United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, THURSDAY, OCTOBER 23, 2003 No. 150

House of Representatives

The House was not in session today. Its next meeting will be held on Friday, October 24, 2003, at 10 a.m.

Senate

THURSDAY, OCTOBER 23, 2003

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Lord God, who is the strength of our lives, we call to You each day because You are sovereign. You have brought us safely through dangers, toils, and snares. Lord, rescue us from anything that would keep us from glorifying Your name.

Bless our Senators today that they will not grow weary in their challenging responsibilities. Give them civility and humility that a spirit of unity may characterize their work. Deliver each of us from evil passions so that Your image might be restored in our world. Sustain our military in its daunting tasks. We pray this in Your strong name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The Chair recognizes the majority leader.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will conduct an hour of morning business with the first 30 minutes under the control of the Democratic leader and the second 30 minutes under the control of Senator HUTCHISON or her designee. Following morning business, the Senate will then begin consideration of H.R. 2989, the Transportation, Treasury, and general government appropriations bill. I have had some discussions with the Democratic leadership regarding some of the possible amendments. I will be talking to Senator SHELBY, who will be managing that bill, regarding his expectations. We do anticipate amendments over the course of today's session. Rollcall votes will occur. We are willing to remain in session into the evening, if necessary, to complete the bill today or tonight.

The Transportation appropriations bill is one of the six remaining appropriations bills the Senate must consider before we adjourn this year. It will continue to take a great deal of cooperation on both sides of the aisle to complete action on these bills in a timely fashion. I hope we can work together. I am confident we will be able to work together in this fashion so that we can complete these bills in an expedited way.

On another matter, last week, by a large bipartisan vote, the Environment and Public Works Committee reported the nomination of Mike Leavitt to Administrator of the EPA. Chairman INHOFE came to the floor yesterday to try to reach an agreement to debate the nomination and then proceed to a vote. There was an objection from my Democratic colleagues. I have read that several Democratic Senators have placed a hold on the nomination, and I therefore want to put the Senate on notice: This nomination is for the Cabinet of the President of the United States. I believe it is irresponsible to allow a vacancy to continue in that position. That position clearly speaks to very important concerns that are before the American people.

Thus, we will move forward on this nomination. If it is necessary, I will file cloture to allow the Senate to work its will on this nominee. If Senators want to vote against the nomination, we will give them that opportunity. They will have that opportunity. Therefore, if we are unable to consider this nomination under some sort of reasonable time limitation, I will move to proceed to its consideration and file the necessary motion.

I thank my colleagues and I hope all Members will reconsider the objections they have put forward.

Each morning, I comment on a range of bills that we will address before we adjourn. We made real headway with the anti-spam legislation yesterday, coming back to appropriations shortly this morning. We still have fair credit reporting on which we are making progress, but we need to get that to the floor. I think we will be able to do that under a short time agreement. We have the issue surrounding the CARE Act which I mentioned when we closed last night. We have the Internet moratorium which we need to address this week or next week. I am confident we will be able to do so.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Printed on recycled paper.

There is another bill at the desk I hope we can work on over the course of today or tomorrow, the Syria Accountability Act. Another issue we have been working on in a bipartisan way and I want to address before we adjourn is the issue of gun liability.

One final comment has to do with an entirely different issue, and that is the progress being made in Sudan. Secretary Powell has made statements, after a recent visit there, that real progress is being made in terms of peace in a country that has been in a civil war for the last 20 years. Over 2 million people have died in Sudan, and over 5 million people have been displaced from their homes as a product of this civil war.

I go to southern Sudan each year as part of medical mission works. I was just there about 5 or 6 weeks ago. I want to share my optimistic view, based on that recent visit working in hospitals and with patients and with civilians in southern Sudan, that this peace act is making real progress. I think the United States has played a major role in facilitating the process.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I appreciate the update of the majority leader this morning. I commend him for coming back to the appropriations bills. No one cares more about that than the President pro tempore. There is a lot of interest on both sides of the aisle in working diligently to try to finish the appropriations bills this week and next week.

I am a little concerned about the longer list of other items the majority leader mentioned, even though I recognize many of us share his desire to bring up these bills at some point soon. I hope we can reach agreement on the Fair Credit Reporting Act in the next day or so, so we can accommodate its consideration. The Internet tax bill is something I think we ought to be able to work through as well.

He didn't mention but there is still a possibility that we could reach some agreement on asbestos or on class action as we work over the next couple of weeks. I have indicated, in the most heartfelt way, that we would like to negotiate and work with him to find ways to address those issues. He didn't mention them, but I know they are priorities of his as well.

We have a lot of work to do in a very short period of time. But I think it is important, first and foremost, to try to finish these appropriations bills in a way that will allow us to conference each bill and then work to try to resolve our differences with the House.

I still have, unfortunately, grave reservations about the way we have conducted our conferences. I read more about what happens in conference as the Democratic leader than I get from even my Democratic Members who are supposed to be conferees. We can't conduct business that way. I am concerned about that. It will affect, of course, our ability to go to conference on future bills, even if we are able to pass them here.

We are off to a good start today on appropriations. I hope we can deal with Transportation, the District of Columbia, other bills that deserve our consideration.

I think we will receive a fairly expeditious review and debate so we can move these bills on. I thank the majority leader for his update. I look forward to working with him throughout the day.

Mr. FRIST. Mr. President, I am a little hesitant to add to my list of things to do after what we just heard. But as my colleague, Senator DASCHLE, mentioned, on the class action legislation I think we made headway yesterday. With that vote yesterday, a lot of people have come forward and said this is something we can do. Asbestos is something we are working on diligently as well.

I wish to add one other thing, and that is Healthy Forests. We are very close on that as well. It is an important issue to the American people. I think that, too, is one we can complete before we adjourn.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to exceed 60 minutes, with the first 30 minutes under the control of the minority leader or his designee and the second 30 minutes under the control of the Senator from Texas, Mrs. HUTCHISON, or her designee.

Who yields time?

Mr. REID. Mr. President, I yield 10 minutes to the Senator from Nebraska, and I ask unanimous consent that both sides have their full 30 minutes.

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

The Senator from Nebraska is recognized for 10 minutes.

RETIREE HEALTH BENEFITS

Mr. NELSON of Nebraska. Mr. President, I am speaking today on what I think is an extremely important issue that is getting a considerable amount of attention today, and that is the prescription drug benefit as part of the Medicare Program, which is also being considered in conference at this very moment.

As the minority leader has said, very often it is possible to read more about what is going on in the conference on Medicare than it is to find out this kind of information here. I might point out, as a matter of personal interest, one of the major reasons Nebraska has a unicameral legislature is that they wanted to do away with the conference committee system. At times, that certainly appeals to me back here.

I come to the floor today to discuss this critically important issue that is now being considered in the prescription drug bill, and that is retaining retiree health benefits. If this problem is not addressed—and from some of the information I am receiving through various sources, it may be under consideration at this moment—but if it is not addressed and solved, my colleagues and I will be forced to choose between the impossible—the haves and the have-nots—those who have coverage as retirees, with benefits being provided by a former employer, and want to keep it, and those who don't have the coverage and need it.

It will be a war between seniors. It is an impossible decision that should not have to be made. Our first priority should be first to do no harm. Usually, we are faced with decisions between children and seniors, between this group and that group—a group typically seeking additional help. It is always a double-edged sword, but it is an impossible decision that this Senate and this Congress should not and must not make.

I know this issue is also important to the conferees. They have been grappling with trying to make sure that those who have coverage keep it while those who need coverage get it. News reports today suggest they are close to reaching some sort of deal on how to entice employers to continue to provide retiree benefits. I commend them for their work in trying to get that done and addressing that issue. I hope they are successful in being able to accomplish it.

