

By Mr. WYDEN (for himself and Mr. NELSON of Florida):

S. 2978. A bill to extend the Caribbean Basin Economic Recovery Act, to extend the trade preferences made available to Haiti under that Act, to encourage foreign investment in Haiti, and for other purposes; to the Committee on Finance.

By Mr. LEAHY (for himself and Mr. KAUFMAN):

S. 2979. A bill to amend title 18, United States Code, to provide accountability for the criminal acts of Federal contractors and employees outside the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. BENNETT (for himself, Mr. CORNYN, Mr. WICKER, Mr. VITTER, Mr. ENZI, Mr. BROWNBACK, Mr. INHOFE, Mr. ROBERTS, and Mr. HATCH):

S. 2980. A bill to protect the democratic process and the right of the people of the District of Columbia to define marriage; to the Committee on Homeland Security and Governmental Affairs.

By Ms. SNOWE (for herself and Mr. THUNE):

S. 2981. A bill to reevaluate and redirect the stimulus; to the Committee on Appropriations.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. KAUFMAN (for himself, Mr. BROWNBACK, Mr. CASEY, Mr. KYL, Mr. FEINGOLD, Mr. WEBB, Mr. LIEBERMAN, Mr. SPECTER, Mr. MCCAIN, and Mr. CORNYN):

S. Res. 405. A resolution reaffirming the centrality of freedom of expression and press freedom as cornerstones of United States foreign policy and United States efforts to promote individual rights, and for other purposes; considered and agreed to.

By Mr. VITTER (for himself, Ms. LANDRIEU, Mr. BUNNING, Mr. CASEY, and Mr. JOHANNIS):

S. Res. 406. A resolution recognizing the goals of Catholic Schools Week and honoring the valuable contributions of Catholic schools in the United States; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 570

At the request of Mr. VITTER, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 570, a bill to stimulate the economy and create jobs at no cost to the taxpayers, and without borrowing money from foreign governments for which our children and grandchildren will be responsible, and for other purposes.

S. 753

At the request of Mr. SCHUMER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 753, a bill to prohibit the manufacture, sale, or distribution in commerce of children's food and beverage containers composed of bisphenol A, and for other purposes.

S. 827

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas

(Mrs. LINCOLN) was added as a cosponsor of S. 827, a bill to establish a program to reunite bondholders with matured unredeemed United States savings bonds.

S. 841

At the request of Mr. KERRY, the name of the Senator from New Mexico (Mr. UDALL) 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. 891

At the request of Mr. BROWNBACK, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 891, a bill to require annual disclosure to the Securities and Exchange Commission of activities involving columbite—tantallite, cassiterite, and wolframite from the Democratic Republic of Congo, and for other purposes.

S. 938

At the request of Ms. LANDRIEU, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 938, a bill to require the President to call a White House Conference on Children and Youth in 2010.

S. 1067

At the request of Mr. FEINGOLD, the names of the Senator from Arkansas (Mr. PRYOR), the Senator from Wyoming (Mr. BARRASSO), the Senator from Georgia (Mr. ISAKSON) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1147

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

S. 1153

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

S. 1518

At the request of Mr. BURR, the names of the Senator from Mississippi (Mr. WICKER) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. 1518, a bill to amend

title 38, United States Code, to furnish hospital care, medical services, and nursing home care to veterans who were stationed at Camp Lejeune, North Carolina, while the water was contaminated at Camp Lejeune.

S. 1606

At the request of Mr. WHITEHOUSE, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 1606, a bill to require foreign manufacturers of products imported into the United States to establish registered agents in the United States who are authorized to accept service of process against such manufacturers, and for other purposes.

S. 1628

At the request of Mr. UDALL of Colorado, the names of the Senator from Indiana (Mr. BAYH) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1628, a bill to amend title VII of the Public Health Service Act to increase the number of physicians who practice in underserved rural communities.

S. 1682

At the request of Ms. CANTWELL, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1682, a bill to provide the Commodity Futures Trading Commission with clear antimarket manipulation authority, and for other purposes.

S. 1859

At the request of Mr. ROCKEFELLER, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 1859, a bill to reinstate Federal matching of State spending of child support incentive payments.

S. 2801

At the request of Mr. FRANKEN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 2801, a bill to provide children in foster care with school stability and equal access to educational opportunities.

S. 2913

At the request of Ms. COLLINS, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 2913, a bill to establish a national mercury monitoring program, and for other purposes.

S. 2924

At the request of Mr. LEAHY, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2924, a bill to reauthorize the Boys & Girls Clubs of America, in the wake of its Centennial, and its programs and activities.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN:

S. 2976. A bill to designate as wilderness certain land and inland water within the Sleeping Bear Dunes National Lakeshore in the State of Michigan, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. LEVIN. Mr. President, today I am introducing with Senator STABENOW the Sleeping Bear Dunes National Lakeshore Conservation and Recreation Act, which would permanently protect 32,557 acres within the extraordinarily beautiful Sleeping Bear Dunes National Lakeshore located in the Michigan counties of Leelanau and Benzie. This legislation reflects the 2008 National Park Service wilderness proposal, which was the result of a lengthy public process beginning in 2006, and culminating in broad public support for the proposal. The wilderness designation improves upon a 1981 recommendation by ensuring that access to recreational areas is provided while protecting lands in their natural condition.

