

individuals detained by the Department of Homeland Security are treated humanely, provided adequate medical care, and granted certain specified rights.

S. 1553

At the request of Mr. GRASSLEY, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 1553, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

S. 1596

At the request of Mrs. BOXER, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 1596, a bill to authorize the Secretary of the Interior to acquire the Gold Hill Ranch in Coloma, California.

S. 1933

At the request of Mr. BINGAMAN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1933, a bill to establish an integrated Federal program that protects, restores, and conserves natural resources by responding to the threats and effects of climate change, and for other purposes.

S. 2816

At the request of Mr. BUNNING, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2816, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs and to allow the adoption credit to be claimed in the year expenses are incurred, regardless of when the adoption becomes final.

S. 2920

At the request of Mr. LAUTENBERG, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 2920, a bill to amend chapter 1 of title 23, United States Code, to condition the receipt of certain highway funding by States on the enactment and enforcement by States of certain laws to prevent repeat intoxicated driving.

S. 2993

At the request of Mr. SANDERS, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2993, a bill to increase the quantity of solar photovoltaic electricity by providing rebates for the purchase and installation of an additional 10,000,000 solar roofs and additional solar water heating systems with a cumulative capacity of 10,000,000 gallons by 2019.

S. 3020

At the request of Ms. SNOWE, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 3020, a bill to direct the Administrator of the Small Business Administration to reform and improve

the HUBZone program for small business concerns, and for other purposes.

S. 3036

At the request of Mr. BAYH, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 3036, a bill to establish the Office of the National Alzheimer's Project.

S. 3039

At the request of Mr. UDALL of New Mexico, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 3039, a bill to prevent drunk driving injuries and fatalities, and for other purposes.

S. 3058

At the request of Mr. DORGAN, the names of the Senator from New Jersey (Mr. MENENDEZ), the Senator from Michigan (Mr. LEVIN) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 3058, a bill to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that Act.

S. 3062

At the request of Mr. CARPER, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 3062, a bill to extend credits related to the production of electricity from offshore wind, and for other purposes.

S. 3111

At the request of Mr. LEAHY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 3111, a bill to establish the Commission on Freedom of Information Act Processing Delays.

S. 3165

At the request of Ms. LANDRIEU, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 3165, a bill to authorize the Administrator of the Small Business Administration to waive the non-Federal share requirement under certain programs.

S. 3172

At the request of Mr. MENENDEZ, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 3172, a bill to support counter-narcotics and related efforts in the Inter-American region.

S. RES. 409

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. Res. 409, a resolution calling on members of the Parliament in Uganda to reject the proposed "Anti-Homosexuality Bill", and for other purposes.

At the request of Mr. FEINGOLD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. Res. 409, *supra*.

S. RES. 410

At the request of Mr. BAYH, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. Res. 410, a resolution supporting and recognizing the goals and ideals of "RV Centennial Celebration Month" to commemorate 100 years of enjoyment of

recreation vehicles in the United States.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 3192. A bill to amend title 38, United States Code, to provide for the tolling of the timing of review for appeals of final decisions of the Board of Veterans' Appeals, and for other purposes; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, I have sought recognition to urge passage of the bill I have just introduced, the Fair Access to Veterans Benefits Act of 2010. Its main provision would require the United States Court of Appeals for Veterans Claims, known as the Veterans Court, to hear appeals by veterans of administrative decisions denying them benefits when circumstances beyond their control—sometimes the very service-related disabilities that entitle them to benefits—render them unable to meet the deadline for filing an appeal. Let me briefly explain why this legislation is so urgently needed.

Until 1988, veterans denied benefits by the administrative Board of Veterans' Appeals had no right to appeal their cases to any court. Congress responded that year with legislation establishing the Veterans Court. The legislation's purpose was to "ensure that all veterans are served with compassion, fairness, and efficiency and that each individual veteran receives . . . every benefit and service to which he or she is entitled under law", S. Rep. 100-418, 110th Cong., 2d Sess. 30-31. Proceedings of the Veterans Court were to be "informal, efficient, and fair" rather than "formalized", H.R. Rep. No. 100-963, 110th Cong., 2d Sess. 26, 1988. This was important because most veterans handle their own appeals without a lawyer.