Employer-sponsored retiree health benefits are the single greatest source of coverage for retirees, providing drug coverage for one in three Medicare beneficiaries. Retiree coverage is declining, though, and it is declining dramatically. Just 34 percent of all large firms—200 or more workers—offered retiree benefits in 2002. That is down from 68 percent of all large firms in 1988. In a little more than 10 years, the number has been cut in half. But there are still those who presently receive the benefits, and we cannot ignore the fact that they do have those benefits.

Drug costs continue to constitute 40 to 60 percent of employers' retiree health care costs, and steep price increases are prompting employers to eliminate drug benefits, cap their contributions, or drop retiree coverage altogether. The spiraling costs relating to prescription drugs continue to threaten the continued provision of those benefits.

Due to budget constraints, the Senate and House bills use the definition of out-of-pocket costs that would not

allow employer contributions to count for meeting the catastrophic cap on beneficiary spending.

This means, in understandable terms, that retirees with employer-provided coverage will get less of a benefit than other seniors. In fact, under the Senate bill, retirees would need closer to $10,000 in drug costs before the stop-loss protection would apply, well after the $5,800 cap that applies to all other beneficiaries. And employers that choose to wrap around the Medicare benefit would be subject to a gap in coverage that doesn't end.

As a result, the Congressional Budget Office has estimated slightly more than one-third of retirees will lose their employer coverage, making more than 4 million Medicare beneficiaries worse off at a time when we are trying to make them better off.

Although Congress may claim this formula will save money for Medicare, any provision that encourages employers to drop their retiree benefits will only end up costing the Federal Government more and hurt millions of seniors in the process. Seniors who have retiree benefits have worked a lifetime and have made wage concessions over the years with the expectation that they would have retiree benefits in exchange. To change the rules of the game at this point and give them less than the other Medicare beneficiaries is, in a word, unfair.

Congress must now enact a drug benefit that recognizes employers that are doing the right thing, continuing to provide their retirees these very important benefits, because to do otherwise will further threaten retiree coverage and will drive millions more seniors to Medicare for the coverage they used to get from their employers. This is a choice that might be put before us, but this is not a choice we should make. We should not have to decide between Lee and George and Mary and John. These are not decisions that this Congress should be forced to make. There are solutions.

I am encouraged when I hear the conferees are looking at these solutions, but I encourage, in the most dramatic way possible, that they not only continue to work, but they find solutions that are workable, because without that the choice is an impossible one and I think threatens whether or not this body will pass a Medicare plan that provides prescription drugs for retirees.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Nevada is recognized.

PRISONERS OF WAR PROTECTION

Mr. REID. Mr. President, a brave Nevadan by the name of LTC Jeffrey Tice was in the first Iraq war. He was flying an F–16 when it was hit by enemy fire. The plane went down. He was initially captured by Iraqi troops who were roaming the desert. He was, shortly thereafter, taken to the Iraqi authorities, which began 46 days of terror. He was held in captivity and tortured by the Iraqis for these 46 days.

During the time he was there, he endured brutalities that are difficult to describe. They intended to break his spirit and his body. For example, he was forced to play Russian roulette. You know that Russian roulette only is a valid game when the revolver has bullets in the chamber. And, of course, he was forced to play Russian roulette with a loaded weapon. With the same pistol, he was beaten about the head. Among other things, his jaw was dislocated, his eardrum was punctured, and on other occasions he was beaten on the head. His legs were beaten with a wooden plank until he could not walk. He had an electric wire tied around his head. The shocks received were so severe that his body curled up in a fetal position violently, with every muscle in his body contracting in pain.

These are only some of the things the Iraqi regime did to Colonel Tice. They did not break his spirit, but they did harm his body. Today, these many years later, he still suffers physical problems as a result of the torture. Not only does he have physical problems, he still suffers pain as a result of the torture.

In 1996, we passed the Foreign Sovereign Immunities Act, which allowed State Department-designated terrorist states, including Iraq, to be held liable for personal injuries suffered by torture victims, including American POWs. In November of 2002, President Bush signed the Terrorism Risk Insurance Act, which included a provision designed to ensure that Americans could collect court-ordered damages from the frozen assets of terrorist states. During this time, 17 gulf war POWs and their families sued the Republic of Iraq. Saddam Hussein was also sued, as well as the Iraqi Intelligence Service.

They filed these actions to seek justice for themselves—like Colonel Tice, those people who were brutalized—and to prevent future torture of others. In July, Judge Richard Roberts of the Federal district court ruled against Iraq, Saddam Hussein, and the Iraqi Intelligence Service, and found them liable for the torture of these POWs. In his opinion, Judge Roberts said, among other things, the importance of his decision was to deter the future torture of American POWs.

His judgment was correct. It was appropriate. But the State Department and Justice Department have refused to honor it. Earlier this year, the President confiscated the $1.7 billion in Iraqi assets that have been held in private banks since 1990. The money was sent back to Baghdad for use in the reconstruction, a move which effectively blocked the efforts of tortured POWs to collect judgments in their favor. The administration has continued to spend this money knowing full well this judgment is pending.

At the same time, the Department of Justice asked Judge Roberts to allow it to intervene in the case, stating its intention to have the judgment erased. Judge Roberts, in his wisdom, declined to allow this.

These brave POWs made great sacrifices to protect the freedoms we have, the ability we have to salute the flag and to do things we take for granted. They now need our help.

I am pleased to report the Senate took action last week to uphold the rights of the POWs and all Americans to be free from torture, hostage-taking, and acts of terrorism committed by foreign dictators and tyrants. My amendment, which was accepted as part of the supplemental Iraqi budget request, makes perfectly clear the longstanding intent of Congress that those who torture and abuse U.S. citizens can and should be held accountable.

Saddam Hussein was a tyrant who committed despicable acts. He committed atrocities against his own people and against Americans. In fact, as we speak, many believe he is behind the continuing attacks that are taking place in Iraq today.

Now, in a real irony—or, perhaps better stated, an unreal irony—our Justice Department is trying to shield Saddam and his former regime from the accountability American law demands. My amendment, which was accepted, would have protected the rights of private citizens, including three brave Nevadans who were captured, taken hostage, and used as human shields by Saddam Hussein during his first gulf war. All of these brave heroes who were tortured at the hands of Saddam Hussein are merely seeking to hold Iraq accountable for its crimes and deter the torture of any American citizen by a terrorist state in the future.

The civilized world cannot let such crimes go unpunished. The perpetrators must be held to account. I hope the conferees and the President will accept this amendment in the conference and not let the current system go forward.

Justice must prevail, and if these people are not allowed to go forward with the judgment they have obtained and the protection they demand, it would not be a good day for American justice.

The PRESIDENT pro tempore. The Senator from Kansas.

ORDER OF PROCEDURE

Mr. ROBERTS. I ask unanimous consent to speak out of order for 10 minutes. I know it is the minority's time.

Mr. REID. We have no one in the Chamber so that would work out fine. Certainly the request by the Senator from Kansas is one that is fair, and I ask unanimous consent that the Chair approve his request.

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

The Senator from Kansas is recognized.

PETE DORN'S RETIREMENT FROM SELECT COMMITTEE ON INTELLIGENCE

Mr. ROBERTS. Mr. President, it is a personal privilege for me to rise today to recognize the contributions and many accomplishments of Mr. Peter Dorn, a valued and long time professional staff member of the Senate Select Committee on Intelligence. Pete will be leaving our staff this month after 33 years of dedicated service to our Nation.