While there currently are no areas in the Lakeshore formally designated as wilderness, the National Park Service has been managing 30,903 acres as wilderness since 1982, when an amendment to the park's enabling legislation required the Park Service to manage land recommended as wilderness in 1981 in this manner "until Congress determines otherwise." The legislation I am introducing today would modify somewhat which areas would be managed as wilderness to ensure visitors continue to have access to these lands. The bill specifically excludes developed county roads and State highways from the wilderness area such that access is not impeded for recreation and other purposes. Several areas for boat launching and historic structures have also been excluded from the wilderness designation. Even with these exclusions, the overall acreage that would be designated as wilderness is slightly more than the area currently managed as wilderness because Sleeping Bear Plateau would be protected. Importantly, the wilderness designation would still allow hunting and fishing, trail-use, and camping at Sleeping Bear Dunes National Lakeshore. Also, motor boats would still be allowed in Lake Michigan, and boaters would be allowed to beach their craft on beaches adjacent to the wilderness area.

The bill was carefully crafted to ensure that the wilderness designation would apply only to areas currently undeveloped and possessing natural characteristics and values. There are five areas that would be designated as wilderness by this legislation. Most of North and South Manitou Islands would be designated as wilderness, with some exclusions for boat launching, roads, and historic structures. Wilderness would also be designated in the north, central, and southern parts of the Lakeshore on the mainland. In the mainland areas there are also exclusions for roads and recreational and historic features.

The dramatic dunes, sandy beaches, steep bluffs, forests, inland lakes, agricultural lands, and historic structures of Sleeping Bear Dunes National Lakeshore embody the rich natural and cultural history of Michigan. This wilder-

ness designation would ensure that current and future generations will be able to enjoy solitude and recreation in these treasured areas. Even as the Sleeping Bear dunes are ever-changing as they are sculpted by the wind, it is critical that we protect these and other natural assets from being altered by development. I hope we can have prompt consideration of this bill by the Senate.

By Mr. GRAHAM (for himself, Mr. LIEBERMAN, Mr. WEBB, Mr. MCCAIN, Mrs. LINCOLN, Mr. BENNETT, Mr. CHAMBLISS, Ms. COLLINS, Mr. MCCONNELL, Mr. CORNYN, Mr. SESSIONS, Mr. BARRASSO, Mr. CORKER, Mr. KYL, Mr. COBURN, Mr. GRASSLEY, Mr. VITTER, Mr. HATCH, Mr. JOHANNES, Mr. ROBERTS, Mr. ALEXANDER, Mr. PRYOR, and Mr. THUNE):

S. 2977. A bill to prohibit the use of Department of Justice for the prosecution in Article III courts of the United States of individuals involved in the September 11, 2001 terrorist attacks; to the Committee on the Judiciary.

Mr. CHAMBLISS. Mr. President, I rise to speak about this administration's decision to try the 9/11 conspirators and the Christmas bomber in our civilian criminal justice system.

Prosecuting the five 9/11 conspirators currently detained at the Guantanamo Bay detention facility, as well as the Christmas bomber, Umar Farouk Abdulmutallab, in article III criminal court indicates a disturbing tendency by this administration to make terrorism a law enforcement priority rather than an intelligence priority. It is a mistake to treat terrorism as a law enforcement problem alone, a mistake that is only compounded by the fact that the intelligence community was not even consulted before they were prevented from gathering any intelligence from Abdulmutallab, a member of a terrorist organization sworn to be at war with America. As the 9/11 Commission found:

An unfortunate consequence of this superb investigative and prosecutorial effort was that it created an impression that the law enforcement system was well equipped to cope with terrorism.

As we know from an examination of events before 9/11, law enforcement means alone cannot eliminate the threat from al-Qaida.

After Abdulmutallab failed to detonate an explosive device on Northwest flight 253, he was taken into custody by law enforcement. Other than the Federal Bureau of Investigation, no member of the intelligence community—in particular, the Central Intelligence Agency—had the opportunity to question Abdulmutallab and gather intelligence. The Department of Justice should have foreseen that a dedicated terrorist, intent on committing suicide and harming Americans, would not be willing to cooperate with U.S. law enforcement, especially after being in-

formed of his rights under our criminal code, including the right to remain silent. Without consulting the intelligence community, the Department of Justice limited the tools used to gather intelligence and potentially prevent future terrorist attacks.

The administration is returning to the idea that terrorism can be investigated by the FBI and prosecuted rather than relying on our intelligence community and military to disrupt attacks. The United States should not revert to the days where we waited for an attack to occur, then investigated it and prosecuted it. We must work actively to disrupt terrorist attacks before they take the lives of Americans. We must work actively to deny terrorist safe havens and financing. The most successful way to disrupt and deny terrorist activity is through the intelligence we gather on individuals prior to a criminal or terrorist act occurring or from those individuals after they have made such an attempt.

