

citizenship through innovative partnerships that meet the comprehensive needs of children and youth; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. HAGAN:

S. 3596. A bill to establish the Culture of Safety Hospital Accountability Study and Demonstration Program; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 3597. A bill to improve the ability of the National Oceanic and Atmospheric Administration, the Coast Guard, and coastal States to sustain healthy ocean and coastal ecosystems by maintaining and sustaining their capabilities relating to oil spill preparedness, prevention, response, restoration, and research, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG (for himself and Mrs. GILLIBRAND):

S. 3598. A bill to amend the Safe Drinking Water Act and the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to reduce or eliminate the risk of releases of hazardous chemicals from public water systems and wastewater treatment works, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG (for himself and Mrs. GILLIBRAND):

S. 3599. A bill to enhance the security of chemical facilities and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. ROCKEFELLER:

S. 3600. A bill to amend the Jones Act and related statutes with respect to the liability of vessel owners and operators for damages; to the Committee on Commerce, Science, and Transportation.

By Mr. MERKLEY (for himself, Mr. CARPER, Mr. UDALL of New Mexico, and Mr. BENNET):

S. 3601. A bill to promote the oil independence of the United States, and for other purposes; to the Committee on Finance.

By Mr. CARDIN:

S. 3602. A bill to amend title 23, United States Code, to direct the Secretary to establish a comprehensive program to control and treat polluted stormwater runoff from federally funded highways and roads, and for other purposes; to the Committee on Environment and Public Works.

By Ms. CANTWELL:

S. 3603. A bill to amend the Oil Pollution Act of 1990 to establish the Federal Oil Spill Research Committee and to amend the Federal Water Pollution Control Act to include in a response plan certain planned and demonstrated investments in research relating to discharges of oil and to modify the dates by which a response plan is required to be updated; to the Committee on Commerce, Science, and Transportation.

By Ms. SNOWE (for herself, Mr. GRASSLEY, Mr. ENZI, Mr. ISAKSON, and Ms. COLLINS):

S. 3604. A bill to extend the small business loan enhancements; to the Committee on Small Business and Entrepreneurship.

By Mr. ROCKEFELLER:

S. 3605. A bill to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL:

S. 3606. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2011, and for other purposes; from the Committee on Appropriations; placed on the calendar.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. ENSIGN:

S. Res. 583. A resolution expressing support for designation of 2011 as "World Veterinary Year" to bring attention to and show appreciation for the veterinary profession on its 250th anniversary; to the Committee on the Judiciary.

By Mr. JOHANNES:

S. Res. 584. A resolution commemorating the 2010 Special Olympics USA National Games; to the Committee on Commerce, Science, and Transportation.

## ADDITIONAL COSPONSORS

S. 28

At the request of Mr. SCHUMER, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 28, a bill to ensure that the courts of the United States may provide an impartial forum for claims brought by United States citizens and others against any railroad organized as a separate legal entity, arising from the deportation of United States citizens and others to Nazi concentration camps on trains owned or operated by such railroad, and by the heirs and survivors of such persons.

S. 311

At the request of Mrs. BOXER, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 311, a bill to prohibit the application of certain restrictive eligibility requirements to foreign nongovernmental organizations with respect to the provision of assistance under part I of the Foreign Assistance Act of 1961.

S. 653

At the request of Mr. CARDIN, the names of the Senator from New York (Mrs. GILLIBRAND), the Senator from South Carolina (Mr. GRAHAM) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 749

At the request of Mr. COCHRAN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 749, a bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education.

S. 831

At the request of Mr. KERRY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 831, a bill to amend title 10, United States Code, to include service after September 11, 2001, as service qualifying for the determination of a reduced eligibility age for receipt of non-regular service retired pay.

S. 850

At the request of Mr. KERRY, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 850, a bill to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

S. 887

At the request of Mr. DURBIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 887, a bill to amend the Immigration and Nationality Act to reform and reduce fraud and abuse in certain visa programs for aliens working temporarily in the United States and for other purposes.