Pete Dorn is the epitome of the professional staffer and he has served the Senate and the Intelligence Committee in an outstanding exemplary manner since he joined the committee's staff in 1991. From advising, if not educating Members, as their professional liaison to drafting legislation or conducting special investigations and projects to implementing and improving the intelligence budget, he and his work will be sorely missed.

Pete Dorn's service to our country is quite a pedigree. In 1971, following his graduation from the State University of New York, Pete began serving his country as an officer in the U.S. Marine Corps. He spent 6 years in the infantry and special operations arena before transferring to Marine Corps Intelligence. It was a perfect military occupational and operational fit. For the rest of his Marine career, he honed his skills as an intelligence analyst and staff officer serving the Pacific Joint Intelligence Center, the Overseas Military Air Groups, the Commander of the Pacific Fleet, Headquarters, Marine Corps and the Pentagon's Defense Intelligence Program staff.

He could not have been better prepared to continue his service in intelligence work and he did so as he continued his career in the White House as a budget and legislative analyst at the Office of National Drug Control Policy. He then served as program and budget analyst at the Director of Central Intelligence's Crime and Counter-narcotics Center.

In 1991, Pete's budgeting, intelligence and military experience made him a prime candidate for a professional staff position on the Senate Select Committee on Intelligence. He has served us as a budget monitor and as a staff liaison to Senator RICHARD SHELBY and to myself and currently, Senator SAXBY CHAMBLISS. Pete also serves the committee as staff director for research and analysis.

As in the case of many staff members and for that matter, Senators and Members of Congress as well, the laundry list of positions and titles does not tell the real story. The real story regarding Pete Dorn is that he is truly a patriot, has made a real difference in intelligence work, budgeting and legislation and as a consequence helped make our country a safer Nation. After 9/11, it was Pete Dorn who helped me to realize that although the Intelligence Community possessed great collection assets, we had a long way to go in terms of our analytical capability. It is our analytical product that is then turned over to the decision makers that contained mixed and delayed reporting. It has been my goal as chairman to see that this is changed. In this regard Pete Dorn has been my adviser. Personally, he has made a difference in my life and how I look at public service. He believes the role of intelligence is absolutely crucial to our national security, and when he sees things that should be corrected or a miscarriage of justice or something awry in his family—i.e., the intelligence community—he will not stop until he does everything possible to set things right.

The case of our ''captured and whereabouts unknown'' gulf war Navy pilot, CAPT Scott Speicher, is a classic example. We will not rest until the fate of this pilot is known. The person who did not rest and who pressed for better intelligence and honest answers was Pete Dorn—not only for Scott Speicher and his family but for every warfighter who wears the uniform.

We now have legislation that changes the way we handle our prisoners of war and those missing in action. The credit for that legislation goes to Pete Dorn.

There are many other examples I could outline, some classified and some not. Simply said, Pete Dorn's perseverance and commitment to our country and fellowman has been remarkable. Thank you, Pete, for putting up with and educating me, from a new member of the Senate Intelligence Committee to my current position as chairman. Thank you for your friendship and advice.

Vice Chairman ROCKEFELLER and the members of the Intelligence Committee, both past and present, who have enjoyed and benefited from their association with Pete extend their personal thanks for his exceptional dedication, his loyalty, his integrity, and his distinguished service. We wish all the best to Pete and his wife Kathleen, and to the entire Dorn family.

So, thanks again, Pete. And, from one marine to another, well done, and Semper Fi.

I yield the remainder of my time, Madam President.

The PRESIDING OFFICER (Ms. MURKOWSKI). Who yields time?

Mr. COLEMAN. Madam President, how much time do we have?

The PRESIDING OFFICER. There remain 23 minutes 47 seconds.

The Senator from Minnesota.

JOBS

Mr. COLEMAN. Madam President, I wish to talk about jobs. I am a former mayor. As mayor, I learned a long time ago that the best welfare program is a job; the best housing program is a job; access to health care comes through a job. With jobs and with work, there is a sense of dignity and a sense of worth.

People would often ask me as a mayor, What are you doing for kids? My response would be, One of the best things I could do for kids was to make sure that mom and dad had a job. Jobs are fundamentally important.

The reality is that the American economy over the last few years has taken some very big hits. A lot of people have found themselves out of work. When you are out of work, the anxiety level rises, the sense of security in your family is challenged. It hurts, and it hurts a lot. Certainly the recession that began before President Bush was elected—the recession began just as he took office—had an impact on jobs. America took that terrible blow of terrorism on September 11, which shook the foundations of the economy. You can't have economic security without national security; People are in fear. There was a great loss to the economic activity, certainly in New York and Washington and throughout this country. The impact of 9/11 cannot be underestimated.

On top of that, we faced corporate America acting in a way that upset a lot of us, as it should have. Scandals within Enron and WorldCom undermined the trust, undermined the confidence that the average American had in our economic system, in the market. The stock market, by the way, I don't think is a valuer of the economy; it is an indicator of confidence in the economy or lack thereof.

The fact is, Americans were not very confident when they looked at the corporate greed and the excess and the manipulation and a few folks at the top making money and folks at the bottom being hurt. That is a bad thing.

In this Congress, before I got here, we acted on that. I praise the folks who stepped forward. But the reality was a great undermining of confidence in the economy and the economy suffered and Americans suffered.

Then this President stepped forward and said the way to change what has happened in the economy is to cut taxes. Goodness gracious, there were a lot of folks—my colleagues on the other side, they were just outraged. Cutting taxes, how can you do that? How can you cut taxes at a time of economic need? How can you cut taxes at a time the economy is suffering? It will just plunge us further into debt.

The President's commonsense perspective, and one that I share, is that the things we do should put money in the pockets of moms and dads. Then they spend that money. If they spend that money on a good or on a service, the person who is producing that good or providing that service has a job. So by cutting taxes, having moms and dads spend money, is better than the Government spending money. It is better than creating another program.

This President thought we had to do those things to incur business investment. The last tax cut we passed—Madam President, I was sitting in that chair when the budget was passed, when we first got in office this year. We passed it by a 50-to-50 vote, and the Vice President had to come and step

forward. We passed that tax cut and in that we provided things such as bonus depreciation, providing incentives for business to make expenditures. When they make expenditures and capital expenditures, they are going to grow jobs.

There were many who said, How can you cut taxes at a time when we are in economic distress? The reality is, we do it because that is the way you grow jobs, and we are seeing that. We are seeing it in the data that is coming out. I will talk a little bit about that. But I want to step back and say the reason I am so passionate about this is not because it is part of a political party's platform, not because it is an ideological statement; it is because I have seen it work.

I was mayor of a capital city. I got elected in 1993. When I was elected, the city was economically dying. It was not doing well. One of the ways to value that is the value of taxable property. In downtown St. Paul, it was over $700 million. When I got elected to office in 1993, took office in 1994, the value of taxable property was $300 million. It had lost half the value of property. I realized we had to do those things to grow jobs, so what did we do?

We kept the lid on taxes. I made a commitment, saying we were not going to raise taxes in the city of St. Paul. You know, we didn't raise taxes in the 8 years I was in office—zero increase in the tax levee. We also cut three-quarters of the licenses to do business.

There were those who were saying, You are giving these benefits to business. Why are you doing that? I did it because I believed if you did those things that keep a lid on taxes, you would encourage investment. I believed if you kept a lid on those things that were increasing the cost of doing business, you would grow investment.

By the time I left office there were 18,000 more jobs in my city. The fact is, by cutting taxes, by stimulating those things that generate investment, you grow jobs.