Veterans Court has, by and large, served its intended function well. It regularly corrects many erroneous denials of benefits. The court's last-published annual report notes that, in 2008, veterans prevailed in about eighty percent of the appeals.

A recent court decision, however, will close the Veterans Court to too many deserving veterans. I refer to last year's decision of the United States Court of Appeals for the Federal Circuit, which hears appeals from Veterans Court, in *Henderson v. Shinseki*, 589 F.3d 1201. Mr. Henderson suffered from paranoid schizophrenia as a result of his active-duty service in the Korean War. His appeal of an administrative denial of benefits to the Veterans Court was filed just 15 days late. He asked the Veterans Court to excuse his late filing—in legal parlance, to "equitably toll" the filing period—because it was caused by his service-related disability. The Veterans Court refused to do so, and a divided Federal Circuit affirmed its decision. Like the Veterans Court, the Federal Circuit held that

this unjust result was compelled by a controversial 2007 decision of the Supreme Court, *Bowles v. Russell*, 551 U.S. 205, which held that the deadline for filing a notice of appeal from a district court's order is "jurisdictional" and hence not waivable. Three judges dissented in *Henderson* on the ground that *Bowles* was distinguishable.

Whether or not correctly decided in the wake of *Bowles*, *Henderson* cannot stand. It creates, in the words of the three dissenting judges, a "Kafkaesque adjudicatory process in which those veterans who are most deserving of service-connected benefits will frequently be those least likely to obtain benefits. It is the veteran who incurs the most devastating service-related injury who will often be least able to comply with rigidly enforced deadlines." Even two of the judges in the majority felt constrained to note, in a concurring opinion, "that the deadline of the existing statute can and does lead to unfairness. This is particularly so in many cases where the veteran is not represented by counsel . . . and/or is suffering from a mental disability. These circumstances can make it extremely difficult for a veteran to navigate the system and meet the statutory deadlines." Mr. Henderson's situation is not unique. Already a disturbing number of veterans just like him have been denied their day in court.

The two concurring judges in *Henderson* called upon Congress to "amend the statute to provide for a good cause exception. My bill would do just that. It would require the Veterans Court to excuse late filings upon a showing by the veteran of "good cause." This simple amendment will ensure that each year upwards of a hundred of veterans will receive the benefits to which they are so justly entitled.

My bill will also require the Veterans Court to reinstate untimely appeals already dismissed as a result of that court's failure to equitably toll the filing period. The veterans who filed those appeals should also have their day in court.

There are no countervailing policy considerations. As the dissenting judges in *Henderson* persuasively noted, "because it takes many years—in some cases several decades—to obtain service-connected benefits, the government is hardly in a position to complain that equitable tolling will result in inordinate delays."

I urge my colleagues on both sides of the aisle, whatever their views on the issue addressed in *Bowles*, to support our veterans by passing my bill without delay.

By Mr. REID:

S. 3194. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; read the first time.

Mr. REID. 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. 3194

*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 "Public Safety Employer-Employee Cooperation Act of 2009".

#### SEC. 2. DECLARATION OF PURPOSE AND POLICY.

The Congress declares that the following is the policy of the United States:

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies, it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) State and local public safety officers play an essential role in the efforts of the United States to detect, prevent, and respond to terrorist attacks, and to respond to natural disasters, hazardous materials, and other mass casualty incidents. State and local public safety officers, as first responders, are a component of our Nation's National Incident Management System, developed by the Department of Homeland Security to coordinate response to and recovery from terrorism, major natural disasters, and other major emergencies. Public safety employer-employee cooperation is essential in meeting these needs and is, therefore, in the National interest.