Treating these terrorists as common criminals will put our communities in danger, toll the taxpayers, and cause the government to miss valuable intelligence collection opportunities. For example, bringing the five 9/11 conspirators to New York City is estimated to cost over \$200 million per year just in enhanced security. This does not include the cost to millions of New Yorkers and businesses who will have to adjust their way of life to accommodate these trials. Meanwhile, this will allow terrorists to mock our justice system and use it as a stage to espouse their jihadist beliefs and expose our intelligence sources and methods. We have already seen Zacarias Moussaoui use his trial in Virginia to spout al-Qaida propaganda and to try to portray himself as a martyr. Meanwhile, terrorism trials during the 1990s in our criminal courts exposed sensitive and classified information to, among others, Osama bin Laden, including the fact that the U.S. intelligence community was targeting his communications.

Let me be clear. These are not common criminals, and they should not be treated as such. The five terrorists responsible for planning and organizing the September 11, 2001, terrorist attacks—including self-proclaimed 9/11 mastermind Khalid Shaikh Mohammed—should not be entitled to receive the same legal treatment as our Constitution gives to common criminals in this country. These terrorists committed an act of war, an act that led us to an armed conflict in Afghanistan, where, today, more than 8 years later, our troops are still battling al-Qaida. These terrorists should face justice through the military commission process for the atrocities they committed—the same process that had already charged these five terrorists and began over a year ago; the same process that KSM already pleaded guilty under but that the President abolished as soon as he took office.

For these reasons, I joined a bipartisan group of Senators, today, in introducing legislation that would prohibit funding for the prosecuting of the 9/11 conspirators in our U.S. criminal article III courts.

Under his Constitutional authority as Commander in Chief, along with the Congressional Authorization for the Use of Military Force, the President has the authority—and the responsibility—to detain the 9/11 conspirators and Abdulmutallab because of their actions on behalf of al-Qaida, and to pursue trial by military commission—an option the President determined appropriate for other terrorists, such as Abd al-Rahim al-Nashiri, who was responsible for the USS *Cole* bombing. Instead, by prosecuting Abdulmutallab and the 9/11 conspirators in criminal court, and Nashiri and others by military commission, it creates the impression that terrorists are rewarded with the full complement of rights and privileges of an American if they attack defenseless civilians at home, but not if they attack our government or military interests abroad. This will only further incentivize terrorists to attack our homeland.

As the attempted terrorists attack on Christmas Day illustrates, al-Qaida does not need further incentive to attack America. They are focused on and engaged in harming Americans here and abroad. As such, it is critical that our intelligence community have every opportunity to gain information so we can stay one step ahead of any related terrorists threats. Obtaining intelligence first rather than affording constitutional rights to a foreign terrorist is an obvious solution. Treating members of al-Qaida the same as we treat others captured on the battlefield is another.

By Mr. WYDEN (for himself and Mr. NELSON of Florida):

S. 2978. A bill to extend the Caribbean Basin Economic Recovery Act, to extend the trade preferences made available to Haiti under that Act, to encourage foreign investment in Haiti, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, today I am pleased to introduce legislation to help encourage Haitian economic development, by promoting U.S.-Haitian trade and investment. The legislation, the Renewing Hope for Haitian Trade and Investment Act of 2010, would in part renew provisions of U.S. trade law that are currently scheduled to expire and which have been critical to the growth of the Haitian apparel sector, which sustains tens of thousands of jobs in Haiti.

Apparel is a core industry sector in Haiti, accounting for an estimated 25,000 jobs and 75–80 percent of Haiti's export earnings.

The devastating January 12 earthquake in Haiti caused widespread damage to the industry. The damage has caused transportation and assembly

production bottlenecks, and compounded existing challenges such as lack of industrial space, poor road and port conditions, unreliable electricity, and the high cost of capital.

As of January 2010, Haiti's apparel industry is reportedly running at 50 percent of capacity as a result of the earthquake. Producers hope to increase production to 70 percent of capacity in the next 4–6 weeks, depending on improvements to electricity and water supplies.

Most apparel imports from Haiti come into the U.S. free of duties, because of provisions in the Caribbean Basin Trade Partnership Act, CBTPA. Unfortunately, these provisions expire in September of this year. This expiration is dampening interest in placing additional apparel orders, so it is critical that Congress extend this important program, and do so expeditiously. The Renewing Hope for Haitian Trade and Investment Act of 2010 would extend CBTPA for an additional 3 years.

Increasingly, producers are using a new program called the Hemispheric Opportunity through Partnership Encouragement, HOPE, program to send Haitian apparel to the U.S. free of duty. While utilization of this program, which began in 2006, is growing, it faced early challenges and has since been amended. The amendments have been helpful, but extending this program would help send a signal to potential investors to go into Haiti and build the factories that will employ hundreds or thousands more Haitian workers. The Renewing Hope for Haitian Trade and Investment Act would “restart the clock” on the HOPE program and extend it through 2022.