There may be folks who argue about that, but it is like the economist I described. Economists, sometimes, are those folks who see something working in reality and they tell you why it can't work in theory.

Cutting taxes works in reality. You cut taxes, it works. My colleague, the Senator from Idaho, quietly mouths: ''You know, it works in theory, too.'' And it does. I have seen it work in reality. This is not about theory or ideology for me. This is not imagining what could be or should be or might be. This is about what is.

The reality is we are seeing it today. We are seeing us coming out of that long slide—not fast enough for me; We have to grow jobs at a faster rate. But we see us coming out of the slide. We see it in the data coming out. Consumption in the third quarter topped 12 percent at an annual rate, translating to 6 percent growth in gross domestic product in the last quarter. You have to contrast that with the first quarter of 2003. The growth was 1.4 percent. Tax cuts are making a difference. Tax cuts are taking hold. Jobs are growing. Jobless claims continue to fall to their lowest level since last February. Production in our plants and factories grew in the third quarter at a 3.5 percent annual rate. Contrast that to the negative growth in industrial production in the second quarter at 3.2 percent.

Homebuilders started building over 1.9 million new homes on an annual basis, according to the last report. Inflation is well under control at an annual rate of 2.3 percent. I believe that is about a 37-year low.

Finally, we are getting consumer confidence. That is what it is about. No one jumps a sinking ship. No one invests in something they think will fail. On the other hand, if they have a sense there is hope and optimism, people invest. It is about hope and optimism.

That is what tax cuts have done. They have generated a sense of hope and a sense of optimism. More importantly, they have put money in people's pockets. They have encouraged investment. Sixty-four percent of Americans, according to most recent surveys, predict the economy will be stronger a year from now. That is up from 55 percent last February. Sixty-nine percent of Americans say the economy is stronger than it was 3 years ago.

We have a way to go in order to move this economy forward. But the way you change the economy is not doing it like a racetrack and racing around the bends in fast turns. You grow an economy in many ways. But you see the results. It is kind of like turning an ocean liner around in the middle of the ocean; you have to get it moving in the right direction.

The President's tax cuts have the economy moving in the right direction. The economy is moving in the right direction. Americans know that. Americans understand that. Let us stay that course. Let us continue to do that which generates investment, generates hope, and that grows jobs. It is the path we are on. It is the path the President set forth, which I support. It is the right path not just in theory but in reality.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, the Senator from Texas is controlling the time on the majority side and has asked that the time be extended 10 minutes, equally divided. We have no objection on this side.

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

THE ECONOMY

Mr. REID. Madam President, I simply say to my friend from Minnesota, before he gets too excited about the economy doing so well, that that explanation should be given to the 3 million people who have lost jobs during this administration. This is the first President since Herbert Hoover who has had a net job loss during his tenure in office. I hope there is a turnaround. But before we come here and start giving speeches about how great the economy is, we need to explain that the economy is losing jobs on a monthly basis. We are not losing as many as we did, that is true, but we are still losing jobs. People need to work.

This is the worst job creation record of any modern President. It is the weakest economic growth under any President in 50 years. If there is a recovery, it is certainly jobless. Poverty is increasing. Real income is falling. We have a record deficit. No one seems to mention that.

There were cheers from the Department of Commerce this year that the deficit—when you add in the surplus of Social Security—is only about $500 billion. They were cheering about that. There is a record deficit. There is a record debt increase. We are going to have to increase it again before this next summer is out. It is the worst fiscal reversal in history.

Keep in mind that during the last years of the Clinton administration, we were actually spending less Government money than we were taking in. There has been about a $3 trillion loss in market value in the stock market.

I think the time is a little premature to start coming here and giving cheerleading speeches about the greatness of the economy.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Madam President, there is an additional 5 minutes on our side. How much time remains on our side with the additional 5 minutes?

The PRESIDING OFFICER. Nineteen minutes, nine seconds.

Mrs. HUTCHISON. Thank you, Madam President.

I would like to allocate up to 5 minutes to Senator CRAIG, up to 10 minutes to Senator COCHRAN, and the remaining time to Senator SANTORUM.

Mr. WYDEN. Madam President, parliamentary inquiry: How much time remains on this side of the aisle?

The PRESIDING OFFICER. Nineteen minutes, sixteen seconds.

Mr. WYDEN. Thank you, Madam President.

JOBS

Mrs. HUTCHISON. Madam President, I think it is very important that all of us look for ways to create jobs. We are very concerned about jobs not keeping up with the recovery. That is why we are trying to pass an energy bill. It is why we are trying to make sure we keep the tax cuts so that people will spend the money they have. That is why we have seen an increase in the value of the stock market. It is very important that we continue to focus on jobs. And I assure you, the President and the Congress are going to do that.

Thank you, Madam President.

The PRESIDING OFFICER. The Senator from Washington.

HEALTHY FORESTS

Mr. WYDEN. Thank you, Madam President. I think we will have a discussion about forestry. I see my colleagues from Idaho and Mississippi.

I will take just a few minutes because I think in recent days there has really been the suggestion that in some ways Senate Democrats don't want to move ahead on this forestry issue. Senator DASCHLE, in particular, in my view, has been very constructive on this issue and wants to have the Senate vote on this legislation.

I wish to make it clear that I think it is urgent we vote on this bill before the Senate adjourns for this year. I happen to believe there are 60 votes for the Senate compromise that has been worked out. I think it is important to address the concerns of all the Members.

I really hope this isn't left to just the political season, which gets awfully silly sometimes in the course of a Presidential election season next year. I think the Senate must vote on it this year. Senators know that this issue sort of makes Middle East politics look noncontroversial. This is a very difficult and contentious subject. But I think the Senate has come together around an important compromise.

I wish to take a few minutes this morning to outline how the Senate bill would differ from what has been done in the House of Representatives.

First, the Senate compromise authorizes $760 million for hazardous fuel reduction projects. The House bill does not authorize any additional money for these projects.

The Senate compromise—I want to emphasize this to my Democratic colleagues—does not rely on commercial logging to get these projects done. The House bill does. I think this is unfortunate.

The Senate compromise protects our rural communities. The House bill does not.

The Senate compromise directs that 50 percent of the funding be spent inside what is known as the wildland-urban interface. The House bill is silent with respect to directing these funds.

The Senate compromise protects old growth and large trees and requires projects that thin—not clear-cut—our forests. Again, that is in contrast to the House bill. The House bill does not protect old growth and large trees, and it doesn't limit how the projects can be executed.

Fourth, the Senate compromise keeps the current standard of judicial review of these projects and rejects the House of Representatives standard which is not as balanced. The House bill would actually change the outcome of lawsuits, in my view, regrettably, by robbing the judiciary of an independent ability to weigh all of the evidence put before them with respect to forestry matters.

Finally, the Senate compromise keeps the public in the process. Regrettably, the House bill does not. The Senate compromise allows the public to actually propose what is known as a NEPA alternative.

The National Environmental Policy Act is an extraordinarily important statute. It has been of great importance to a lot of Members of the Senate. Look back to people such as the late Scoop Jackson who were so involved in this issue. The Senate compromise clearly allows the public, through a public process, to propose NEPA alternatives. In my view, the House bill pushes the public out of the process by, in effect, predetermining these alternatives in the NEPA area.

Talking for a few minutes about the compromise, in particular the value of having the first ever statutory protection of old growth, preserving the public's right to participate, while streamlining the appeals process to get at some of the abuses we have seen, strikes the right balance. With respect, for example, to this question of making sure citizens can be involved in appealing matters relating to a forest resale, it is critical those rights be protected.