(3) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and the representatives of their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(4) The absence of adequate cooperation between public safety employers and employees has implications for the security of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services of local communities, the health and well-being of public safety officers, and the morale of the fire and police departments. Additionally, these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

(5) Many States and localities already provide public safety officers with collective bargaining rights comparable to or greater than the rights and responsibilities set forth in this Act, and such State and local laws should be respected.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) **AUTHORITY.**—The term "Authority" means the Federal Labor Relations Authority.

(2) **CONFIDENTIAL EMPLOYEE.**—The term "confidential employee" has the meaning given such term under applicable State law

on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) is designated as confidential; and

(B) is an individual who routinely assists, in a confidential capacity, supervisory employees and management employees.

(3) **EMERGENCY MEDICAL SERVICES PERSONNEL.**—The term "emergency medical services personnel" means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

(4) **EMPLOYER; PUBLIC SAFETY AGENCY.**—The terms "employer" and "public safety agency" mean any State, or political subdivision of a State, that employs public safety officers.

(5) **FIREFIGHTER.**—The term "firefighter" has the meaning given the term "employee engaged in fire protection activities" in section 3(y) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(y)).

(6) **LABOR ORGANIZATION.**—The term "labor organization" means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment, and related matters.

(7) **LAW ENFORCEMENT OFFICER.**—The term "law enforcement officer" has the meaning given such term in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b).

(8) **MANAGEMENT EMPLOYEE.**—The term "management employee" has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

(9) **PERSON.**—The term "person" means an individual or a labor organization.

(10) **PUBLIC SAFETY OFFICER.**—The term "public safety officer"—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory, management, or confidential employee.

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

(12) **SUBSTANTIALLY PROVIDES.**—The term "substantially provides", when used with respect to the rights and responsibilities described in section 4(b), means compliance with each right and responsibility described in such section.

(13) **SUPERVISORY EMPLOYEE.**—The term "supervisory employee" has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

(B) devotes a majority of time at work to exercising such authority.

**SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBILITIES.****(a) DETERMINATION.—**

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in subsection (b).

(2) **CONSIDERATION OF ADDITIONAL OPINIONS.**—In making the determination described in paragraph (1), the Authority shall consider the opinions of affected employers and labor organizations. In the case where the Authority is notified by an affected employer and labor organization that both parties agree that the law applicable to such employer and labor organization substantially provides for the rights and responsibilities described in subsection (b), the Authority shall give such agreement weight to the maximum extent practicable in making the Authority's determination under this subsection.

(3) **LIMITED CRITERIA.**—In making the determination described in paragraph (1), the Authority shall be limited to the application of the criteria described in subsection (b) and shall not require any additional criteria.

**(4) SUBSEQUENT DETERMINATIONS.—**

(A) **IN GENERAL.**—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) **PROCEDURES FOR SUBSEQUENT DETERMINATIONS.**—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Authority shall issue a subsequent determination not later than 30 days after receipt of such request.

(5) **JUDICIAL REVIEW.**—Any person or employer aggrieved by a determination of the Authority under this section may, during the 60-day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person or employer resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in subsections (c) and (d) of section 7123 of title 5, United States Code, shall be followed.

(b) **RIGHTS AND RESPONSIBILITIES.**—In making a determination described in subsection (a), the Authority shall consider a State's law to substantially provide the required rights and responsibilities unless such law fails to provide rights and responsibilities comparable to or greater than the following:

(1) Granting public safety officers the right to form and join a labor organization, which may exclude management employees, supervisory employees, and confidential employees, that is, or seeks to be, recognized as the exclusive bargaining representative of such employees.

(2) Requiring public safety employers to recognize the employees' labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

(3) Providing for the right to bargain over hours, wages, and terms and conditions of employment.

(4) Making available an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration, or comparable procedures.

