

and patients by facilities that perform mammograms, and for other purposes.

S. 2009

At the request of Mr. MURPHY, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 2009, a bill to require a background check for every firearm sale.

S. 2011

At the request of Mr. SANDERS, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 2011, a bill to amend title XVIII of the Social Security Act to provide for the negotiation of lower covered part D drug prices on behalf of Medicare beneficiaries and the establishment and application of a formula by the Secretary of Health and Human Services under Medicare part D, and for other purposes.

S. 2016

At the request of Mr. MARKEY, the names of the Senator from Massachusetts (Ms. WARREN) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. 2016, a bill to prevent an unconstitutional strike against North Korea.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself, Mr. REED, Mr. BLUMENTHAL, Mr. MURPHY, Ms. WARREN, and Mr. CARPER):

S. 2037. A bill to amend the Higher Education Act of 1965 regarding proprietary institutions of higher education in order to protect students and taxpayers; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. 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. 2037

*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 “Protecting Our Students and Taxpayers Act of 2017” or “POST Act of 2017”.

#### SEC. 2. 85/15 RULE.

(a) IN GENERAL.—Section 102(b) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking “and” after the semicolon;

(B) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(F) meets the requirements of paragraph (2).”;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

“(2) REVENUE SOURCES.—

“(A) IN GENERAL.—In order to qualify as a proprietary institution of higher education under this subsection, an institution shall derive not less than 15 percent of the institution’s revenues from sources other than Federal funds, as calculated in accordance with subparagraphs (B) and (C).

“(B) FEDERAL FUNDS.—In this paragraph, the term ‘Federal funds’ means any Federal financial assistance provided, under this Act or any other Federal law, through a grant, contract, subsidy, loan, guarantee, insurance, or other means to a proprietary institution, including Federal financial assistance that is disbursed or delivered to an institution or on behalf of a student or to a student to be used to attend the institution, except that such term shall not include any monthly housing stipend provided under the Post-9/11 Veterans Educational Assistance Program under chapter 33 of title 38, United States Code.

“(C) IMPLEMENTATION OF NON-FEDERAL REVENUE REQUIREMENT.—In making calculations under subparagraph (A), an institution of higher education shall—

“(i) use the cash basis of accounting;

“(ii) consider as revenue only those funds generated by the institution from—

“(I) tuition, fees, and other institutional charges for students enrolled in programs eligible for assistance under title IV;

“(II) activities conducted by the institution that are necessary for the education and training of the institution’s students, if such activities are—

“(aa) conducted on campus or at a facility under the control of the institution;

“(bb) performed under the supervision of a member of the institution’s faculty; and

“(cc) required to be performed by all students in a specific educational program at the institution; and

“(III) a contractual arrangement with a Federal agency for the purpose of providing job training to low-income individuals who are in need of such training;

“(iii) presume that any Federal funds that are disbursed or delivered to an institution on behalf of a student or directly to a student will be used to pay the student’s tuition, fees, or other institutional charges, regardless of whether the institution credits such funds to the student’s account or pays such funds directly to the student, except to the extent that the student’s tuition, fees, or other institutional charges are satisfied by—

“(I) grant funds provided by an outside source that—

“(aa) has no affiliation with the institution; and

“(bb) shares no employees with the institution; and

“(II) institutional scholarships described in clause (v);

“(iv) include no loans made by an institution of higher education as revenue to the school, except for payments made by students on such loans;

“(v) include a scholarship provided by the institution—

“(I) only if the scholarship is in the form of monetary aid based upon the academic achievements or financial need of students, disbursed to qualified student recipients during each fiscal year from an established restricted account; and

“(II) only to the extent that funds in that account represent designated funds, or income earned on such funds, from an outside source that—

“(aa) has no affiliation with the institution; and

“(bb) shares no employees with the institution; and

“(vi) exclude from revenues—

“(I) the amount of funds the institution received under part C of title IV, unless the institution used those funds to pay a student’s institutional charges;

“(II) the amount of funds the institution received under subpart 4 of part A of title IV;

“(III) the amount of funds provided by the institution as matching funds for any Federal program;

“(IV) the amount of Federal funds provided to the institution to pay institutional charges for a student that were refunded or returned; and

“(V) the amount charged for books, supplies, and equipment, unless the institution includes that amount as tuition, fees, or other institutional charges.