I also do not think there ought to be a constitutional right to a 5-year delay on every timber sale. The Senate compromise which we put together strikes that appropriate balance.

As we get ready to vote, some very creative work has been done. Folks have asked, How do we know the old-growth protection is actually going to get put in place? We say, for example, for the old-forest plans that in effect the Forest Service would have to go back and revise those plans to make sure the old growth is protected before the overall projects with respect to thinning go forward. We create for the first time in these old-forest plans an actual incentive for the Forest Service to get busy, get going, and protect the old growth while allowing the thinning to go forward. The compromise makes it less likely that old growth will be harvested under current law because under the compromise we mandated the retention of the large trees and focused the hazardous fuels reduction programs authorized by the bill on thinning the small trees.

Several of my colleagues want to talk on this, but I make it clear, again, Senator DASCHLE has said publicly, privately, in every conceivable forum, he wants this legislation to move forward expeditiously. Let us address the concerns of all Senators. This is a matter Senators feel strongly about. Let us vote on this legislation this year. The fires we have seen in the west are not natural. They are infernos coming about as a result of years and years of neglect. The compromise we have crafted reflects a balanced approach. We are not stripping the American people of their rights to be heard with respect to forestry policy. Quite the contrary. We protect all of those avenues of public participation.

I know we are going to hear from our colleagues who have been involved in the compromise. I thank Senator CRAIG and Senator COCHRAN, in particular, for working with myself and Senator FEINSTEIN for many months. A number of Senators have already come out for this proposal, including, of course, the minority leader, Senator DASCHLE, but also Senator DAYTON and Senator JOHNSON. We have a host of Democratic Senators. We can get 60 votes on this legislation and see it passed from this body. We want to have it done this year.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 5 minutes.

Mr. CRAIG. I thank the Senator from Oregon for his explanation and his evaluation of the Healthy Forest Restoration Act, H.R. 1904, that we want to get before the Senate. He is so right in all of his comments. We have worked together in a very bipartisan way.

I come to the floor today as a frustrated Senator over the current situation. I chair the forestry subcommittee of Energy. My colleague from Oregon is the ranking member. Yet the ranking member of the full Energy Committee came to the floor and objected to proceeding on this legislation. I am frustrated as to why the Senator from New Mexico, Mr. BINGAMAN, would object now that we have crafted this bipartisan balance. I am perplexed, when you evaluate the record of full bipartisan participation, why we will not allow this to go forward under the normal course.

On June 26, the Agriculture Committee held a full hearing on H.R. 1904. Many of our colleagues attended. I am not a member of the Agriculture Committee, but I attended that hearing. Those Members critically in need of this legislation for our states and our forests attended that hearing. Then the Energy Committee the Senator from New Mexico is on, on July 22, held hearings on this issue and on the impact of fires, insects, and disease on our forests. The committee also considered S. 1314, the Collaborative Forest Health Act. Senator BINGAMAN's bill, H.R. 1904, the Healthy Forest Restoration Act, was also considered at that time. There has been full consideration in both the Agriculture Committee and the Energy and Natural Resources Committee of this legislation.

Two Senators who have engaged in the hearings full time, Senator WYDEN of Oregon and Senator FEINSTEIN of California, worked in a very bipartisan way with the chairman of the full Agriculture Committee, Senator COCHRAN, who I understand will speak in a few moments.

Why, therefore, is there an objection? More importantly, why are we now calling for hearings on an amendment? I don't know that has ever been done

once a bill is marked up and left the full committee. Are we going to revert backward now, and every time an amendment is offered, some Senator is going to stand up and say: you cannot go further; you have to have a hearing on that amendment?

The Senator from New Mexico and others know exactly what is in this legislation. We have worked extremely hard to bring all parties into it. The staff of the Senator from New Mexico was involved in some of the negotiations and then decided not to attend the rest of them as they went forward. It has not been a private process. It has been most open and most public with the Senators from the Republican side and the Senators from the Democrat side and their staffs working collaboratively and cooperatively together to get where we are today. We heard a very clear explanation from the Senator from Oregon of the kind of process we went through and the product we have produced.

Is this now the handbook of the environmental community playing its card? I hope not. I hope that is not the process in the end. It is almost like the forest vernacular of the appeals process. You stay involved just long enough and just before the decision comes about, you ask for an appeal. No more appeals. The process has worked its will. All parties have been involved. All amendments have been worked. Now it is time to come to the Senate and debate it and if the Senator from New Mexico has amendments, offer them up. Let's debate them. Let's talk about them.

What is so critically important for the health of America's forests is that we move forward with a process that begins to allow an active management approach we think this legislation has very skillfully crafted. We still have to work out our differences between the House and the Senate. I am supportive of the Senate bill. I will work in a conference, if I am a part of that conference, to try to get the Senate's bill to work its will and to become part of our forest management law. That is what is critical. That is what is important.

Clearly, it is time we move forward. It is now not time to stall. There would be all kinds of reasons to argue if these bills had never had hearings, if these bills had never been allowed to be amended in committee, if these bills had never been allowed to do a full markup, but all of that has happened. Why are we in the fifth inning in an appeals approach suggesting we hold more hearings on an amendment that can be effectively debated on the floor of the Senate? It is a critical issue for my State and for the public forests of this country.

I hope in a bipartisan way we can bring this legislation to the floor, have a thorough debate and an amendment process, and move it on.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I believe we need to do something for healthy forests. I know how hard the Senator from Oregon has worked on this, along with others. I applaud and commend them for working.

Nevada, of course, is a State very large in area and we have had some devastating fires in the last several years. Something needs to be done about it.

In response to my friend from Idaho, who I have the greatest respect for, he did not mention by name the Senator from New Mexico, but he is talking about Senator BINGAMAN, speaking in not a favorable light about my friend, the junior Senator from New Mexico. I have served with JEFF BINGAMAN. We were elected to Congress the same year. He is a man of intellect. He is Harvard educated, and he has a fine legal mind. Certainly he is not anyone, by virtue of his record, which would be easily obtainable, to go whatever way the environmental community wants him to go.

I can speak from experience. I have issues where I believe the Senator from New Mexico should have followed what I felt was the right way, and the environmental community supported it, and he did not go that way.

All I am saying is Senator BINGAMAN is one of the finest Senators we have in this body. He has some problems with this legislation, some of which are based upon the fact he is the ranking member and former chairman of the committee which some believe should be the authorizing committee and not the Agriculture Committee. I do not take a position on that because I do not know which committee should be involved. But as the ranking member of that committee, Senator BINGAMAN has some concerns and there are some questions he has asked. I do not think that is out of line in any way.

So without belaboring the point—and I certainly know Senator BINGAMAN can defend himself, but he is not here—I want to simply say he is one of the fairest people, one of the people who understands Senate procedure and rules as much as anyone I know, who is also interested in doing something about the forest fires sweeping the west.

New Mexico has had them. We know one fire which got so much attention was a manmade fire when a Forest Service burn got out of control and nearly wiped out one of the defense installations there in Los Alamos.

I would hope everyone understands Senator BINGAMAN is trying to come forward with what he believes are some serious questions about the way this legislation has moved. If his questions are answered, there will be a number of us who will look to him for leadership on this bill.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, I understand under the order a certain amount of time is allocated to me.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

UNANIMOUS CONSENT REQUEST—H.R. 1904

Mr. COCHRAN. Madam President, at the request of the majority leader, I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the minority leader, the Senate proceed to the immediate consideration of H.R. 1904, the Healthy Forests Restoration Act, under the following limitations: That any amendments offered must be relevant to the underlying measure, and that any second-degree amendment be relevant to the first-degree amendment to which it is offered. I further ask unanimous consent that following the disposition of any amendments, the bill be read a third time and the Senate proceed to a vote on passage, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. Madam President, reserving the right to object, I would ask that the distinguished Senator from Mississippi modify his request and just simply allow the bill to come to the floor at a time to be agreed upon by the majority leader after consultation with the Democratic leader, that the bill just come to the floor, period, with no restrictions on it.