(5) Requiring enforcement of all rights, responsibilities, and protections provided by

State law and enumerated in this section, and of any written contract or memorandum of understanding between a labor organization and a public safety employer, through—

(A) a State administrative agency, if the State so chooses; and

(B) at the election of an aggrieved party, the State courts.

(c) **COMPLIANCE WITH REQUIREMENTS.**—If the Authority determines, acting pursuant to its authority under subsection (a), that a State substantially provides rights and responsibilities described in subsection (b), then this Act shall not preempt State law.

**(d) FAILURE TO MEET REQUIREMENTS.—**

(1) **IN GENERAL.**—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not substantially provide for the rights and responsibilities described in subsection (b), then such State shall be subject to the regulations and procedures described in section 5 beginning on the later of—

(A) the date that is 2 years after the date of enactment of this Act;

(B) the date that is the last day of the first regular session of the legislature of the State that begins after the date of the enactment of this Act; or

(C) in the case of a State receiving a subsequent determination under subsection (a)(4), the date that is the last day of the first regular session of the legislature of the State that begins after the date the Authority made the determination.

(2) **PARTIAL FAILURE.**—If the Authority makes a determination that a State does not substantially provide for the rights and responsibilities described in subsection (b) solely because the State law substantially provides for such rights and responsibilities for certain categories of public safety officers covered by the Act but not others, the Authority shall identify those categories of public safety officers that shall be subject to the regulations and procedures described in section 5, pursuant to section 8(b)(3) and beginning on the appropriate date described in paragraph (1), and those categories of public safety officers that shall remain subject to State law.

**SEC. 5. ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.**

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Authority shall issue regulations in accordance with the rights and responsibilities described in section 4(b) establishing collective bargaining procedures for employers and public safety officers in States which the Authority has determined, acting pursuant to section 4(a), do not substantially provide for such rights and responsibilities.

(b) **ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.**—The Authority, to the extent provided in this Act and in accordance with regulations prescribed by the Authority, shall—

(1) determine the appropriateness of units for labor organization representation;

(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a voting majority of the employees in an appropriate unit;

(3) resolve issues relating to the duty to bargain in good faith;

(4) conduct hearings and resolve complaints of unfair labor practices;

(5) resolve exceptions to the awards of arbitrators;

(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and

(7) take such other actions as are necessary and appropriate to effectively admin-

ister this Act, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

**(c) ENFORCEMENT.—**

(1) **AUTHORITY TO PETITION COURT.**—The Authority may petition any United States Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with subsections (c) and (d) of section 7123 of title 5, United States Code.

(2) **PRIVATE RIGHT OF ACTION.**—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in any appropriate district court of the United States to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by this subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

**SEC. 6. STRIKES AND LOCKOUTS PROHIBITED.**

(a) **IN GENERAL.**—Subject to subsection (b), an employer, public safety officer, or labor organization may not engage in a lockout, sickout, work slowdown, strike, or any other organized job action that will measurably disrupt the delivery of emergency services and is designed to compel an employer, public safety officer, or labor organization to agree to the terms of a proposed contract.

(b) **NO PREEMPTION.**—Nothing in this section shall be construed to preempt any law of any State or political subdivision of any State with respect to strikes by public safety officers.

**SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS.**

A certification, recognition, election-held, collective bargaining agreement or memorandum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) and is in effect on the day before the date of enactment of this Act shall not be invalidated by the enactment of this Act.

**SEC. 8. CONSTRUCTION AND COMPLIANCE.**

(a) **CONSTRUCTION.**—Nothing in this Act shall be construed—

(1) to preempt or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State that provides greater or comparable rights and responsibilities than the rights and responsibilities described in section 4(b);

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

(3) to preempt or limit any State law in effect on the date of enactment of this Act that provides for the rights and responsibilities described in section 4(b) solely because such State law permits an employee to appear on the employee's own behalf with respect to the employee's employment relations with the public safety agency involved;