“(D) REPORT TO CONGRESS.—Not later than July 1, 2018, and by July 1 of each succeeding year, the Secretary shall submit to the authorizing committees a report that contains, for each proprietary institution of higher education that receives assistance under title IV and as provided in the audited financial statements submitted to the Secretary by each institution pursuant to the requirements of section 487(c)—

“(i) the amount and percentage of such institution’s revenues received from Federal funds; and

“(ii) the amount and percentage of such institution’s revenues received from other sources.”.

(b) REPEAL OF EXISTING REQUIREMENTS.—Section 487 of the Higher Education Act of 1965 (20 U.S.C. 1094) is amended—

(1) in subsection (a)—

(A) by striking paragraph (24);

(B) by redesignating paragraphs (25) through (29) as paragraphs (24) through (28), respectively;

(C) in paragraph (24)(A)(ii) (as redesignated by subparagraph (B)), by striking “subsection (e)” and inserting “subsection (d)”;

(D) in paragraph (26) (as redesignated by subparagraph (B)), by striking “subsection (h)” and inserting “subsection (g)”;

(2) by striking subsection (d);

(3) by redesignating subsections (e) through (j) as subsections (d) through (i), respectively;

(4) in subsection (f)(1) (as redesignated by paragraph (3)), by striking “subsection (e)(2)” and inserting “subsection (d)(2)”;

(5) in subsection (g)(1) (as redesignated by paragraph (3)), by striking “subsection (a)(27)” in the matter preceding subparagraph (A) and inserting “subsection (a)(26)”.

(c) CONFORMING AMENDMENTS.—The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

(1) in section 152 (20 U.S.C. 1019a)—

(A) in subsection (a)(1)(A), by striking “subsections (a)(27) and (h) of section 487” and inserting “subsections (a)(26) and (g) of section 487”; and

(B) in subsection (b)(1)(B)(i)(I), by striking “section 487(e)” and inserting “section 487(d)”;

(2) in section 153(c)(3) (20 U.S.C. 1019b(c)(3)), by striking “section 487(a)(25)” each place the term appears and inserting “section 487(a)(24)”;

(3) in section 496(c)(3)(A) (20 U.S.C. 1099b(c)(3)(A)), by striking “section 487(f)” and inserting “section 487(e)”;

(4) in section 498(k)(1) (20 U.S.C. 1099c(k)(1)), by striking “section 487(f)” and inserting “section 487(e)”.

By Mr. GRASSLEY:

S. 2039. A bill to amend the Foreign Agents Registration Act of 1938 to promote greater transparency in the registration of persons serving as the agents of foreign principals, to provide the Attorney General with greater authority to investigate alleged violations of such Act and bring criminal and civil actions against persons who commit such violations, and for other purposes; to the Committee on Foreign Relations.

Mr. GRASSLEY. 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. 2039

*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 "Disclosing Foreign Influence Act".

#### SEC. 2. REPEALING EXEMPTION FROM REGISTRATION UNDER FOREIGN AGENTS REGISTRATION ACT OF 1938 FOR PERSONS FILING DISCLOSURE REPORTS UNDER LOBBYING DISCLOSURE ACT OF 1995.

(a) REPEAL OF EXEMPTION.—Section 3 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 613) is amended by striking subsection (h).

(b) TIMING OF FILING OF REGISTRATION STATEMENTS.—Section 2 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 612) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), in the fourth sentence, by striking "The registration statement shall include" and inserting "Except as provided in subsection (h), the registration statement shall include"; and

(2) by adding at the end the following:

"(h) TIMING FOR FILING OF STATEMENTS BY PERSONS REGISTERED UNDER LOBBYING DISCLOSURE ACT OF 1995.—In the case of an agent of a person described in section 1(b)(2) or an entity described in section 1(b)(3) who has registered under the Lobbying Disclosure Act of 1995 (2 U.S.C. 1601 et seq.), after the agent files the first registration required under subsection (a) in connection with the agent's representation of such person or entity, the agent shall file all subsequent statements required under this section at the same time, and in the same frequency, as the reports filed with the Clerk of the House of Representatives or the Secretary of the Senate (as the case may be) under section 5 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1604) in connection with the agent's representation of such person or entity."