The PRESIDING OFFICER. Does the Senator accept that modification?

Mr. COCHRAN. Madam President, I am not able to accept it on behalf of the majority leader. I made this request at the majority leader's request. This was written by the majority leader, so I am unable to make that modification.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. COCHRAN. Madam President, the Healthy Forests Restoration Act, which is a bill that has been reported by the Agriculture Committee, is a comprehensive strategy to improve forest health on both public and private lands. The bill empowers Federal land managers to implement, in consultation with local communities, scientifically supported management practices on Federal forests. It establishes new conservation programs to improve water quality and regenerate privately owned forests.

This bill will reduce the amount of time and expense required to conduct hazardous fuel projects, but it also mandates rigorous environmental analysis before any such projects are undertaken.

Over the past few years, many lives have been lost and homes and communities destroyed by forest fires that could have been prevented. Instead of managing our national forests, the U.S. Forest Service has been forced to spend

inordinate amounts of time and effort fighting lawsuits. This has caused months and sometimes years of delays in fuel reduction projects. Our forests have continued to suffer, and they have continued to burn.

I will offer an amendment to title I of the bill, if and when it is presented to the Senate, which contains several modifications to the committee bill. This amendment embodies recommendations made by a bipartisan group of Senators who are committed to getting this legislation passed and signed by the President.

The amendment establishes a predecisional administrative review process. It allows an additional analysis under the National Environmental Policy Act. It directs the Secretary of Agriculture to give priority to communities and watersheds in hazardous fuel reduction projects. It contains new language protecting old-growth stands. It encourages the courts to expedite the judicial review process.

The committee bill authorizes grant programs to encourage utilization of certain forest waste material. It provides financial and technical assistance to private forest land owners to encourage better management techniques to protect water quality.

It also authorizes funding for the U.S. Forest Service, land grant institutions, and 1890 institutions to plan, promote, and conduct the gathering of information about insects that have caused severe damage to forest ecosystems. Also included in the bill is the Healthy Forest Reserve Program, which is a private forest land conservation initiative to support the restoration of declining forest ecosystem types that are critical to the recovery of threatened, endangered, and other sensitive species.

Two titles were added to the House-passed bill by our committee. One would establish a public land corps to provide opportunities to young people for employment and, at the same time, provide a cost-effective and efficient means to implement rehabilitation and enhancement projects in local communities. The other title will promote investment in forest-resource-dependent communities.

In essence, this legislation will provide new legal authority to help us manage the Nation's forests in a safer and more effective manner.

I urge the Senate to support this bill.

Madam President, I yield the remainder of the time allocated to me under the order to the distinguished Senator from Pennsylvania, Mr. SANTORUM.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, parliamentary inquiry: I believe the minority has 9 minutes left. I would like to respond to the remarks of the distinguished chairman of the Agriculture Committee.

I ask the Senator from Pennsylvania, would that be acceptable?

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, parliamentary inquiry: How much time is left on both sides?

The PRESIDING OFFICER. There are 7 minutes remaining on the Republican side; 9 minutes remaining on the Democrat side.

Mr. SANTORUM. Fine. If there is time remaining, I am happy to let the Senator stay on this subject.

Mr. WYDEN. I thank my friend from Pennsylvania and, Madam President, ask to be recognized.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Thank you, Madam President.

First, I express my appreciation to the distinguished chairman of the committee. I think he knows I agree with so much of what he just previously said.

I want to emphasize, on this side of the aisle we believe there are 60 votes to move forward on this legislation. We want to work constructively to get this done. The minority leader, Senator DASCHLE, has emphasized again and again how important it is to move forward with this legislation. We do want to address the concerns of the Members. We know a lot of Senators feel strongly about this issue. But it is absolutely imperative—absolutely imperative—Madam President and colleagues, that this bill get out of the Senate this year. That is my goal. I am going to put every ounce of my energy and strength into it.

The reason I think the Senate ought to move forward with this legislation is the bipartisan compromise that has been discussed by the chairman of the committee steers, in my view, a narrow path through 20 million acres of highly vulnerable forest land that lies close to highly vulnerable communities and their drinking water sources.

I have already outlined this morning the five or six major ways in which this compromise differs from what has been considered in the House of Representatives.

For example, under this legislation that has been crafted in a bipartisan way by a group of nine Senators, we have authorized an increase of 80 percent in funding for thinning projects. There has been tremendous concern all across the country that without adequate funding for thinning projects, the only people who would have the resources to do the work would be the large commercial logging companies. In our discussions among Senators, we said: There is a better way to proceed.

That is why we came up with a funding proposal that sends a responsible message all across the country that this is not some sort of giveaway to big timber companies; this is something that represents responsible forestry. On provision after provision with respect to this compromise, we see those kinds of efforts to ensure that we strike a responsible balance.

We have to make sure we protect our rural communities. The House legislation doesn't do that. The Senate compromise directs 50 percent of the funding to be spent inside the wildland and urban interface; the House bill is silent with respect to those funds. Again, we see an effort on the part of Senator COCHRAN, chairman of the committee, and the nine Senators who worked together on this legislation, to strike a reasonable compromise.

The old-growth provisions are the first statutory protection ever for these trees that the American people feel so strongly about. There is a concrete incentive to get the old-growth protection in place. Under something for which I commend the chairman that is genuinely creative, we stipulate that the old forest plans actually have to be revised to protect the old growth in order for the thinning work to be done. So we have something which strikes a genuine balance, and it is done in a creative way.

I said earlier that forestry issues are about as contentious as Middle Eastern politics. It is very difficult to find the common ground. We have done that in this area. This compromise ensures that the public will be involved in every single aspect of the debate with respect to forestry. That is something on which Senator FEINSTEIN and I insisted. We have worked on this legislation for many months with Senator DOMENICI, chairman of the Energy and Natural Resources Committee. I hope we will move quickly and do it in a fashion that addresses the concerns of all Senators.

There have been a number who have come to Chairman COCHRAN and me with ideas and suggestions. We want to hear from them. But we want this bill passed this year by the Senate. Senator DASCHLE has communicated that again and again and has been extremely constructive. Nobody is interested in an obstructionist kind of approach. This has to get done.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

JUDICIARY OBSTRUCTIONISM

Mr. SANTORUM. Madam President, I have taken the floor to talk about obstructionism of the other side of the aisle with respect to judges. That has been a main point of contention on my part, that it is something that is doing damage to our judiciary and to the Senate.

Today I want to talk about another aspect of that obstructionism. That is the tone and substance of the debate occurring on judges that are being put up, particularly for the circuit court.

Yesterday we experienced something in the Judiciary Committee that I find beneath the dignity of the Senate and raises serious concerns about how we are going to attract good people to put their names before the Senate for confirmation to judicial office. I have behind me a copy from a Web site that

displayed this cartoon that was the topic of discussion at yesterday's Judiciary Committee hearing on the supreme court justice of California, Janice Rogers Brown.

She had a hearing yesterday before the committee and was greeted with this cartoon that was displayed on a Web site. The Web site of blackcommentator.com. The cartoon has President Bush and Justice Rogers Brown walking into a room and the President is saying:

> Welcome to the Federal bench, Ms. Clarence—I mean Ms. Rogers Brown, you'll fit right in.

