

to gather and review information from Dr. Berwick.

(3) The Senate Finance Committee review process for the Berwick nomination was proceeding normally. A hearing on the nomination of Dr. Berwick had been requested and no objections had been raised to having the hearing.

(4) On July 7, 2010, less than 3 months after the nomination and without a Senate Finance Committee hearing taking place, the President recess-appointed Dr. Berwick to serve as the Administrator of CMS. Dr. Berwick was sworn in on July 12, 2010.

(5) The appointment of the Administrator of CMS is subject to Senate confirmation under article II, section 2, clause 2 of the Constitution. Dr. Berwick's nomination was referred to the Senate Finance Committee which has jurisdiction over health programs under the Social Security Act and the responsibility to examine Presidential nominees related to these programs.

(6) It is especially true that Dr. Berwick's nomination should have undergone the Senate Finance Committee nomination review process in light of the significant responsibilities of the Administrator of CMS.

(7) CMS is responsible for the health care of more than 100,000,000 Americans, and is one of the largest agencies in the Federal Government.

(8) The recently enacted Patient Protection and Affordable Care Act (commonly referred to as the “health care reform law”) significantly increases the responsibilities of CMS, including half a trillion dollars in Medicare provider cuts and the largest expansion of the Medicaid program since its inception.

(9) The manner in which an individual nominated to serve as the Administrator of CMS intends to carry out these responsibilities is a serious matter and warrants a thorough review. A thorough review is especially needed for Dr. Berwick's appointment in light of statements he has made in the past about health care rationing as well as the role of government in health care.

(10) By recess-appointing Dr. Berwick, the President has attempted to short circuit the requirement of article II, section 2, clause 2 of the Constitution that he appoint officers of the United States “by and with the Advice and Consent of the Senate”.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the recess appointment of Dr. Donald Berwick, while consideration of his nomination to serve as Administrator of CMS was proceeding normally through the Senate Finance Committee nomination review process, constitutes an abuse of power by the President; and

(2) notwithstanding his recess appointment to that position, Dr. Donald Berwick should appear before the Senate Finance Committee and respond to questions by members about his qualifications to serve as Administrator of CMS.

**SA 4513.** Mr. JOHANNS submitted an amendment intended to be proposed to amendment SA 4500 proposed by Mr. REID (for Mr. LEMIEUX (for himself, Ms. LANDRIEU, Mr. MERKLEY, Mrs. BOXER, Ms. CANTWELL, Ms. KLOBUCHAR, and Mrs. MURRAY)) to the amendment SA 4499 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 5297, 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; which was ordered to lie on the table; as follows:

At the end, add the following:

#### PART IV—ADDITIONAL PROVISIONS

##### SEC. \_\_\_\_\_. REPEAL OF EXPANSION OF INFORMATION REPORTING REQUIREMENTS.

Section 9006 of the Patient Protection and Affordable Care Act, and the amendments made thereby, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such section, and amendments, had never been enacted.

##### SEC. \_\_\_\_\_. EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.

Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986 is amended by striking “8 percent” and inserting “5 percent”.

##### SEC. \_\_\_\_\_. USE OF PREVENTION AND PUBLIC HEALTH FUND.

(a) USE OF FUNDS AS OFFSET THROUGH FISCAL YEAR 2017.—Section 4002(b) of the Patient Protection and Affordable Care Act is amended by striking “appropriated—” and all that follows and inserting “appropriated, for fiscal year 2018, and each fiscal year thereafter, \$2,000,000,000”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of section 4002 of the Patient Protection and Affordable Care Act.

##### SEC. \_\_\_\_\_. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act in effect on the date of the enactment of this Act is increased by 4.25 percentage points.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on July 22, 2010, in room 253 of the Russell Senate Office Building.

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

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on July 22, 2010, at 11 a.m., in room SD-366 of the Dirksen Senate Office Building.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on July 22, 2010, at 10 a.m.

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

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

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet

during the session of the Senate, to conduct a hearing entitled “Workplace Safety and Worker Protections at BP” on July 22, 2010. The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate Office Building.

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

##### COMMITTEE ON INDIAN AFFAIRS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on July 22, 2010, at 10:30 a.m. in room 628 of the Dirksen Senate Office Building.

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

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

Mr. HARKIN. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on State, Local, and Private Sector Preparedness and Integration of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on July 22, 2010, at 10 a.m. to conduct a hearing entitled, “A Review of Disaster Medical Preparedness: Improving Coordination and Collaboration in the Delivery of Medical Assistance during Disasters.”

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

##### SUBCOMMITTEE ON CLEAN AIR AND NUCLEAR SAFETY

Mr. HARKIN. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air and Nuclear Safety of the Committee on Environment and Public Works be authorized to meet during the session of the Senate on July 22, 2010, at 9:15 a.m. in room 406 of the Dirksen Office Building.

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

##### SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs’ Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on July 22, 2010, at 2:30 p.m. to conduct a hearing entitled, “The Gulf of Mexico Oil Spill: Ensuring a Financially Responsible Recovery Part II.”