S. 1553

At the request of Mr. GRASSLEY, the name of the Senator from Montana (Mr. TESTER) 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. 1567

At the request of Mr. INHOFE, his name was added as a cosponsor of S. 1567, a bill to provide for the issuance of a Multinational Species Conservation Funds Semipostal Stamp.

S. 1674

At the request of Mr. WYDEN, the name of the Senator from North Carolina (Mr. BARR) was added as a cosponsor of S. 1674, a bill to provide for an exclusion under the Supplemental Security Income program and the Medicaid program for compensation provided to individuals who participate in clinical trials for rare diseases or conditions.

S. 2747

At the request of Mr. BINGAMAN, the name of the Senator from North Carolina (Mr. BARR) was added as a cosponsor of S. 2747, a bill to amend the Land and Water Conservation Fund Act of 1965 to provide consistent and reliable authority for, and for the funding of, the land and water conservation fund to maximize the effectiveness of the fund for future generations, and for other purposes.

S. 2982

At the request of Mr. KERRY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2982, a bill to combat international violence against women and girls.

S. 2989

At the request of Ms. LANDRIEU, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 2989, a bill to improve the Small Business Act, and for other purposes.

S. 2998

At the request of Mrs. GILLIBRAND, the name of the Senator from Vermont

(Mr. LEAHY) was added as a cosponsor of S. 2998, a bill to temporarily expand the V nonimmigrant visa category to include Haitians whose petition for a family-sponsored immigrant visa was approved on or before January 12, 2010.

S. 3151

At the request of Mr. KERRY, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 3151, a bill to establish the Office for Global Women's Issues and the Women's Development Advisor to facilitate interagency coordination and the integration of gender considerations into the strategies, programming, and associated outcomes of the Department of State and the United States Agency for International Development, and for other purposes.

S. 3199

At the request of Ms. SNOWE, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 3199, a bill to amend the Public Health Service Act regarding early detection, diagnosis, and treatment of hearing loss.

S. 3235

At the request of Mr. DORGAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 3235, a bill to amend the Act titled "An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases", approved August 9, 1955, to provide for Indian tribes to enter into certain leases without prior express approval from the Secretary of the Interior.

S. 3406

At the request of Mrs. HAGAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 3406, a bill to amend title 10, United States Code, to eliminate the per-fiscal year calculation of days of certain active duty or active service used to reduce the minimum age at which a member of a reserve component of the uniformed services may retire for non-regular service.

S. 3414

At the request of Mr. HARKIN, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 3414, a bill to ensure that the Dietary Supplement Health and Education Act of 1994 and other requirements for dietary supplements under the jurisdiction of the Food and Drug Administration are fully implemented and enforced, and for other purposes.

S. 3419

At the request of Mr. MERKLEY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 3419, a bill to exclude from consumer credit reports medical debt that has been in collection and has been fully paid or settled, and for other purposes.

S. 3424

At the request of Mr. DURBIN, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 3424, a bill to amend the Animal Welfare Act to provide further protection for puppies.

S. 3430

At the request of Ms. SNOWE, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 3430, a bill to amend the Internal Revenue Code of 1986 to expand the tip tax credit to employers of cosmetologists and to promote tax compliance in the cosmetology sector.

S. 3508

At the request of Mr. UDALL of New Mexico, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 3508, a bill to strengthen the capacity of the United States to lead the international community in reversing renewable natural resource degradation trends around the world that threaten to undermine global prosperity and security and eliminate the diversity of life on Earth, and for other purposes.

S. 3510

At the request of Mr. CONRAD, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 3510, a bill to amend the Internal Revenue Code of 1986 to permanently extend the 15-year recovery period for qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property.

S. 3513

At the request of Mr. JOHANNIS, his name was added as a cosponsor of S. 3513, a bill to amend the Internal Revenue Code of 1986 to extend for one year the special depreciation allowances for certain property.

S. 3519

At the request of Ms. SNOWE, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 3519, a bill to stabilize the matching requirement for participants in the Hollings Manufacturing Partnership Program.