And then in the background are Justice Thomas, Colin Powell, and Condoleeza Rice. The bottom says:

> News item: Bush nominates Clarence-like conservative to the bench.

On the Web site, it says:

> This cartoon can be found in the following commentary: A female Clarence Thomas for the DC Federal Court? A statement by People for the American Way and the NAACP.

I don't know from this Web site and I don't know from any other commentary I have seen what the relationship between this cartoon is and the People for the American Way and the NAACP, but I think it behooves both of those organizations to clarify their position on this cartoon which can be found in the following commentary by these two organizations.

The stereotyping that goes on in this cartoon and the blatant racism that is displayed is overwhelming. To look at the depiction of Justice Brown, the picture speaks for itself.

Let me show you a picture of what Justice Brown looks like. I would suggest the cartoon does not at all comport with what Justice Brown looks like. It is a purely slanderous depiction, stereotyping at its worst. That is the tone and substance of the debate we have now degraded ourselves into as a result of the obstructionism that is occurring for extreme political purposes in the Senate.

Justice Brown was asked about this at her hearing yesterday. I quote what she said:

> The first thing that happened was I talked to my judicial assistant yesterday. Her voice sounded very strange, and I said to her, ''What's wrong? What's happening?''
>
> And I realized she sounded strange, because she was choking back tears. When I asked her what was wrong, she really started to cry. She's a very composed, very calm woman. And she started to cry.
>
> And she said, ''Oh judge, these horrible things—you haven't seen what they've done.''
>
> I, of course, was not there to comfort her. I've been here meeting with anybody who would meet with me.
>
> But while I've been having those meetings, people have said to me: ''Well, you know, it's not personal, it's just politics, it's not personal.''
>
> And I just want to say to you that it is personal, it's very personal—to the nominees, and to the people who care about them.

She speaks not only for herself but she speaks to the hatchet job being done on Attorney General Pryor, being done to Judge Pickering, that was done to Miguel Estrada, is in the process of being done to Carolyn Kuhl and God knows how many more nominees who are being slandered and dragged through the mud, people of stellar reputations, a supreme court justice in California, reelected with 76 percent of the vote, a stellar educational record, and she is being treated in such a demeaning and degrading fashion.

We had the attorney general of the State of Alabama who was questioned on his deeply held beliefs because he happens to be a conservative Catholic. Where are we going, folks? What are we turning this process into, that we will demean and degrade and tear down people for some extreme ideological agenda who have served this country, served their States, served their communities?

This is wrong. We should stop this.

If we don't stop it, it will go on and it will expand and grow like a cancer. That side is doing it now. If they keep it up, one day we may be doing it to them because, of course, we have to get them back for what they did to us. This is wrong. It has never been done before.

Stop this insanity of degrading people, of coarsening the debate, of creating a chilling effect on those who would like to be Federal judges. It is wrong and it must stop now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, my understanding is that on the Democratic side we have 4½ minutes remaining; is that right?

The PRESIDING OFFICER. That is right.

Mr. REID. Madam President, I say to my friend from Pennsylvania, I don't understand what he is talking about, ''the degradation.'' That may be something I am not aware of relative to judicial nominees.

I don't know the exact count, but I do know that during this President's tenure of office we have approved 174 judges or thereabout. We have only had problems with three of them. It seems to me that is a pretty good record.

We have worked hard to approve the President's judges. They have not all been people we would have selected if we had a Democratic President. But we have a Republican President; we have recognized that he has the ability to choose those nominees he believes are appropriate. As a result of that, we have given him nearly carte blanche to send us judges. Three have not been approved.

So the record of 173 sounds like a pretty good record. I hope we will let the certainty of the process go forward. It seems to me it is a pretty good process that has worked for more than 200 years. President Bush is getting virtually every one of his nominees. I don't think it would be a good system if we simply said you can have whoever you want. We have a duty to advise and consent the President on his nominations.

I yield the time left under the Democrat control to the Senator from New Mexico, Mr. BINGAMAN.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

HEALTHY FORESTS

Mr. BINGAMAN. Madam President, in response to the comments the Senator from Idaho made earlier this morning on the Healthy Forests legislation, the history of that legislation is that the bill did get referred to the Agriculture Committee. I thought that was a mistake, since the Energy and Natural Resources Committee has always had primary jurisdiction over most of the issues dealt with in that bill. But a bill was reported out of that committee.

Following that, a group of Senators—the Senator from Idaho included—got together on a bipartisan basis to develop their own alternative, or their own proposal. That is what is intended to be brought to the Senate floor. My staff, the staff of the Democratic side of the Energy and Natural Resources Committee, was not included in those negotiations. I complained about that. They were told they could observe but not participate in a meaningful way. They did that to some extent.

I believe it is important that we have a full opportunity for amendment to this bill. I do not object to the bill coming up. I do not object to us proceeding with an agreement to limit what we do to the amendments related to that bill. I think that would be an appropriate way to proceed. It is an important issue. We ought to deal with it before Congress adjourns this fall.

I will have several amendments. I think there are problems with the bill as I understand it. I also have a great many questions I would like to have answers to about the meaning of some of the language in the bill. Those are legitimate issues. I believe we can have a full and fair debate and a full and fair opportunity for Senators to offer amendments.

I know the assistant Democratic leader, Senator REID, did suggest we proceed to bring the bill up. There would be no objection to that. Certainly, I think that would be an appropriate way to proceed. With that, I appreciate the chance to explain my own point of view and position.

I yield the floor.

COSPONSORSHIP—S. 877

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I request unanimous consent to add the Senator from Illinois, Mr. FITZGERALD, as a cosponsor of S. 877, the CAN SPAM Act of 2003.

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

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, we yield back any time left on the minority side.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 2989, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2989) making appropriations for the Department of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Madam President, I send a substitute amendment to the desk at this time.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 1899.

(The text of the amendment is printed in the RECORD under ''Amendments Submitted.'')

Mr. SHELBY. Madam President, I am pleased to present to the Senate the Transportation, Treasury, and general government appropriations bill for the fiscal year 2004.

The reorganization of the Appropriations Committee earlier this year substantially changed the jurisdiction of this subcommittee. While the jurisdiction of this subcommittee is not as wholly different as the new Appropriations Subcommittee on Homeland Security, the bill before the Senate is quite different from the bill the Senate has considered in the past.

For the first time, programs outside the Department of Transportation have to directly compete against certain Transportation programs. This bill is within the subcommittee's 302(b) allocation. Despite being $300 million below the President's request, I believe we have included adequate resources to meet our responsibilities in a balanced and responsible manner.

The goal of the subcommittee is to allocate scarce resources to the administration and our Members' highest priorities, to glean out savings where possible, and to apply those savings to programs that save lives, improve America's competitiveness, and programs that create jobs. I am pleased to report that the bill before the Senate does just that.

I wish to provide a brief overview of the highlights of the bill. The budget request proposes an 8-percent raise. I am proud to report that the bill rejects the proposal and has included a historically high $33.8 billion for highway infrastructure investment.

It will come as no surprise to anybody that my highest priority for the Transportation portion of this bill is to provide adequate investment in our highway system. Highway investment creates jobs through infrastructure development, fuels economic growth by reducing the transportation costs associated with American goods and services, and improves the quality of life of our citizens and enhances their ability to move around this country easily.

The bill before us also includes $20 million for AMBER Alert grants to expand and improve the Nation's ability to quickly recover missing children. We know the alert system has worked in Texas. This investment will provide additional infrastructure across the country to notify the public to immediately begin looking for missing children and suspects.