(4) to preempt or limit any State law in effect on the date of enactment of this Act

that provides for the rights and responsibilities described in section 4(b) solely because such State law excludes from its coverage employees of a State militia or national guard;

(5) to permit parties in States subject to the regulations and procedures described in section 5 to negotiate provisions that would prohibit an employee from engaging in part-time employment or volunteer activities during off-duty hours;

(6) to prohibit a State from exempting from coverage under this Act a political subdivision of the State that has a population of less than 5,000 or that employs less than 25 full-time employees; or

(7) to preempt or limit the laws or ordinances of any State or political subdivision of a State that provide for the rights and responsibilities described in section 4(b) solely because such law or ordinance does not require bargaining with respect to pension, retirement, or health benefits.

For purposes of paragraph (6), the term "employee" includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) COMPLIANCE.—

(1) ACTIONS OF STATES.—Nothing in this Act or the regulations promulgated under this Act shall be construed to require a State to rescind or preempt the laws or ordinances of any of the State's political subdivisions if such laws provide rights and responsibilities for public safety officers that are comparable to or greater than the rights and responsibilities described in section 4(b).

(2) ACTIONS OF THE AUTHORITY.—Nothing in this Act or the regulations promulgated under this Act shall be construed to preempt—

(A) the laws or ordinances of any State or political subdivision of a State, if such laws provide collective bargaining rights for public safety officers that are comparable to or greater than the rights enumerated in section 4(b);

(B) the laws or ordinances of any State or political subdivision of a State that provide for the rights and responsibilities described in section 4(b) with respect to certain categories of public safety officers covered by this Act solely because such rights and responsibilities have not been extended to other categories of public safety officers covered by this Act; or

(C) the laws or ordinances of any State or political subdivision of a State that provide for the rights and responsibilities described in section 4(b), solely because such laws or ordinances provide that a contract or memorandum of understanding between a public safety employer and a labor organization must be presented to a legislative body as part of the process for approving such contract or memorandum of understanding.

(3) LIMITED ENFORCEMENT POWER.—In the case of a law described in paragraph (2)(B), the Authority shall only exercise the powers provided in section 5 with respect to those categories of public safety officers who have not been afforded the rights and responsibilities described in section 4(b).

(4) EXCLUSIVE ENFORCEMENT PROVISION.—Notwithstanding any other provision of the Act, and in the absence of a waiver of a State's sovereign immunity, the Authority shall have the exclusive power to enforce the provisions of this Act with respect to employees of a State.

**SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

**SUBMITTED RESOLUTIONS**

**SENATE RESOLUTION 476—HONORING THE LIVES OF PRESIDENT OF POLAND LECH KACZYNSKI, HIS WIFE, AND 94 OTHERS WHO PERISHED ON APRIL 10, 2010, IN A PLANE CRASH WHILE EN ROUTE TO MEMORIALIZE THOSE POLISH OFFICERS, OFFICIALS, AND CIVILIANS WHO WERE MASSACRED BY THE SOVIET UNION 70 YEARS AGO**

Mr. LUGAR submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 476

Whereas, on April 10, 2010, the President of the Republic of Poland Lech Kaczynski, his wife Maria, and a cadre of current and former Polish statesmen, family members, and others departed Warsaw by plane to the Russian region of Smolensk;

Whereas the purpose of the delegation's visit was to hold a ceremony in solemn remembrance of the more than 22,000 Polish military officers, police officers, judges, other government officials, and civilians who were executed by the Soviet secret police, the NKVD, 70 years ago, between April 3 and the end of May 1940;

Whereas more than 14,500 Polish victims have been documented at 3 sites in Katyn (in present day Belarus), in Miednoye (in present day Russia), and in Kharkiv (in present day Ukraine), while the remains of an estimated 7,000 Polish victims have yet to be precisely located;

Whereas the Soviet Union failed to acknowledge responsibility for the massacres until President Mikhail Gorbachev's statement on April 13, 1990;