#### SEC. 3. PROMOTING ENFORCEMENT OF REGISTRATION REQUIREMENTS FOR FOREIGN AGENTS BY AUTHORIZING ATTORNEY GENERAL TO ISSUE CIVIL INVESTIGATIVE DEMANDS.

The Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) is amended by adding at the end the following:

##### "SEC. 12. CIVIL INVESTIGATIVE DEMANDS.

"(a) AUTHORITY OF ATTORNEY GENERAL.—

"(1) AUTHORITY DESCRIBED.—Whenever the Attorney General or the Attorney General's designee has reason to believe that any person may be in possession, custody, or control of any documentary material, or may have any information, relevant to an investigation under this Act, the Attorney General or designee may, prior to the institution of a civil or criminal proceeding by the United States thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction, to answer in writing written interrogatories with respect to such documentary material or information, to give oral testimony concerning such documentary material or information, or to furnish any combination of such material, answers, or testimony. Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General or designee shall cause to be served, in any manner authorized by this section, a

copy of such demand upon the person from whom the discovery was obtained and notify the person to whom such demand is issued of the date on which such copy was served.

"(2) LIMITING INDIVIDUALS WHO MAY SERVE AS DESIGNEES.—The Attorney General may not designate any individual other than the Assistant Attorney General for National Security or a Deputy Attorney General to carry out the authority provided under this section.

"(b) CONTENTS AND DEADLINES.—

"(1) IN GENERAL.—Each demand issued under subsection (a) shall—

"(A) state the nature of the conduct constituting the alleged violation of this Act which is under investigation and the provision of this Act alleged to be violated;

"(B) if such demand is for the production of documentary material—

"(i) describe each class of documentary material to be produced with such definiteness and certainty as to permit such material to be fairly identified;

"(ii) prescribe a return date for each such class which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

"(iii) identify the custodian to whom such material shall be made available;

"(C) if such demand is for answers to written interrogatories—

"(i) set forth with specificity the written interrogatories to be answered;

"(ii) prescribe dates at which time answers to written interrogatories shall be submitted; and

"(iii) identify the custodian to whom such answers shall be submitted; and

"(D) if such demand is for the giving of oral testimony—

"(i) prescribe a date, time, and place at which oral testimony shall be commenced;

"(ii) identify an investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted;

"(iii) specify that such attendance and testimony are necessary to the conduct of the investigation;

"(iv) notify the person receiving the demand of the right to be accompanied by an attorney and any other representative; and

"(v) describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry, which will be taken pursuant to the demand.

"(2) PRODUCT OF DISCOVERY.—Any civil investigative demand issued under this section which is an express demand for any product of discovery shall not be returned or returnable until 20 days after a copy of such demand has been served upon the person from whom the discovery was obtained.

"(3) DATE.—The date prescribed for the commencement of oral testimony pursuant to a civil investigative demand issued under subsection (a) shall be a date which is not less than 7 days after the date on which demand is received, unless the Attorney General or the Attorney General's designee determines that exceptional circumstances are present which warrant the commencement of such testimony within a lesser period of time.

"(4) NOTIFICATION.—The Attorney General shall not authorize the issuance under this section of more than one civil investigative demand for oral testimony by the same person unless the person requests otherwise or unless the Attorney General, after investigation, notifies that person in writing that an additional demand for oral testimony is necessary.

"(c) PROTECTED MATERIAL OR INFORMATION.—

"(1) IN GENERAL.—A civil investigative demand issued under subsection (a) may not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if such material, answers, or testimony would be protected from disclosure under—

"(A) the standards applicable to subpoenas or subpoenas duces tecum issued by a court of the United States in aid of a grand jury investigation; or

"(B) the standards applicable to discovery requests under the Federal Rules of Civil Procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this Act.

"(2) EFFECT ON OTHER ORDERS, RULES, AND LAWS.—Any such demand which is an express demand for any product of discovery supercedes any inconsistent order, rule, or provision of law (other than this Act) preventing or restraining disclosure of such product of discovery to any person. Disclosure of any product of discovery pursuant to any such express demand does not constitute a waiver of any right or privilege, including without limitation any right or privilege which may be invoked to resist discovery of trial preparation materials, to which the person making such disclosure may be entitled.

"(d) SERVICE; JURISDICTION.—

"(1) BY WHOM SERVED.—Any civil investigative demand issued under subsection (a) may be served by an appropriate investigator, or by a United States marshal or deputy marshal, at any place within the territorial jurisdiction of any court of the United States.