Furthermore, a challenging investment climate and cumbersome Customs procedures for moving goods in and out of Haiti are imposing significant challenges to private-sector Haitian producers. The Renewing Hope for Haitian Trade and Investment Act would help in these areas, too.

Over the past few weeks, I have reached out to a broad group of stakeholders in order to identify the near-term challenges that face Haiti's apparel production industry. We focused on identifying short-term constraints that exist because of the January earthquake. I look forward to continuing to work with these stakeholders going forward in order to ensure quick passage of a bill that has a maximum amount of consensus between U.S. and Haitian producers, non-governmental organizations, and others.

I would particularly like to acknowledge the leadership of Senator BILL NELSON on this proposal. His keen understanding of Haiti and how U.S. trade laws work to help Haitian economic development was critical to constructing this legislation. I look forward to working with Senators NELSON, BAUCUS, GRASSLEY, and Chairmen RANGEL and LEVIN on this proposal and other ideas to spur Haiti's economy.

Each of these members is a vociferous champion of Haitian economic development, promoted in part by thoughtful trade and investment policies.

I encourage all my colleagues to join in supporting this critical legislation to help Haitians who were flattened both economically and literally by last month's earthquake get back on their feet.

By Mr. LEAHY (for himself and Mr. KAUFMAN):

S. 2979. A bill to amend title 18, United States Code, to provide accountability for the criminal acts of Federal contractors and employees outside the United States, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, over the past year, President Obama has been working hard to restore America's credibility in the world and our reputation for justice and our commitment to the rule of law. A key component of that important mission is ensuring accountability for American contractors and employees overseas. Accountability is crucial, not just for our image abroad and our diplomatic relations, but for ensuring our national security.

To restore accountability, Congress must make sure that our criminal laws reach serious misconduct by American government employees and contractors wherever they act. Today, I join with Senator KAUFMAN to introduce the Civilian Extraterritorial Jurisdiction Act, CEJA, to accomplish this important and common sense goal.

Tragic events in Iraq in 2007 made clear the need to strengthen the laws providing for jurisdiction over American government employees and contractors working abroad. In September 2007, Blackwater security contractors working for the State Department shot more than 20 unarmed civilians on the streets of Baghdad, killing at least 14 of them, and causing an international incident with the Iraqi government.

The Federal Bureau of Investigation, FBI, conducted a full-scale criminal investigation of the Blackwater shootings, and prosecutors brought indictments against five contractors. Last month, a Federal district judge dismissed all the charges because of an order from the past administration immunizing Blackwater contractors under Iraqi law and immunity commitments by the prior administration to obtain the testimony of some. Although the Justice Department is expected to appeal the dismissals, this could mean that those who perpetrated this act will not be held accountable. I believe that, had jurisdiction for these offenses been clear, FBI agents would have been on the scene immediately, which could well have prevented the problems that have plagued the case.

Other incidents have made all too clear that the Blackwater case was not an isolated incident of contractor misconduct, and accountability for U.S. Government contractors and employees is essential. Private security contractors have been involved in violent

incidents in Iraq, including other shooting incidents in which civilians have been seriously injured or killed. In these cases too, there have not been prosecutions.

Last fall, the Senate Judiciary Committee heard testimony from Jamie Leigh Jones, a young woman from Texas who took a job with Halliburton in 2005 when she was 20 years old. In her first week on the job, she was drugged and gang-raped by co-workers. When she reported this assault, her employers moved her to a locked trailer, where she was kept by armed guards and denied even access to a phone.

Only after pleading with her captors was she eventually given use of a phone. She called her father, who contacted her Congressman, who in turn contacted the State Department. State Department officials were able to free her. Ms. Jones testified about the arbitration clause in her contract that prevented her from suing Halliburton for this outrageous conduct, and Congress has moved to change the civil law to prevent that kind of injustice. Today we seek to fix the outdated criminal laws that have also contributed to the failure to bring those who perpetrated this heinous crime to justice.

Unfortunately, many other women have encountered similar abuse and have similarly seen their attackers escape any accountability. Also last year, we learned that contractors hired to secure the American Embassy in Afghanistan engaged in various forms of outrageous conduct but there, too, there have been no prosecutions. It is time to correct this injustice.

I worked with Senator SESSIONS and others in 2000 to pass the Military Extraterritorial Jurisdiction Act, MEJA, and then again to amend it in 2004, so that U.S. criminal laws would extend to all members of the U.S. military, to those who accompany the military, and to all contractors who support the Defense Department mission overseas. We wanted to make sure that all contractors working alongside the U.S. military or protecting U.S. interests overseas were held to the same standard that they would be at home. We pay these contractors with taxpayers' money, they represent the U.S. overseas, and they should be held to the same standards as our military.

In 2007, I worked with then-Senator Obama and with Senators SESSIONS and SPECTER on further legislation which would have amended MEJA to make sure that all security contractors, not just those supporting the Defense Department, are accountable under U.S. law.

