nelson grew up in Clear Lake, Wisconsin;

Whereas Gaylord Nelson maintained and exemplified the progressive values of Clear Lake, Wisconsin while rising to national prominence;

Whereas Gaylord Nelson served with distinction—

(1) as a Senator in the Wisconsin State Senate from 1949 through 1959;

(2) as Governor of the State of Wisconsin from 1959 through 1963; and

(3) as a Senator in the United States Senate from 1963 through 1981;

Whereas Gaylord Nelson founded Earth Day, which was first celebrated on April 22, 1970, by approximately 20,000,000 people across the United States;

Whereas, at the time, the first celebration of Earth Day was the largest environmental grassroots event ever held;

Whereas, on the first celebration of Earth Day, Gaylord Nelson called on the people of the United States to hold elected officials accountable for protecting the health of the people of the United States and the natural environment;

Whereas the first celebration of Earth Day launched the Environmental Decade, an unparalleled period of legislative and grassroots activity that resulted in the passage of 28 major pieces of environmental legislation from 1970 through 1980, including—

(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

(2) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(3) the National Environmental Education Act (20 U.S.C. 5501 et seq.);

Whereas Gaylord Nelson was responsible for legislation that—

(1) created the Apostle Islands National Lakeshore and the St. Croix Wild and Scenic Riverway; and

(2) protected other important natural treasures of the State of Wisconsin and the United States;

Whereas Gaylord Nelson sponsored legislation to ban phosphates in household detergents and the use of dichlorodiphenyltrichloroethane (DDT);

Whereas Gaylord Nelson worked tirelessly to ensure clean water and clean air for all people of the United States;

Whereas, in addition to providing environmental leadership, Gaylord Nelson—

(1) fought for civil rights;

(2) enlisted in the War on Poverty;

(3) challenged drug companies and tire manufacturers to protect consumers; and

(4) to defend and protect civil liberties, stood up to Senator Joseph McCarthy, the Un-American Activities Committee of the House of Representatives, and the Nixon Administration;

Whereas Gaylord Nelson was a patriot, who as a young soldier honorably served 46 months in the Armed Forces during World War II;

Whereas Gaylord Nelson, as a Senator, courageously opposed the Vietnam War and worked to ban the use of the toxic defoliant Agent Orange;

Whereas, in 1995, Gaylord Nelson was awarded the Presidential Medal of Freedom, the highest honor awarded to civilians in the United States;

Whereas the legacy of Gaylord Nelson has inspired an environmental ethic and an appreciation and understanding of the importance of being good stewards of the environment and the planet in generations of the people of the United States;

Whereas Gaylord Nelson was an extraordinary statesman, public servant, environmentalist, husband, father, and friend; and

Whereas Gaylord Nelson never let disagreement on the issues become personal or partisan: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That Congress commemorates the 40th anniversary of Earth Day and honors the founder of Earth Day, the late Senator Gaylord Nelson of the State of Wisconsin.

**AMENDMENTS SUBMITTED AND PROPOSED**

SA 3556. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table.

SA 3557. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3558. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3559. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3560. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3561. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3562. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3563. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3564. Mr. GRASSLEY (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra.

SA 3565. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3566. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3567. Mr. GREGG (for himself and Mr. COBURN) proposed an amendment to the bill H.R. 4872, supra.

SA 3568. Mr. BENNETT (for himself, Mr. WICKER, Mr. BROWNBACK, Mr. HATCH, Mr. ROBERTS, Mr. INHOFE, Mr. CORNYN, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3569. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3570. Mr. MCCAIN (for himself, Mr. BURR, and Mr. COBURN) proposed an amendment to the bill H.R. 4872, supra.

SA 3571. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3572. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3573. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3574. Mr. LEMIEUX submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3575. Mr. LEMIEUX submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3576. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3577. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3578. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3579. Mr. ROBERTS (for himself, Mr. INHOFE, and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3580. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3581. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3582. Mr. BARRASSO (for himself, Mr. HATCH, and Mr. COBURN) proposed an amendment to the bill H.R. 4872, supra.

SA 3583. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3584. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3585. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 4872, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 3556.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

**SEC. 1306. REDUCING HEALTH CARE COSTS BY ELIMINATING PAYMENTS FOR FRAUDULENT CLAIMS AND PROHIBITING COVERAGE FOR ABORTION DRUGS AND ERECTILE DYSFUNCTION DRUGS FOR RAPISTS AND CHILD MOLESTERS.**

(a) **ELIMINATING FRAUDULENT PAYMENTS FOR PRESCRIPTION DRUGS.**—The Secretary shall establish a fraud prevention system and issue guidance to—

(1) prevent the processing of claims of prescribing providers and dispensing pharmacies debarred from Federal contracts or excluded from the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) or the Medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.);

(2) ensure that drug utilization reviews and restricted recipient program requirements adequately identify and prevent doctor shopping and other abuses of controlled substances;

(3) develop a claims processing system to identify duplicate enrollments and deaths of Medicaid beneficiaries and prevent the approval of fraudulent claims; and

(4) develop a claims processing systems to identify deaths of Medicaid providers and prevent the approval of fraudulent claims filed using the identity of such providers.