"(2) SERVICE IN FOREIGN COUNTRIES.—Any such demand or petition filed under subsection (k) may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States can assert jurisdiction over any such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this Act by any such person that such court would have if such person were personally within the jurisdiction of such court.

"(e) SERVICE UPON LEGAL ENTITIES AND NATURAL PERSONS.—

"(1) LEGAL ENTITIES.—Service of any civil investigative demand issued under subsection (a) or of any petition filed under subsection (k) may be made upon a partnership, corporation, association, or other legal entity by—

"(A) delivering a duly executed copy of such demand or petition to any partner, executive officer, managing agent, or general agent of the partnership, corporation, association, or entity, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

"(B) delivering a duly executed copy of such demand or petition to the principal office or place of business of the partnership, corporation, association, or entity to be served; or

"(C) depositing an executed copy of such demand or petition in the United States mails by registered or certified mail, with a return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

“(2) NATURAL PERSONS.—Service of any such demand or petition may be made upon any natural person by—

“(A) delivering a duly executed copy of such demand or petition to the person to be served; or

“(B) depositing an executed copy of such demand or petition in the United States mails by registered or certified mail, with a return receipt requested, duly addressed to such person at the person's residence or principal office or place of business.

“(f) PROOF OF SERVICE.—A verified return by the individual serving any civil investigative demand under subsection (a) or any petition filed under subsection (k) setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

“(g) DOCUMENTARY MATERIAL.—

“(1) SWORN CERTIFICATES.—The production of documentary material in response to a civil investigative demand served pursuant to this section shall be made under a sworn certificate, in such form as the demand designates, by—

“(A) in the case of a natural person, the person to whom the demand is directed; or

“(B) in the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to such production and authorized to act on behalf of such person,

to the effect that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

“(2) PRODUCTION OF MATERIALS.—Any person upon whom any civil investigative demand for the production of documentary material has been served under this section shall make such material available for inspection and copying to the investigator identified in such demand at the principal place of business of such person, or at such other place as the investigator and the person thereafter may agree and prescribe in writing, or as the court may direct under subsection (k)(1). Such material shall be made so available on the return date specified in such demand, or on such later date as the investigator may prescribe in writing. Such person may, upon written agreement between the person and the investigator, substitute copies for originals of all or any part of such material.

“(h) INTERROGATORIES.—

“(1) ANSWERS.—Each interrogatory in a civil investigative demand served pursuant to this section shall be answered separately and fully in writing under oath, and it shall be submitted under a sworn certificate, in such form as the demand designates, by—

“(A) in the case of a natural person, the person to whom the demand is directed; or

“(B) in the case of a person other than a natural person, the person or persons responsible for answering each interrogatory.

“(2) CONTENTS OF CERTIFICATES.—The certificate submitted under paragraph (1) shall state that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that any information is not furnished, the information shall be identified and reasons set forth with particularity regarding the reasons why the information was not furnished.

“(3) OBJECTIONS.—If any interrogatory is objected to, the reasons for the objection shall be stated in the certificate instead of an answer.

“(i) ORAL EXAMINATIONS.—

“(1) PROCEDURES.—The examination of any person pursuant to a civil investigative demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under the direction of the officer and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian. This subsection shall not preclude the taking of testimony by any means authorized by, and in a manner consistent with, the Federal Rules of Civil Procedure.

“(2) PERSONS PRESENT.—The investigator conducting the examination shall exclude from the place where the examination is held all persons except the person giving the testimony, the attorney for and any other representative of the person giving the testimony, the attorney for the Government, any person who may be agreed upon by the attorney for the Government and the person giving the testimony, the officer before whom the testimony is to be taken, and any stenographer taking such testimony.

“(3) WHERE TESTIMONY TAKEN.—The oral testimony of any person taken pursuant to a civil investigative demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the investigator conducting the examination and such person.

“(4) TRANSCRIPT OF TESTIMONY.—When the testimony is fully transcribed, the investigator or the officer before whom the testimony is taken shall afford the witness (who may be accompanied by counsel) a reasonable opportunity to examine and read the transcript, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the officer or the investigator with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within 30 days after being afforded a reasonable opportunity to examine it, the officer or the investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reason, if any, given therefor.