S. 3521

At the request of Ms. MURKOWSKI, the names of the Senator from Wyoming (Mr. BARRASSO), the Senator from Louisiana (Mr. VITTER), the Senator from Wyoming (Mr. ENZI) and the Senator from Idaho (Mr. RISCH) were added as cosponsors of S. 3521, a bill to provide for the reestablishment of a domestic rare earths materials production and supply industry in the United States, and for other purposes.

S. 3561

At the request of Mr. UDALL of New Mexico, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 3561, a bill to establish centers of excellence for green infrastructure, and for other purposes.

S. 3566

At the request of Mr. LAUTENBERG, the names of the Senator from South Dakota (Mr. THUNE) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 3566, a bill to authorize certain maritime programs of the Department of Transportation, and for other purposes.

S. 3572

At the request of Mrs. LINCOLN, the names of the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from Maryland (Mr. CARDIN), the Senator from Ohio (Mr. BROWN) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 3572, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 225th anniversary of the establishment of the Nation's first law enforcement agency, the United States Marshals Service.

S. 3578

At the request of Mr. JOHANNIS, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 3578, a bill to repeal the expansion of information reporting requirements for payments of \$600 or more to corporations, and for other purposes.

S. CON. RES. 63

At the request of Mr. JOHNSON, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. Con. Res. 63, a concurrent resolution expressing the sense of Congress that Taiwan should be accorded observer status in the International Civil Aviation Organization (ICAO).

S. RES. 519

At the request of Mr. DEMINT, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. Res. 519, a resolution expressing the sense of the Senate that the primary safeguard for the well-being and protection of children is the family, and that the primary safeguards for the legal rights of children in the United States are the Constitutions of the United States and the several States, and that, because the use of international treaties to govern policy in the United States on families and children is contrary to principles of self-government and federalism, and that, because the United Nations Convention on the Rights of the Child undermines traditional principles of law in the United States regarding parents and children, the President should not transmit the Convention to the Senate for its advice and consent.

AMENDMENT NO. 4453

At the request of Mr. THUNE, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from Utah (Mr. HATCH) were added as cosponsors of amendment No. 4453 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax

incentives for small business job creation, and for other purposes.

AMENDMENT NO. 4464

At the request of Mr. DEMINT, the name of the Senator from Idaho (Mr. RISCHE) was added as a cosponsor of amendment No. 4464 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHANNIS:

S. 3593. A bill to require the Federal Government to pay the costs incurred by a State or local government in defending a State or local immigration law that survives a constitutional challenge by the Federal Government in Federal court; to the Committee on the Judiciary.

Mr. JOHANNIS. Mr. President, I rise to discuss a bill I have introduced because I see a very unfair battle unfolding right in front of us. The battle I foresee is this: In one corner we have the enormous resources of the Federal Government; in the other corner, cities and States with very limited resources, especially in these economic times, but with a good-faith desire to protect their communities.

What I am speaking of today and what my legislation goes to is the Federal Government's use of litigation to insert itself into State and potentially local immigration laws.

I rise with a great deal of knowledge about this. As a former mayor and county commissioner, city council member and Governor, I know what it is like when the Federal Government swoops in and brings its power to bear on an issue. I have seen it from both sides, having also served as a member of the President's Cabinet. I know that when the resources of the Federal Government are used to weigh in with litigation, it is crushing. The administration can send in a team of lawyers and overwhelm the resources of a community or a State. Litigation brings with it a huge financial burden for cities and States. In fact, litigation can and does have a chilling effect on the local decisionmaking process, even if local leaders believe their action in good faith is appropriate and necessary.

I believe that is the exact reaction this administration is hoping to cause among communities and States across the Nation that are considering action on immigration issues.

In this case, I believe litigation is being used to send a warning to other communities, other States that might be considering taking action in this arena.