Whereas, on April 7, 2010, Russian Prime Minister Vladimir Putin became the first Russian or Soviet leader to join Polish officials in commemorating the anniversary of the murders;

Whereas the plane carrying the Polish delegation on April 10, 2010, crashed in Smolensk, tragically killing all 96 persons on board, including President Kaczynski, his wife, and other current and former Polish statesmen;

Whereas President Kaczynski was a steadfast proponent of consolidating freedom and prosperity in Poland and advancing them throughout Central and Eastern Europe and was a close friend of the United States of America; and

Whereas the deep friendship between the Governments and people of Poland and the United States is grounded in our mutual respect, shared values, and common priorities on nuclear nonproliferation, counterterrorism, human rights, regional cooperation in Eastern Europe, democratization, and international development: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the terrible tragedy that took place on April 10, 2010, when an aircraft carrying a delegation of current and former Polish officials, family members, and others crashed en route from Warsaw to Smolensk to memorialize the 1940 massacres, killing all 96 passengers;

(2) honors the life and legacy of the late President of Poland Lech Kaczynski and the lives and legacies of all Poles who perished in the plane crash on April 10, 2010;

(3) honors the lives and legacies of the more than 22,000 Polish government officials, military officers, and civilians who were exe-

cuted by the NKVD 70 years ago, between April and May 1940;

(4) expresses deep sympathy for the surviving family members of those who perished at the hands of the NKVD in 1940 and for the surviving family members of those who perished in the tragic plane crash of April 10, 2010;

(5) supports the people of Poland as they restore leadership in the institutions of the Government of Poland that were impacted by the crash of April 10, 2010; and

(6) requests that the Secretary of the Senate transmit an enrolled copy of this resolution to the Ambassador of Poland to the United States.

Mr. LUGAR. Mr. President, I rise to honor the lives of President Lech Kaczynski, his wife, and 94 others who perished in a plane crash on April 10, 2010. President Kaczynski was a steadfast supporter of advancing freedom and prosperity in Poland and throughout Central and Eastern Europe and was a close friend of the United States. It is with tragic irony that this devastation has occurred at a time of solemn remembrance of the massacre of Polish officers and civilians in the Katyn Forest and elsewhere 70 years ago. Together with the Polish nation and friends of Poland worldwide, I mourn this unbelievably tragic loss. With these sentiments in mind, I am introducing this resolution honoring the lives of President of Poland Lech Kaczynski, his wife, and 94 others who perished on April 10, 2010 in a plane crash while en route to memorialize those Polish officers, officials, and civilians who were massacred by the Soviet Union 70 years ago.

**SENATE RESOLUTION 477—HONORING THE ACCOMPLISHMENTS AND LEGACY OF CÉSAR ESTRADA CHÁVEZ**

Mr. MENENDEZ (for himself, Mr. REID, Ms. STABENOW, Mr. DURBIN, Mrs. BOXER, Mr. UDALL of Colorado, Mr. SCHUMER, Mrs. GILLIBRAND, Mr. BINGAMAN, Mr. BROWN of Ohio, Mr. UDALL of New Mexico, and Mr. WYDEN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 477

Whereas César Estrada Chávez was born on March 31, 1927, near Yuma, Arizona;

Whereas César Estrada Chávez spent his early years on a family farm;

Whereas, at the age of 10, César Estrada Chávez joined the thousands of migrant farmworkers laboring in fields and vineyards throughout the Southwest, when a bank foreclosure resulted in the loss of the family farm;

Whereas César Estrada Chávez, after attending more than 30 elementary and middle schools and achieving an 8th grade education, left school to work full-time as a farmworker to help support his family;

Whereas, at the age of 17, César Estrada Chávez entered the United States Navy and served the United States with distinction for 2 years;

Whereas, in 1948, César Estrada Chávez returned from military service to marry Helen Fabela, whom he had met while working in the vineyards of central California;

Whereas César Estrada Chávez and Helen Fabela had 8 children;