“(5) CERTIFICATION AND DELIVERY TO CUSTODIAN.—The officer before whom the testimony is taken shall certify on the transcript that the witness was duly sworn by the officer and that the transcript is a true record of the testimony given by the witness, and the officer or investigator shall promptly deliver it or send it by registered or certified mail to the custodian.

“(6) FURNISHING OR INSPECTION OF TRANSCRIPT BY WITNESS.—Upon payment of reasonable charges therefor, the investigator shall furnish a copy of the transcript to the witness only, except that the Attorney General, or the Attorney General's designee in accordance with this Act, may for good cause limit such witness to inspection of the official transcript of the witness's testimony.

“(7) CONDUCT OF ORAL TESTIMONY.—

“(A) IN GENERAL.—Any person compelled to appear for oral testimony under a civil investigative demand issued under subsection (a) may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence, with respect to any question asked of such person. Such person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on the grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person may not otherwise object to or refuse to answer any question, and may not directly or through counsel otherwise interrupt the oral examination. If such person refuses to answer any question, a petition may be filed in the district court of the United States under subsection (k)(1) for an order compelling such person to answer such question.

“(B) COMPELLED TESTIMONY.—If such person refuses to answer any question on the grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18, United States Code.

“(8) WITNESS FEES AND ALLOWANCES.—Any person appearing for oral testimony under a civil investigative demand issued under subsection (a) shall be entitled to the same fees and allowances which are paid to witnesses in the district courts of the United States.

“(j) CUSTODIANS OF DOCUMENTS, ANSWERS, AND TRANSCRIPTS.—

“(1) DESIGNATION.—The Attorney General, or designee in accordance with this Act, shall designate an investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this section, and shall designate such additional investigators as the Attorney General determines from time to time to be necessary to serve as deputies of the custodian.

“(2) RESPONSIBILITY FOR MATERIALS; DISCLOSURE.—

“(A) IN GENERAL.—An investigator who receives any documentary material, answers to interrogatories, or transcripts of oral testimony under this section shall transmit them to the custodian. The custodian shall take physical possession of such material, answers, or transcripts and shall be responsible for the use made of them and for the return of documentary material under paragraph (4).

“(B) PREPARATION.—The custodian may cause the preparation of such copies of such documentary material, answers to interrogatories, or transcripts of oral testimony as may be required for official use by any investigator, or other officer or employee of the Department of Justice. Such material, answers, and transcripts may be used by any such authorized investigator or other officer or employee in connection with the taking of oral testimony under this section.

“(C) NO EXAMINATION.—Except as otherwise provided in this subsection, no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, while in the possession of the custodian, shall be available for examination by any individual other than an investigator or other officer or employee of the Department of Justice authorized under subparagraph (B). The prohibition in the preceding sentence on the availability of material, answers, or transcripts shall not apply if consent is given by the person who produced such material, answers, or transcripts, or, in the case of any product of discovery produced pursuant to an express demand for

such material, consent is given by the person from whom the discovery was obtained. Nothing in this subparagraph is intended to prevent disclosure to the Congress, including any committee or subcommittee of the Congress, or to any other agency of the United States for use by such agency in furtherance of its statutory responsibilities.

“(D) EXAMINATION BY CERTAIN PERSONS.—While in the possession of the custodian and under such reasonable terms and conditions as the Attorney General shall prescribe—

“(i) documentary material and answers to interrogatories shall be available for examination by the person who produced such material or answers, or by a representative of that person authorized by that person to examine such material and answers; and

“(ii) transcripts of oral testimony shall be available for examination by the person who produced such testimony, or by a representative of that person authorized by that person to examine such transcripts.

“(3) USE OF MATERIAL, ANSWERS, OR TRANSCRIPTS IN OTHER PROCEEDINGS.—Whenever any attorney of the Department of Justice has been designated to appear before any court, grand jury, or Federal agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony received under this section may deliver to such attorney such material, answers, or transcripts for official use in connection with any such case or proceeding as such attorney determines to be required. Upon the completion of any such case or proceeding, such attorney shall return to the custodian any such material, answers, or transcripts so delivered which have not passed into the control of such court, grand jury, or agency through the introduction thereof into the record of such case or proceeding.