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

#### PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Katie Meehan, Johanna Lucas, Abby Richardson, Kevin O’Brien, and Stephanie Rapp of my staff be granted floor privileges for the rest of today’s session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## NATIONAL SEPTEMBER 11 MEMORIAL &amp; MUSEUM COMMEMORATIVE MEDAL ACT

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4684, which was received from the House and is at the desk.

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

The assistant legislative clerk read as follows:

A bill (H.R. 4684) to require the Secretary of the Treasury to strike medals in commemoration of the 10th anniversary of the September 11, 2001, terrorist attacks on the United States and the establishment of the National September 11 Memorial & Museum at the World Trade Center.

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

Mr. DURBIN. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 4684) was ordered to a third reading, was read the third time, and passed.

## NATIONAL MUSEUM OF AMERICAN JEWISH HISTORY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of S. Res. 546, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 546) recognizing the National Museum of American Jewish History, an affiliate of the Smithsonian Institution, as the only museum in the United States dedicated exclusively to exploring and preserving the American Jewish experience.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 546) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

## S. RES. 546

Whereas the National Museum of American Jewish History serves to illustrate how the freedom present in the United States and its associated choices, challenges, and responsibilities fostered an environment in which Jewish Americans have made and continue

to make extraordinary contributions in all facets of American life;

Whereas the mission of the National Museum of American Jewish History, an affiliate of the Smithsonian Institution, is to connect Jewish people more closely to their heritage and to inspire in individuals of all backgrounds a greater appreciation for the diversity of the American experience and the freedoms to which all Americans aspire;

Whereas the National Museum of American Jewish History was founded in 1976 by members of the historic Congregation Mikveh Israel, which was itself established in 1740 and known as the “Synagogue of the American Revolution”;

Whereas the National Museum of American Jewish History has attracted a broad audience to its public programs, which explore American Jewish identity through lectures, panel discussions, authors’ talks, films, activities for children, theater, and music;

Whereas the National Museum of American Jewish History is the repository of the largest collection of Jewish Americana in the world, with more than 25,000 objects; and

Whereas the National Museum of American Jewish History will soon be relocated to a 100,000-square-foot, 5-story, state-of-the-art facility on Independence Mall in Philadelphia, Pennsylvania, standing just steps from the Liberty Bell and Independence Hall, which shall serve as a cornerstone of the American Jewish community and a source of national pride: Now, therefore, be it

*Resolved*, That the Senate—

(1) acknowledges the importance of the continuing study and preservation of the unique American Jewish experience; and

(2) recognizes the National Museum of American Jewish History, an affiliate of the Smithsonian Institution, as the only museum in the United States dedicated exclusively to exploring and preserving the American Jewish experience and, as such, designates it as the national museum of American Jewish history.

## NATIONAL CONVENIENT CARE CLINIC WEEK

Mr. DURBIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 585, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 585) designating the week of August 2 through August 8, 2010, as “National Convenient Care Clinic Week,” and supporting the goals and ideals of raising awareness of the need for accessible and cost-effective health care options to complement the traditional health care model.

There being no objection, the Senate proceeded to consider the resolution.

Mr. INOUYE. Mr. President, today I rise to recognize all of the providers who work in retail-based convenient care clinics in a resolution to designate August 2 through August 8, 2010, as National Convenient Care Clinic Week. National Convenient Care Clinic Week will provide a national platform from which to promote the pivotal services offered by the more than 1,100 retail-based convenient care clinics in the United States.

Today, thousands of nurse practitioners, physician assistants, and physicians provide care in convenient care clinics. At a time when Americans are more and more challenged by the inaccessibility and high costs of health care, convenient care offers a vital, high-quality primary care alternative.

A resolution will help pave the way for this effort. I ask my colleagues to join me in supporting this tribute to convenient care clinics.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 585) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

## S. RES. 585

Whereas convenient care clinics are health care facilities located in high-traffic retail outlets that provide affordable and accessible care to patients who might otherwise be delayed or unable to schedule an appointment with a traditional primary care provider;

Whereas millions of people in the United States do not have a primary care provider, and there is a worsening primary care shortage that will prevent many people from obtaining one in the future;

Whereas convenient care clinics have provided an accessible alternative for more than 15,000,000 people in the United States since the first clinic opened in 2000, continue to expand rapidly, and as of June 2010 consist of approximately 1,100 clinics in 35 States;

Whereas convenient care clinics follow rigid industry-wide quality of care and safety standards;

Whereas convenient care clinics are staffed by highly qualified health care providers, including advanced practice nurses, physician assistants, and physicians;

Whereas convenient care clinicians all have advanced education in providing quality health care for common episodic ailments including cold and flu, skin irritation, and muscle strains or sprains, and can also provide immunizations, physicals, and preventive health screening;

Whereas convenient care clinics are proven to be a cost-effective alternative to similar treatment obtained in physician offices, urgent care, or emergency departments; and

Whereas convenient care clinics complement traditional medical service providers by providing extended weekday and weekend hours without the need for an appointment, short wait times, and visits that generally last only 15 to 20 minutes: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the week of August 2 through August 8, 2010, as “National Convenient Care Clinic Week”;

(2) supports the goals and ideals of National Convenient Care Clinic Week to raise awareness of the need for accessible and cost-effective health care options to complement the traditional health care model;

(3) recognizes the obstacles many people in the United States face in accessing the traditional medical home model of health care;