(b) **PROHIBITING COVERAGE OF CERTAIN PRESCRIPTION DRUGS.**—

(1) **IN GENERAL.**—Health programs administered by the Federal Government and American Health Benefit Exchanges (as described in section 1311 of the Patient Protection and Affordable Care Act) shall not provide coverage or reimbursement for—

(A) prescription drugs to treat erectile dysfunction for individuals convicted of child molestation, rape, or other forms of sexual assault; or

(B) drugs prescribed with the intent of inducing an abortion for reasons other than as described in paragraph (2).

(2) **EXCEPTIONS.**—The limitation under paragraph (1)(B) shall not apply to an abortion—

(A) in the case where a woman suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the woman in danger of death unless an abortion is performed, including a life-endangering physical condition caused by or arising from the pregnancy itself; or

(B) if the pregnancy is the result of an act of forcible rape or incest.

**SA 3557.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13);

which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

**SEC. 2304. BUREAUCRAT LIMITATION.**

For each new bureaucrat added to any department or agency of the Federal Government for the purpose of implementing the provisions of the Patient Protection and Affordable Care Act (or any amendment made by such Act), the head of such department or agency shall ensure that the addition of such new bureaucrat is offset by a reduction of 1 existing bureaucrat at such department or agency.

**SA 3558.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

**SECTION 2304. LIMITATION OF POWERS OF THE SECRETARY.**

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall have no power or authority other than such power and authority granted by statute and in effect before January 1, 2010.

**SA 3559.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

Strike subsection (a) of section 2301.

**SA 3560.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of title I, add the following:

**Subtitle G—Additional Provisions  
Eliminating Waste, Fraud, and Abuse**

**SEC. 1601. SITE INSPECTIONS; BACKGROUND CHECKS; DENIAL AND SUSPENSION OF BILLING PRIVILEGES.**

(a) **SITE INSPECTIONS FOR DME SUPPLIERS, COMMUNITY MENTAL HEALTH CENTERS, AND OTHER PROVIDER GROUPS.**—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), as amended by sections 3022 and 3403 of the Patient Protection and Affordable Care Act, is amended by adding at the end the following:

“SITE INSPECTIONS FOR DME SUPPLIERS, COMMUNITY MENTAL HEALTH CENTERS, AND OTHER PROVIDER GROUPS

“SEC. 1899B. (a) SITE INSPECTIONS.—

“(1) **IN GENERAL.**—The Secretary shall conduct a site inspection for each applicable provider (as defined in paragraph (2)) that applies to enroll under this title in order to provide items or services under this title. Such site inspection shall be in addition to any other site inspection that the Secretary would otherwise conduct with regard to an applicable provider.

“(2) **APPLICABLE PROVIDER DEFINED.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), in this section the term ‘applicable provider’ means—

“(i) a supplier of durable medical equipment (including items described in section 1834(a)(13));

“(ii) a supplier of prosthetics, orthotics, or supplies (including items described in paragraphs (8) and (9) of section 1861(s));

“(iii) a community mental health center; or

“(iv) any other provider group, as determined by the Secretary (including suppliers, both participating suppliers and non-participating suppliers, as such terms are defined for purposes of section 1842).

“(B) **EXCEPTION.**—In this section, the term ‘applicable provider’ does not include—

“(i) a physician that provides durable medical equipment (as described in subparagraph (A)(i)) or prosthetics, orthotics, or supplies (as described in subparagraph (A)(ii)) to an individual as incident to an office visit by such individual; or

“(ii) a hospital that provides durable medical equipment (as described in subparagraph (A)(i)) or prosthetics, orthotics, or supplies (as described in subparagraph (A)(ii)) to an individual as incident to an emergency room visit by such individual.

“(b) **STANDARDS AND REQUIREMENTS.**—In conducting the site inspection pursuant to subsection (a), the Secretary shall ensure that the site being inspected is in full compliance with all the conditions and standards of participation and requirements for obtaining billing privileges under this title.

“(c) **TIME.**—The Secretary shall conduct the site inspection for an applicable provider prior to the issuance of billing privileges under this title to such provider.

“(d) **TIMELY REVIEW.**—The Secretary shall provide for procedures to ensure that the site inspection required under this section does not unreasonably delay the issuance of billing privileges under this title to an applicable provider.”

(b) **BACKGROUND CHECKS.**—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) (as amended by subsection (a)) is amended by adding at the end the following new section:

**“BACKGROUND CHECKS; DENIAL AND SUSPENSION OF BILLING PRIVILEGES**

“SEC. 1899C. (a) **BACKGROUND CHECK REQUIRED.**—Except as provided in subsection (b), in addition to any screening conducted under section 1866(j), the Secretary shall conduct a background check on any individual or entity that enrolls under this title for the purpose of furnishing any item or service under this title, including any individual or entity that is a supplier, a person with an ownership or control interest, a managing employee (as defined in section 1126(b)), or an authorized or delegated official of the individual or entity. In performing the background check, the Secretary shall—

“(1) conduct the background check before authorizing billing privileges under this title to the individual or entity, respectively;

“(2) include a search of criminal records in the background check;

“(3) provide for procedures that ensure the background check does not unreasonably delay the authorization of billing privileges under this title to an eligible individual or entity, respectively; and

“(4) establish criteria for targeted reviews when the individual or entity renews participation under this title, with respect to the background check of the individual or entity, respectively, to detect changes in ownership, bankruptcies, or felonies by the individual or entity.

“(b) **USE OF STATE LICENSING PROCEDURE.**—The Secretary may use the results of a State licensing procedure as a background check under subsection (a) if the State licensing