“(4) CONDITIONS FOR RETURN OF MATERIAL.—If any documentary material has been produced by any person in the course of any investigation pursuant to a civil investigative demand under this section, and—

“(A) any case or proceeding before the court or grand jury arising out of such investigation, or any proceeding before any Federal agency involving such material, has been completed, or

“(B) no case or proceeding in which such material may be used has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation, the custodian shall, upon written request of the person who produced such material, return to such person any such material (other than copies furnished to the investigator under subsection (g)(2) or made for the Department of Justice under paragraph (2)(B)) which has not passed into the control of any court, grand jury, or agency through introduction into the record of such case or proceeding.

“(5) APPOINTMENT OF SUCCESSOR CUSTODIANS.—

“(A) IN GENERAL.—In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced pursuant to a civil investigative demand under this section, or in the event of the official relief of such custodian from responsibility for the custody and control of such material, answers, or transcripts, the Attorney General or the Attorney General's designee in accordance with this Act shall promptly—

“(i) designate another investigator to serve as custodian of such material, answers, or transcripts; and

“(ii) transmit in writing to the person who produced such material, answers, or testimony notice of the identity and address of the successor so designated.

“(B) SUCCESSOR.—Any person who is designated to be a successor under this paragraph shall have, with regard to such material, answers, or transcripts, the same duties and responsibilities as were imposed by this section upon that person's predecessor in office, except that the successor shall not be held responsible for any default or dereliction which occurred before that designation.

“(k) JUDICIAL PROCEEDINGS.—

“(1) PETITION FOR ENFORCEMENT.—Whenever any person fails to comply with any civil investigative demand issued under subsection (a), or whenever satisfactory copying or reproduction of any material requested in such demand cannot be done and such person refuses to surrender such material, the Attorney General may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of the civil investigative demand.

“(2) PETITION TO MODIFY OR SET ASIDE DEMAND.—

“(A) IN GENERAL.—Any person who has received a civil investigative demand issued under subsection (a) may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon the investigator identified in such demand a petition for an order of the court to modify or set aside such demand. In the case of a petition addressed to an express demand for any product of discovery, a petition to modify or set aside such demand may be brought only in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending. Any petition under this subparagraph must be filed—

“(i) within 20 days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier, or

“(ii) within such longer period as may be prescribed in writing by any investigator identified in the demand.

“(B) GROUNDS FOR RELIEF.—The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (A), and may be based upon any failure of the demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such person. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand, in whole or in part, except that the person filing the petition shall comply with any portions of the demand not sought to be modified or set aside.

“(3) PETITION TO MODIFY OR SET ASIDE DEMAND FOR PRODUCT OF DISCOVERY.—

“(A) IN GENERAL.—In the case of any civil investigative demand issued under subsection (a) which is an express demand for any product of discovery, the person from whom such discovery was obtained may file, in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending, and serve upon any investigator identified in the demand and upon the recipient of the demand, a petition for an order of such court to modify or set aside those portions of the demand requiring production of any such product of discovery. Any petition under this subparagraph must be filed—

“(i) within 20 days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier, or

“(ii) within such longer period as may be prescribed in writing by any investigator identified in the demand.

“(B) GROUNDS FOR RELIEF.—The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (A), and may be based upon any failure of the portions of the demand from which relief is sought to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of the petition, the court may stay, as it deems proper, compliance with the demand and the running of the time allowed for compliance with the demand.

“(4) PETITION TO REQUIRE PERFORMANCE BY CUSTODIAN OF DUTIES.—At any time during which any custodian is in custody or control of any documentary material or answers to interrogatories produced, or transcripts of oral testimony given, by any person in compliance with any civil investigative demand issued under subsection (a), such person, and in the case of an express demand for any product of discovery, the person from whom such discovery was obtained, may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian, a petition for an order of such court to require the performance by the custodian of any duty imposed upon the custodian by this section.

“(5) JURISDICTION.—Whenever any petition is filed in any district court of the United States under this subsection, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry out the provisions of this section. Any final order so entered shall be subject to appeal under section 1291 of title 28, United States Code. Any disobedience of any final order entered under this section by any court shall be punished as a contempt of the court.

“(6) APPLICABILITY OF FEDERAL RULES OF CIVIL PROCEDURE.—The Federal Rules of Civil Procedure shall apply to any petition under this subsection, to the extent that such rules are not inconsistent with the provisions of this section.