The administration's claim that the Federal Government has sole authority

to enforce immigration laws because of the supremacy clause of the Constitution is, in fact, inconsistent with the President's own internal policies. Just last year, President Obama authored a memo, sent it out to all Federal departments and agencies, requiring serious and careful consideration when using Federal preemption of State laws.

In this memo, dated May 20, 2009, with the subject "Preemption," the President stated:

The purpose of this memorandum is to state the general policy of my Administration that preemption of State law by executive departments and agencies should be taken only with full consideration of legitimate prerogatives of the States and with sufficient legal basis for preemption.

That seems clear. But the memo went on further to say:

Executive departments and agencies should be mindful that in our Federal system, the citizens of the several States have distinctive circumstances and values, and that in many instances it is appropriate for them to apply to themselves rules and principles that reflect those circumstances and values.

Then, finally, the President goes on to say:

It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social experimental experiments without risk to the rest of the country.

Mr. President, I ask unanimous consent that a copy of this memo be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,  
OFFICE OF THE PRESS SECRETARY,  
MAY 20, 2009.

MEMORANDUM FOR THE HEADS OF EXECUTIVE  
DEPARTMENTS AND AGENCIES

Subject: Preemption

From our Nation's founding, the American constitutional order has been a Federal system, ensuring a strong role for both the national Government and the States. The Federal Government's role in promoting the general welfare and guarding individual liberties is critical, but State law and national law often operate concurrently to provide independent safeguards for the public. Throughout our history, State and local governments have frequently protected health, safety, and the environment more aggressively than has the national Government.

An understanding of the important role of State governments in our Federal system is reflected in longstanding practices by executive departments and agencies, which have shown respect for the traditional prerogatives of the States. In recent years, however, notwithstanding Executive Order 13132 of August 4, 1999 (Federalism), executive departments and agencies have sometimes announced that their regulations preempt State law, including State common law, without explicit preemption by the Congress or an otherwise sufficient basis under applicable legal principles.

The purpose of this memorandum is to state the general policy of my Administration that preemption of State law by executive departments and agencies should be undertaken only with full consideration of the legitimate prerogatives of the States and

with a sufficient legal basis for preemption. Executive departments and agencies should be mindful that in our Federal system, the citizens of the several States have distinctive circumstances and values, and that in many instances it is appropriate for them to apply to themselves rules and principles that reflect these circumstances and values. As Justice Brandeis explained more than 70 years ago, "[i]t is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country."

To ensure that executive departments and agencies include statements of preemption in regulations only when such statements have a sufficient legal basis:

(1) Heads of departments and agencies should not include in regulatory preambles statements that the department or agency intends to preempt State law through the regulation except where preemption provisions are also included in the codified regulation.

(2) Heads of departments and agencies should not include preemption provisions in codified regulations except where such provisions would be justified under legal principles governing preemption, including the principles outlined in Executive Order 13132.

(3) Heads of departments and agencies should review regulations issued within the past 10 years that contain statements in regulatory preambles or codified provisions intended by the department or agency to preempt State law, in order to decide whether such statements or provisions are justified under applicable legal principles governing preemption. Where the head of a department or agency determines that a regulatory statement of preemption or codified regulatory provision cannot be so justified, the head of that department or agency should initiate appropriate action, which may include amendment of the relevant regulation.

Executive departments and agencies shall carry out the provisions of this memorandum to the extent permitted by law and consistent with their statutory authorities. Heads of departments and agencies should consult as necessary with the Attorney General and the Office of Management and Budget's Office of Information and Regulatory Affairs to determine how the requirements of this memorandum apply to particular situations.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

Mr. JOHANNIS. So if the use of Federal power to preempt a State requires such an extremely high threshold, how can one reconcile that with the administration's decision to file a lawsuit?

My bill sends a message to the administration that it cannot use the crushing force and threat and reality of litigation to intimidate local officials or to scare them into inaction.

It would allow a State or a municipal government the ability, the right, to recover attorney's fees and other court costs associated with defending a Federal challenge of their immigration laws. In other words, this straightforward legislation just simply levels