Today, we introduce a bill that would finally address this issue in a comprehensive way, establishing clearly that all U.S. Government employees and contractors who commit crimes while working abroad can be charged and tried in the United States under U.S. law. The State Department, the U.S. Agency for International Development, and numerous other Government

agencies have employees, and in recent years, more and more private contractors, working abroad. There must be accountability for all of these people who represent our Government overseas. In those instances where the local justice system may be less fair, this explicit jurisdiction will also protect Americans by providing the option of prosecuting them in the U.S., rather than leaving them subject to hostile and unpredictable local courts.

Not only will this bill help to provide justice in cases where there has been none, it will improve our national security by allowing prosecution of those who undermine our efforts to create stability and improve foreign relations. By ensuring accountability in cases of wrongdoing against citizens of the host country, as in the Blackwater case, we will increase international trust and cooperation, including from those countries most essential to our counter-terrorism and national security efforts. The current lack of accountability reduces international confidence in our military and our Government, which undermines our national defense. Moreover, the talented men and women we need to advance our national security efforts will be more likely to step forward and serve if we stamp out the lawless atmosphere in places like Iraq and Afghanistan.

The legislation we introduce today would further increase accountability by providing additional resources and creating new units to investigate wrongdoing by contractors and employees abroad and by calling on the Attorney General and the Justice Department's Inspector General to report to Congress on investigations under this bill.

In the past, legislation in this area has been bipartisan. I hope it will be again. Senator KAUFMAN and I are willing to work to address any concerns with this legislation and to ensure that it promises justice in a way that strengthens, rather than weakens, our national security. Congressman PRICE is introducing a companion bill in the House. I hope that we will be able to rapidly pass this important reform into law.

As we seek to restore our Nation's historic role as one of responsible leadership in the world, we must ensure that the values that brought us to that leadership are firmly in place. One of those great American values is the rule of law. No one should be above the law, certainly not American employees and contractors representing this great nation throughout the world. This common sense bill would promote the rule of law throughout the world and make us stronger in the process. I hope Senators on both sides of the aisle will join us.

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. 2979

*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 "Civilian Extraterritorial Jurisdiction Act (CEJA) of 2010".

**SEC. 2. ACCOUNTABILITY FOR CRIMINAL ACTS OF FEDERAL CONTRACTORS AND EMPLOYEES OUTSIDE THE UNITED STATES.**

(a) EXTRATERRITORIAL JURISDICTION OVER FEDERAL CONTRACTORS AND EMPLOYEES.— Chapter 212A of title 18, United States Code, is amended—

(1) by transferring the text of section 3272 to the end of section 3271, redesignating such text as subsection (c) of section 3271, and, in such text, as so redesignated, by striking "this chapter" and inserting "this section";

(2) by striking the heading of section 3272; and

(3) by adding after section 3271, as amended by this subsection, the following new sections:

**"§ 3272. Offenses committed by Federal contractors and employees outside the United States**

"(a) Whoever, while employed by or accompanying any department or agency of the United States other than the Armed Forces, knowingly engages in conduct (or conspires or attempts to engage in conduct) outside the United States that would constitute an offense enumerated in subsection (c) had the conduct been engaged in within the United States or within the special maritime and territorial jurisdiction of the United States shall be punished as provided for that offense.

"(b) No prosecution for an offense may be commenced against a person under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting the offense, except upon the approval of the Attorney General or the Deputy Attorney General (or a person acting in either such capacity), which function of approval may not be delegated.

"(c) The offenses covered by subsection (a) are the following:

"(1) Any offense under chapter 5 (arson) of this title.

"(2) Any offense under section 111 (assaulting, resisting, or impeding certain officers or employees), 113 (assault within maritime and territorial jurisdiction), or 114 (maiming within maritime and territorial jurisdiction) of this title, but only if the offense is subject to a maximum sentence of imprisonment of one year or more.

"(3) Any offense under section 201 (bribery of public officials and witnesses) of this title.

"(4) Any offense under section 499 (military, naval, or official passes) of this title.

"(5) Any offense under section 701 (official badges, identifications cards, and other insignia), 702 (uniform of armed forces and Public Health Service), 703 (uniform of friendly nation), or 704 (military medals or decorations) of this title.

"(6) Any offense under chapter 41 (extortion and threats) of this title, but only if the offense is subject to a maximum sentence of imprisonment of three years or more.

"(7) Any offense under chapter 42 (extortionate credit transactions) of this title.

"(8) Any offense under section 924(c) (use of firearm in violent or drug trafficking crime) or 924(o) (conspiracy to violate section 924(c)) of this title.

"(9) Any offense under chapter 50A (genocide) of this title.

"(10) Any offense under section 1111 (murder), 1112 (manslaughter), 1113 (attempt to

commit murder or manslaughter), 1114 (protection of officers and employees of the United States), 1116 (murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1117 (conspiracy to commit murder), or 1119 (foreign murder of United States nationals) of this title.