“(1) DISCLOSURE EXEMPTION.—Any documentary material, answers to written interrogatories, or oral testimony provided under any civil investigative demand issued under subsection (a) shall be exempt from disclosure under section 552 of title 5, United States Code, as described in subsection (b)(3) of such section.

“(m) DEFINITIONS.—In this section—

“(1) the term ‘custodian’ means the custodian, or any deputy custodian, designated by the Attorney General under subsection (j)(1);

“(2) the term ‘documentary material’ includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret such data compilations, and any product of discovery;

“(3) the term ‘investigation’ means any inquiry conducted for the purpose of ascertaining whether any person is or has been engaged in any violation of this Act;

“(4) the term ‘investigator’ means any attorney or investigator employed by the Department of Justice who is charged with the duty of enforcing or carrying into effect this Act, or any officer or employee of the United

States acting under the direction and supervision of such attorney or investigator in connection with an investigation;

“(5) the term ‘official use’ means any use that is consistent with the law, and the regulations and policies of the Department of Justice, including use in connection with internal Department of Justice memoranda and reports; communications between the Department of Justice and a Federal, State, or local government agency, or a contractor of a Federal, State, or local government agency, undertaken in furtherance of a Department of Justice investigation or prosecution of a case; oral examinations; depositions; preparation for and response to civil discovery requests; introduction into the record of a case or proceeding; applications, motions, memoranda and briefs submitted to a court or other tribunal; and communications with Government investigators, auditors, consultants and experts, the counsel of other parties, arbitrators and mediators, concerning an investigation, case or proceeding; and

“(6) the term ‘product of discovery’ includes—

“(A) the original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission, which is obtained by any method of discovery in any judicial or administrative proceeding of an adversarial nature;

“(B) any digest, analysis, selection, compilation, or derivation of any item listed in subparagraph (A); and

“(C) any index or other manner of access to any item listed in subparagraph (A).

“(n) **SUNSET.**—The authority of the Attorney General to issue a civil investigative demand under this section shall expire upon the expiration of the 5-year period which begins on the date of the enactment of this section.”

#### **SEC. 4. COMPREHENSIVE STRATEGY TO IMPROVE ENFORCEMENT AND ADMINISTRATION.**

(a) **DEVELOPMENT OF STRATEGY.**—The Attorney General shall develop and implement a comprehensive strategy to improve the enforcement and administration of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) that addresses the following issues:

(1) The coordination and integration of the work of the agencies that perform investigations of alleged violations of the Act and bring actions (including criminal prosecutions) to enforce the Act with the overall national security efforts of the Department of Justice.

(2) An assessment of the appropriateness of the exemptions provided under the Act that permit persons who represent the interests of foreign principals to avoid registering under the Act.

(3) A formal cost-benefit analysis of the appropriateness of the fee structure under the Act.

(4) An assessment of the value of making advisory opinions under the Act available in whole as an informational resource.

(b) **REVIEW BY INSPECTOR GENERAL; REPORTS TO CONGRESS.**—

(1) **REVIEW.**—The Inspector General of the Department of Justice shall carry out a regular, ongoing review of—

(A) the extent to which the Attorney General has developed and implemented the comprehensive strategy described in subsection (a); and

(B) the usage, effectiveness, and any potential abuse of the authority granted to the Attorney General by this Act to issue civil investigative demands.

(2) **REPORTS TO CONGRESS.**—The Inspector General of the Department of Justice shall submit a report to the appropriate commit-

tees of Congress on the results of the review carried out under paragraph (1) not later than 1 year after the date of enactment of this Act and annually thereafter.

#### **SEC. 5. ANALYSIS BY GOVERNMENT ACCOUNTABILITY OFFICE.**

Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) carry out an analysis of the effectiveness of the enforcement and administration of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.), including the extent to which the amendments made by this Act have improved the enforcement and administration of such Act, and taking into account the comprehensive strategy developed and implemented under section 4; and

(2) submit the analysis to the Attorney General, the Inspector General of the Department of Justice, and the appropriate committees of Congress.

#### **SEC. 6. DEFINITION.**

In this Act, the term “appropriate committees of Congress” means—

(1) the Committees on the Judiciary and Foreign Relations of the Senate; and

(2) the Committee on the Judiciary of the House of Representatives.

