

OBJECTION TO EXECUTIVE
NOMINATIONS

Mr. GRASSLEY. Madam President, pursuant to a public letter to Secretary Sebelius dated September 24, 2009, there is a pending objection to unanimous consent requests for the following nominees: Jim Esquea, nominated for HHS Assistant Secretary for Legislation, and Richard Sorian, nominated for HHS Assistant Secretary for Public Affairs. I ask unanimous consent that a public letter dated September 24, 2009, be printed in the RECORD.

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

SEPTEMBER 24, 2009.

Hon. KATHLEEN SEBELIUS,
Secretary, Department of Health and Human Services, Washington, DC.

DEAR SECRETARY SEBELIUS: America's 11 million seniors enrolled in the Medicare Advantage program deserve to be informed of any actions by the federal government that could affect this program and its broad implications. Medicare Advantage Plans and Prescription Drug Plans that provide services through the Medicare program have a constitutional right to provide information about these Medicare programs to their customers. Therefore, I hope you can understand our grave concern with the recent Centers for Medicare and Medicaid Services directive barring all such providers from any and all communications of this kind with America's seniors. This gag order must be immediately lifted.

As the Supreme Court has repeatedly recognized, our constitutional tradition is one of "a profound commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open." Health plans, of course, have the right to speak on matters of public concern—a fundamental principle that your Department, until recently, had recognized and respected. Specifically, the Department of Health and Human Services (HHS) previously noted that there was no legal authority to justify prohibiting a health plan "from informing its members of proposed legislation and exhorting them to express their opinions" about it. In fact, HHS had previously determined that shutting down communication of this sort "would violate basic freedom of speech and other constitutional rights of the Medicare beneficiary as a citizen."

Now, the Obama administration has reversed this longstanding HHS decision—in the midst of a critical debate about the future of health care services in our country—to shut down communication between private companies and America's seniors on an issue that has a direct impact on their health care. And your Department has done so by imposing an industry-wide gag order without apparent justification or basis in law and completely contradictory to your past public guidance and the plain language and spirit of the First Amendment, among the most sacred tenets of our democracy.

America's seniors and the health plans that serve them deserve to have their free speech rights respected. Their rights should not be subject to the whims of any Administration, and the health plans that serve them should not be threatened with punishment if they speak out on a matter of public concern simply because the Administration disagrees with their position.

Until your Department rescinds its gag order and allows seniors to receive information about matters before Congress, we will

not consent to time agreements on the confirmation of any nominees to your Department or associated agencies.

Thank you for your consideration of this matter of such great importance to America's seniors.

Signed,

MITCH MCCONNELL.
JON KYL.
LAMAR ALEXANDER.
JOHN CORNYN.
LISA MURKOWSKI.
JOHN THUNE.
MICHAEL B. ENZI.
CHUCK GRASSLEY.

FREMONT COUNTY FLOODING

Mr. ENZI. Madam President, this past week, Fremont County in my home State of Wyoming has been hit hard by flooding. I want to take this opportunity to commend the communities in Wyoming that have come together and worked so hard to respond to the flooding, to help protect each other's homes, and whose willingness to step up and volunteer to help their neighbors really shows the true Wyoming spirit.

I want to thank the individuals who have been filling sandbags all week. Literally hundreds of thousands of sandbags have been filled to help hold back the floodwaters and protect homes and businesses. I am told that there are more sandbags if we need them and I know that people in my home State won't hesitate for a second to do the hard work that will help protect a neighbor's home or a community business. This truly is a community effort, and I am proud of the example that our small businesses, our community organizations, and Wyoming's volunteers are making.

Nearly 240 Wyoming National Guard members are in Fremont County right now. Their service is critical to our communities in times like these, and I want to recognize and thank them for their hard work. They are making a huge difference in helping make sure that communities like Lander, Ethete, Fort Washakie, and many other places have the help they need.

The extent of the damage from this disaster is still unclear, but our communities—both in Wyoming and in other States that have been hit by natural disasters—must have the resources to recover and put their towns and neighborhoods back together. For those agricultural producers affected by this flood, this is the very reason why I worked with my colleagues during the 2008 farm bill to enact a permanent disaster program—so funding would be available when it is most needed and would not require emergency congressional action.

I know Senator BARRASSO and Representative LUMMIS are working hard to make sure Fremont County can get the support it needs. Their energy and hard work have been critical to the teamwork that we do. Wyoming is a big State, so I am glad that we have always worked together to make sure we

can get different jobs done in different places.

I want to thank everyone who has helped respond to this disaster for their hard work and persistence. They have truly demonstrated what it means to part of the Wyoming community. Our prayers are with everyone at this difficult time.

FLAG DAY

Mr. CARDIN. Madam President, today I commemorate the 233rd Flag Day in the United States. On June 14, 1777, nearly a year after our Nation declared its independence, the Second Continental Congress approved the design of our national flag. The 13 stripes that alternate red and white and the white stars on a field of blue have proudly stood as a beacon of liberty and justice around the world ever since.

Flag Day—the anniversary of the Flag Resolution of 1777—was officially established by the Proclamation of President Woodrow Wilson in 1916. While Flag Day was celebrated in various communities for years after Wilson's proclamation, it was not until 1949 that President Truman signed an act of Congress designating June 14 of each year as National Flag Day and the corresponding week as National Flag Week.

My home State of Maryland plays an integral role in the rich history of our flag. The flag was the source of inspiration for Francis Scott Key's "Star Spangled Banner" which became our national anthem. That most famous of American flags flew over Fort McHenry in Baltimore Harbor. It bravely withstood the torrent of British buckshot and still hangs today in the Smithsonian Museum of American History. Each year the National Flag Day Foundation of Baltimore, MD, sponsors a moving ceremony at the Fort McHenry National Monument and Historic Shrine which brings our community together in celebration and remembrance of our glorious past.

America's flag graces classrooms, statehouses, courtrooms, and churches, serving as a daily reminder of this Nation's past accomplishments and ongoing dedication to safeguarding individual rights. The brave members of our Armed Forces carry "Old Glory" with them as they fulfill their mission to defend the blessings of democracy and peace across the globe; our banner flies from public buildings as a sign of our national community; and its folds drape the tombs of our distinguished dead. The flag is a badge of honor to all and a sign of our citizens' common purpose.

This week and throughout the year let us do all we can to teach younger generations the significance of our flag. Its 13 red and white stripes represent not only the original colonies