“(11) Any offense under chapter 55 (kidnaping) of this title.

“(12) Any offense under section 1503 (influencing or injuring officer or juror generally), 1505 (obstruction of proceedings before departments, agencies, and committees), 1510 (obstruction of criminal investigations), 1512 (tampering with a witness, victim, or informant), or 1513 (retaliating against a witness, victim, or an informant) of this title.

“(13) Any offense under section 1951 (interference with commerce by threats or violence), 1952 (interstate and foreign travel or transportation in aid of racketeering enterprises), 1956 (laundering of monetary instruments), 1957 (engaging in monetary transactions in property derived from specified unlawful activity), 1958 (use of interstate commerce facilities in the commission of murder for hire), or 1959 (violent crimes in aid of racketeering activity) of this title.

“(14) Any offense under section 2111 (robbery or burglary within special maritime and territorial jurisdiction) of this title.

“(15) Any offense under chapter 109A (sexual abuse) of this title.

“(16) Any offense under chapter 113B (terrorism) of this title.

“(17) Any offense under chapter 113C (torture) of this title.

“(18) Any offense under chapter 115 (treason, sedition, and subversive activities) of this title.

“(19) Any offense under chapter 118 (war crimes) of this title.

“(20) Any offense under section 401 (manufacture, distribution, or possession with intent to distribute a controlled substance) or 408 (continuing criminal enterprise) of the Controlled Substances Act (21 U.S.C. 841, 848), or under section 1002 (importation of controlled substances), 1003 (exportation of controlled substances), or 1010 (import or export of a controlled substance) of the Controlled Substances Import and Export Act (21 U.S.C. 952, 953, 960), but only if the offense is subject to a maximum sentence of imprisonment of 20 years or more.

“(d) In this section:

“(1) The term ‘employed by any department or agency of the United States other than the Armed Forces’ means—

“(A) employed as a civilian employee, a contractor (including a subcontractor at any tier), an employee of a contractor (or a subcontractor at any tier), a grantee (including a contractor of a grantee or a subgrantee or subcontractor at any tier), or an employee of a grantee (or a contractor of a grantee or a subgrantee or subcontractor at any tier) of any department or agency of the United States other than the Armed Forces;

“(B) present or residing outside the United States in connection with such employment;

“(C) in the case of such a contractor, contractor employee, grantee, or grantee employee, such employment supports a program, project, or activity for a department or agency of the United States other than the Armed Forces; and

“(D) not a national of or ordinarily resident in the host nation.

“(2) The term ‘accompanying any department or agency of the United States other than the Armed Forces’ means—

“(A) a dependant of—

“(i) a civilian employee of any department or agency of the United States other than the Armed Forces; or

“(ii) a contractor (including a subcontractor at any tier), an employee of a contractor (or a subcontractor at any tier), a grantee (including a contractor of a grantee or a subgrantee or subcontractor at any tier), or an employee of a grantee (or a contractor of a grantee or a subgrantee or subcontractor at any tier) of any department or agency of the United States other than the Armed Forces, which contractor, contractor employee, grantee, or grantee employee is supporting a program, project, or activity for a department or agency of the United States other than the Armed Forces;

“(B) residing with such civilian employee, contractor, contractor employee, grantee, or grantee employee outside the United States; and

“(C) not a national of or ordinarily resident in the host nation.

“(3) The term ‘grant agreement’ means a legal instrument described in section 6304 or 6305 of title 31, other than an agreement between the United States and a State, local, or foreign government or an international organization.

“(4) The term ‘grantee’ means a party, other than the United States, to a grant agreement.

“(5) The term ‘Armed Forces’ has the meaning given the term ‘armed forces’ in section 101(a)(4) of title 10.

#### “§ 3273. Regulations

“The Attorney General, after consultation with the Secretary of Defense, the Secretary of State, and the Director of National Intelligence, shall prescribe regulations governing the investigation, apprehension, detention, delivery, and removal of persons described in sections 3271 and 3272 of this title.”.

(b) CONFORMING AMENDMENT.—The heading of chapter 212A of such title is amended to read as follows:

#### “CHAPTER 212A—EXTRATERRITORIAL JURISDICTION OVER OFFENSES OF CONTRACTORS AND CIVILIAN EMPLOYEES OF THE FEDERAL GOVERNMENT”.

(c) CLERICAL AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 212A of title 18, United States Code, is amended by striking the item relating to section 3272 and inserting the following new items:

“3272. Offenses committed by Federal contractors and employees outside the United States.

“3273. Regulations.”.

(2) TABLE OF CHAPTERS.—The item relating to chapter 212A in the table of chapters at the beginning of part II of such title is amended to read as follows:

#### “212A. Extraterritorial Jurisdiction Over Offenses of Contractors and Civilian Employees of the Federal Government ..... 3271”.