#### **SEC. 7. EFFECTIVE DATE.**

The amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

### **SUBMITTED RESOLUTIONS**

#### **SENATE RESOLUTION 315—DESIGNATING NOVEMBER 4, 2017, AS NATIONAL BISON DAY**

Mr. HOEVEN (for himself, Mr. HEINRICH, Mr. ENZI, Mr. WHITEHOUSE, Mr. INHOFE, Mr. UDALL, Mr. MORAN, Mr. TESTER, Mr. HATCH, Mr. DONNELLY, Mr. PORTMAN, Mr. SCHUMER, Mr. THUNE, Mr. ROUNDS, Mr. BENNET, Mr. ROBERTS, and Ms. HEITKAMP) submitted the following resolution; which was considered and agreed to:

S. RES. 315

Whereas on May 9, 2016, the North American bison was adopted as the national mammal of the United States;

Whereas bison are considered a historical symbol of the United States;

Whereas bison were integrally linked with the economic and spiritual lives of many Indian tribes through trade and sacred ceremonies;

Whereas there are more than 60 Indian tribes participating in the Intertribal Buffalo Council;

Whereas numerous members of Indian tribes are involved in bison restoration on tribal land;

Whereas members of Indian tribes have a combined herd on more than 1,000,000 acres of tribal land;

Whereas the Intertribal Buffalo Council is a tribal organization incorporated pursuant to section 17 of the Act of June 18, 1934 (commonly known as the “Indian Reorganization Act”) (25 U.S.C. 477);

Whereas bison can play an important role in improving the types of grasses found in landscapes to the benefit of grasslands;

Whereas a bison has been depicted on the official seal of the Department of the Interior since 1912;

Whereas bison hold significant economic value for private producers and rural communities;

Whereas, as of 2012, the Department of Agriculture estimates that 162,110 head of bison

were under the stewardship of private producers, creating jobs, and contributing to the food security of the United States by providing a sustainable and healthy meat source;

Whereas a bison is portrayed on 2 State flags;

Whereas the bison has been adopted by 3 States as the official mammal or animal of those States;

Whereas the buffalo nickel played an important role in modernizing the currency of the United States;

Whereas several sports teams have the bison as a mascot, which highlights the iconic significance of bison in the United States;

Whereas a small group of ranchers helped save bison from extinction in the late 1800s by gathering the remaining bison of the diminished herds;

Whereas on December 8, 1905, William Hornaday, Theodore Roosevelt, and others formed the American Bison Society in response to the near extinction of bison in the United States;

Whereas on October 11, 1907, the American Bison Society sent 15 captive-bred bison from the New York Zoological Park, now known as the “Bronx Zoo”, to the first big game refuge in the United States, now known as the “Wichita Mountains Wildlife Refuge”;

Whereas in 2005, the American Bison Society was reestablished, bringing together bison ranchers, managers from Indian tribes, Federal and State agencies, conservation organizations, and natural and social scientists from the United States, Canada, and Mexico to create a vision for the North American bison in the 21st century;

Whereas there are bison herds in National Wildlife Refuges, National Parks, and National Forests;

Whereas there are bison in State-managed herds across 11 States;

Whereas private, public, and tribal bison leaders are working together to continue bison restoration throughout North America;

Whereas there is a growing effort to celebrate and officially recognize the historical, cultural, and economic significance of the North American bison to the heritage of the United States; and

Whereas members of Indian tribes, bison producers, conservationists, sportsmen, educators, and other public and private partners have celebrated the annual National Bison Day since 2012 and are committed to continuing this tradition annually on the first Saturday of November: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates November 4, 2017, the first Saturday of November, as National Bison Day; and

(2) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

#### **SENATE RESOLUTION 316—RECOGNIZING NATIONAL NATIVE AMERICAN HERITAGE MONTH AND CELEBRATING THE HERITAGES AND CULTURES OF NATIVE AMERICANS AND THE CONTRIBUTIONS OF NATIVE AMERICANS TO THE UNITED STATES**

Mr. HOEVEN (for himself, Mr. UDALL, Mr. BARRASSO, Mr. THUNE, Ms. HEITKAMP, Mr. WYDEN, Mrs. MURRAY, Mr. DAINES, Mr. LANKFORD, Ms. HIRONO, Mr. MORAN, Mr. HELLER, Ms. KLOBUCHAR, Ms. CANTWELL, Mr.