#### SEC. 3. INVESTIGATIVE UNITS FOR CONTRACTOR AND EMPLOYEE OVERSIGHT.

(a) ESTABLISHMENT OF INVESTIGATIVE UNITS FOR CONTRACTOR AND EMPLOYEE OVERSIGHT.—

(1) IN GENERAL.—The Attorney General, in consultation with the Secretary of Defense, the Secretary of State, the Secretary of Homeland Security, and the heads of any other departments or agencies of the Federal Government responsible for employing contractors or persons overseas—

(A) shall assign adequate personnel and resources through the creation of units (to be known as “Investigative Units for Contractor and Employee Oversight”) to investigate allegations of criminal offenses under chapter 212A of title 18, United States Code (as amended by section 2(a) of this Act), and may authorize the overseas deployment of

law enforcement agents and other government personnel for that purpose; and

(B) shall include in the regulations prescribed under section 3273 of title 18, United States Code (as added by section 2(a) of this Act), provisions setting forth responsibility for the investigation of any incident in which—

(i) a weapon is allegedly discharged unlawfully by a person, while employed by or accompanying any department or agency of the United States other than the Armed Forces; or

(ii) a person or persons are killed or seriously injured, or property valued greater than \$10,000 is destroyed, as a result of conduct by a person, while employed by or accompanying any department or agency of the United States other than the Armed Forces.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit any authority of the Attorney General or any Federal law enforcement agency to investigate violations of Federal law or deploy personnel overseas.

(b) RESPONSIBILITIES OF ATTORNEY GENERAL.—

(1) INVESTIGATION.—The Attorney General shall have principal authority for the enforcement of chapter 212A of title 18, United States Code (as so amended), and shall have the authority to initiate, conduct, and supervise investigations of any alleged offenses under such chapter.

(2) ARREST.—The Attorney General may designate and authorize any person serving in a law enforcement position in the Department of Justice or any person serving in a law enforcement position in any other department or agency of the Federal Government, including a member of the Diplomatic Security Service of the Department of State or a military police officer of the Armed Forces, to arrest outside the United States, in accordance with applicable international treaties, any person described in section 3271 or 3272 of title 18, United States Code (as so amended), if there is probable cause to believe such person committed an offense or offenses in such section 3271 or 3272.

(3) PROSECUTION.—The Attorney General may establish such procedures the Attorney General considers appropriate to ensure that Federal law enforcement agencies refer offenses under section 3271 or 3272 of title 18, United States Code (as so amended), to the Attorney General for prosecution in a uniform and timely manner.

(4) ASSISTANCE ON REQUEST OF ATTORNEY GENERAL.—Notwithstanding any statute, rule, or regulation to the contrary, the Attorney General may request assistance from the Secretary of Defense, the Secretary of State, or the head of any other Executive agency to enforce section 3271 or 3272 of title 18, United States Code (as so amended). The assistance requested may include the following:

(A) The assignment of additional personnel and resources to an Investigative Unit for Contractor and Employee Oversight established by the Attorney General under subsection (a).

(B) An investigation into alleged misconduct or arrest of an individual suspected of alleged misconduct by agents of the Diplomatic Security Service of the Department of State present in the nation in which the alleged misconduct occurs.

(5) ANNUAL REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter for five years, the Attorney General shall, in consultation with the Secretary of Defense and the Secretary of State, submit to Congress a report containing the following:

(A) The number of offenses under chapter 212A of title 18, United States Code (as so amended), received, investigated, and referred for prosecution by Federal law enforcement authorities during the previous year.

(B) The number of prosecutions under chapter 212A of title 18, United States Code (as so amended), including the nature of the offenses and any dispositions reached, during the previous year.

(C) The number, location, and any deployments of Investigative Units for Contractor and Employee Oversight to investigate offenses under chapter 212A of title 18, United States Code (as so amended), during the previous year.

(D) Such recommendations for legislative or administrative action as the Attorney General considers appropriate to enforce chapter 212A of title 18, United States Code (as so amended), and the provisions of this section.

(c) EXECUTIVE AGENCY.—In this section, the term “Executive agency” has the meaning given that term in section 105 of title 5, United States Code.

#### SEC. 4. EFFECTIVE DATE.

(a) IMMEDIATE EFFECTIVENESS.—This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) IMPLEMENTATION.—The Attorney General and the head of any other department or agency of the Federal Government to which this Act applies shall have 90 days after the date of the enactment of this Act to ensure compliance with the provisions of this Act.

#### SEC. 5. RULE OF CONSTRUCTION.

Nothing in this Act or any amendment made by this Act shall be construed to limit or affect the application of extraterritorial jurisdiction related to any other Federal law.

#### SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

For each of the fiscal years 2010 through 2015, there are authorized to be appropriated to the Attorney General such sums as are necessary to carry out this Act.

By Ms. SNOWE (for herself and Mr. THUNE):

S. 2981. A bill to reevaluate and redirect the stimulus; to the Committee on Appropriations.

Ms. SNOWE. Mr. President, I rise today with my friend and colleague Senator THUNE to introduce the Reevaluate and Redirect the Stimulus Act of 2010 that would require the Obama Administration’s Office of Management and Budget, OMB, to make proposals to redirect stimulus funds approved in last year’s \$787 billion American Recovery and Reinvestment Act. Although I supported the stimulus and favor the continuation of pro-growth policies, given that the federal deficit for Fiscal Year 2009 was a staggering \$1.4 trillion and that the Congressional Budget Office announced on January 26 that it is projecting a baseline deficit of \$6.047 trillion over the next 10 years, Congress must do more to pair the resources targeted for job creation with reductions in other areas.

Before I describe the provisions of the legislation I am introducing today, I must say that it is regrettable that I feel compelled to offer a bill at all. The fact is, I wrote a letter last December 11 to OMB Director Peter Orszag urg-

ing him to analyze unobligated funds in the American Recovery and Reinvestment Act to determine whether they should be reprogrammed to offset the cost of future stimulus legislation. Although my letter requested a response by January 1, the administration, who is solely responsible for distributing stimulus spending, has declined to do so. The Administration also opted against including any related proposals in its just-released Fiscal Year 2011 Budget. I find it inconceivable that there are no funds that should be redirected, and thus the Administration has concluded that every dollar we approved last February is working precisely as intended. Additionally, I am particularly concerned by proposals to pay for additional stimulus by reducing the authorization level for the Troubled Asset Relief Program, TARP, as the House did last December. The fact is that further stimulus spending claimed to be offset by reducing TARP’s authorization level would still increase the deficit relative to simply not using additional TARP funds at all.

Despite OMB’s inattention to my request, the administration and Congress both remain accountable to ensure that each dollar we spend on stimulus either creates jobs at a greater rate or protects displaced individuals at a lower cost than competing policies on the table. To the degree that either the tax or spending proposals President Obama has or that members of Congress want to pursue are more beneficial than proceeding to obligate funds still available in the American Recovery and Reinvestment Act, the administration and Congress should assess the possibility of redirecting those resources. We simply cannot afford to be poor fiscal stewards and engage in wasteful spending that will rob future generations of prosperity.

To fulfill this fundamental obligation, the legislation I am offering today would make it a statutory requirement for OMB, within the next 15 days, to provide Congress with a list of provisions from the stimulus for which there remain funds that have not yet been obligated. Second, OMB would be required to provide Congress with a list of programs included in the stimulus with remaining unobligated funds that it recommends be redirected toward more effective programs to either assist the displaced, or spur job creation. Once Congress receives the administration’s proposals, all Members, as well as the appropriate Congressional committees, can evaluate their suitability with an eye toward using them as offsets for forthcoming legislation.

I hope that my colleagues will join me in supporting this legislation and help to swiftly make it law. The administration and Congress must work together to address our tremendous budget deficit and insist that every dollar we spend promotes its objective. Given that it oversees stimulus spending and has the capacity to evaluate

whether programs are working as intended, it is only appropriate that the administration complete the first step of this process and provide Congress with a list of spending that could be redirected. Once it does so, I will certainly insist that Congress discharge its responsibility of carefully evaluating the administration’s proposals. Individuals seeking relief from the recession that has so ravaged our economy expect nothing less as it is unfair to waste dollars that could be more beneficial elsewhere, and future generations who will have to repay today’s deficits will thank us as well.

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. 2981

*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 “Reevaluate and Redirect the Stimulus Act of 2010”.

#### SEC. 2. OMB CERTIFICATION.

Not later 15 days after the date of enactment of this Act, the Director of the Office of Management and Budget (referred to in this Act as the “Director”) shall provide to Congress—

(1) a list of programs that have unobligated stimulus funds provided under the American Recovery and Reinvestment Act of 2009 and the amounts that are unobligated; and

(2) a list of stimulus funds that remain unobligated that the Director recommends be redirected toward more effective programs to either assist displaced workers or spur job creation in 2010 with a breakdown of the amounts of unobligated funds that could be reprogrammed by program.

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 405—RE-AFFIRMING THE CENTRALITY OF FREEDOM OF EXPRESSION AND PRESS FREEDOM AS CORNERSTONES OF UNITED STATES FOREIGN POLICY AND UNITED STATES EFFORTS TO PROMOTE INDIVIDUAL RIGHTS, AND FOR OTHER PURPOSES

Mr. KAUFMAN (for himself, Mr. BROWNBACK, Mr. CASEY, Mr. KYL, Mr. FEINGOLD, Mr. WEBB, Mr. LIEBERMAN, Mr. SPECTER, Mr. MCCAIN, and Mr. CORNYN) submitted the following resolution; which was considered and agreed to:

S. RES. 405

Whereas Google announced on January 12, 2010, the mid-December 2009 discovery that it had been victimized by a highly sophisticated and targeted cyber attack on its corporate infrastructure originating from China that resulted in the theft of its intellectual property;

Whereas Google also announced it had evidence to suggest that a primary goal of the attackers was accessing the Gmail accounts of Chinese human rights activists, and that the evidence revealed separate attempts to penetrate Gmail accounts of Chinese human