While many of Treasury's law enforcement functions were transferred to the Department of Homeland Security, Treasury continues its important responsibility for combating terrorist financing and other financial crimes both domestically and abroad. The bill includes funding to establish the Office of Terrorist and Financial Crimes.

We have also included additional resources to support Treasury's policy responsibilities pertaining to counterterrorist financing and financial crimes. I believe these are essential functions in our Nation's war against this fight on terrorism.

The bill includes an additional $20 million for the HIDA Program. Over the years, the HIDA Program has been effective in coordinating Federal, State, and local law enforcement to disrupt drug trafficking. We have also included language to, once again, make the National Youth Antidrug Media Campaign an effective investment for the Federal Government.

While a few of my colleagues may disagree with the direction the bill proposes to take in regard to the media campaign, there are many more who believe a more stringent approach is necessary. I believe this bill strikes the appropriate balance between responsible congressional oversight of the campaign and allowing it to move forward in an attempt to effect change among our Nation's youth. Further delay in the courthouse construction process would only hamper the effort to meet the growing caseload demands on the Federal judiciary.

The bill includes $500 million to fund the Help America Vote Act. This funding, in addition to the $830 million appropriated in fiscal year 2003, will allow more than $1.3 billion to be distributed to States in fiscal year 2004. I am pleased the administration has finally sent up its nominations for the commissioner of the Election Assistance Commission.

It is my understanding the Rules Committee plans to hold a hearing on these nominees next Tuesday. I believe it is important that the Senate expedite this process so the resources we appropriate can be distributed to the States in a reasonable manner.

The recommendation also includes funding to continue the student and parent mock elections. I know many of my colleagues are very interested in this important program and truly believe in the merits of this valuable hands-on civic lesson. That is precisely why we have included the money.

The bill retains the so-called pay parity provision for Federal employees and uniform personnel and sets the adjustment at 4.1 percent.

Finally, the bill includes $1.3 billion for Amtrak. I reiterate what I said during the committee consideration. I am deeply concerned about the offsets that have been included in this bill to pay for the additional $400 million above the budget request. We are barely keeping up with the demand for transit, highway, and airport infrastructure investment and maintenance. Amtrak, on the other hand, can hardly keep up passenger demand for its current routes. That is not just rhetoric. Amtrak provides roughly the same number of passenger trips as it did 20 years ago, while all other modes of transportation have more than tripled.

I hope we can move this legislation quickly through the Senate and into the conference with the House. I look forward to working with the Senator from Washington, the former chairman of the committee, and also the chairman and ranking member of the Committee on Appropriations, and with interested Members, to consider and pass this important legislation.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Washington.

Mrs. MURRAY. Mr. President, I rise in support of the Senate amendments to H.R. 2989, the Department of Transportation, Treasury and General Government Appropriations bill for fiscal year 2004. This is the first time that the Senate will debate an appropriations bill that combines these critically important Government functions.

As my colleagues know, at the beginning of this year, the Appropriations Committee combined the Transportation Subcommittee with the former Treasury, Postal and General Government Subcommittee. We were particularly fortunate to have Senator SHELBY as our chairman, especially since he is perhaps the only Senator who has chaired both the Transportation Subcommittee and Treasury Postal Subcommittee at different times.

Ever since the Senate adopted this year's final budget resolution, I have worried that the Appropriations Committee would not have sufficient resources to meet our needs and to make the investments we must make to improve our country. Today it is clear that my concerns were well-founded, not only with this appropriations bill, but with others the Senate has debated this year. However, despite the limited

allocation that was granted to our subcommittee, I think this bill is well-balanced in meeting the needs of many of the competing Government functions that we are required to fund.

I would like to highlight a few elements of the bill, starting with funding for America's highways.

I am especially proud that this bill proposes a highway obligation ceiling of $33.84 billion. That is real progress. It is almost $4.6 billion more than the administration recommended, and it is $2.25 billion more than fiscal year 2003. Just in the area of highway funding, our subcommittee has over the past 3 years has funded the Federal-aid Highway Program at $13 billion more than the levels recommended by the Bush administration. I have always recognized the critical importance of highway funding, and that is why, when I chaired the subcommittee, the bill we reported out restored every penny of the $8.6 billion cut that was proposed in the Bush administration's budget for that year. This year, under Senator SHELBY's leadership, we are continuing our progress in addressing America's deteriorating highway infrastructure. Again this year, we propose a historically high level of highway funding of $33.84 billion. In addition, our bill increases funding for highway safety activities at the National Highway Traffic Safety Administration to try to reverse a disturbing increase in highway fatalities, especially deaths associated with drunk driving.

For the Federal Aviation Administration, the bill proposes appropriations and obligation ceilings of just under $14 billion. That is roughly a half a billion dollar increase over the level approved for fiscal year 2003. I also want to note that our half a billion dollar increase includes a $100 million increase in the airport grants program.

I want to take a moment to make some observations about Amtrak. The bill before us includes $1.346 billion for Amtrak. Let me put that number in context. It is $454 million below the level requested by Amtrak's board of directors and its president, David Gunn. It is $454 million below the level that the Amtrak board says it needed to make progress on the railroad's deferred capital needs while operating the entire national system. And it is $454 million below the level assumed in the Senate-passed budget resolution.

The Bush administration's budget for fiscal year 2004 singled out Amtrak for a 14 percent cut in funding down to the level of $900 million. Amtrak's president has made it quite clear in testimony before several committees that adoption of the administration's proposed level of $900 million will mean certain bankruptcy of the railroad. It will mean the end of service to the thousands of daily Amtrak riders and the ten of thousands of mass transit riders whose commuter rail systems depend on continued Amtrak service. The level of funding recommended by the Appropriations Committee of $1.346 billion will be barely enough to enable Amtrak to operate all of its services for fiscal year 2004. This fact has been confirmed in testimony by the Department of Transportation Inspector General before the Senate Commerce Committee. The increase above last year is directed to accommodate the nondiscretionary cost increases that will burden the railroad in fiscal year 2004, including cost increases associated with mandated pay raises for employees under contract: and, automatic increases in debt service payments associated with debt that the railroad has already taken on.

There is no question that the level of Amtrak funding in the bill is more than some Senators would like and less than other Senators would like. In my view, as the ranking member of this subcommittee, I do not believe that there are other areas in this bill where other Amtrak resources can be found. I believe the level of funding in this bill will allow the authorizing committees to continue to work on reform legislation and hopefully address the long-term financial needs of the railroad, including its sizable backlog of critical capital investments.

I would like to mention a few other funding highlights concerning the IRS and GSA. For the IRS, the bill before us includes $10.35 billion, including very sizable amounts to help the IRS move forward in modernizing its information technology infrastructure. For the General Services Administration, the bill includes appropriations as well funding limitations in excess of $6.4 billion. The subcommittee was able to make progress on the construction on a limited number of new courthouses. We followed the recommendations of the Judicial Conference, even though these courthouses were not funded in the President's budget and were largely unfunded in the House-passed bill.

So, in conclusion, I stand in strong support of this bill. While overall it does not have as many resources as I think are needed to address all of our transportation infrastructure, transportation safety, drug prevention, election reform, and other needs, I think it does an outstanding job addressing these competing needs in a balanced way, under the funded ceiling that was given to the subcommittee due to the budget resolution.

I want to thank Chairman SHELBY for the very cooperative and collegial approach that he always brings to this process. When it comes to allocating funds for Members' priority projects, whether it is for highways, mass transit or Federal building construction, Senator SHELBY and I work together to meet Senators' highest priority requests. The process was balanced and fair, without regard to political affiliation or geography, and I continue to be indebted to him for the fair-mindedness that he consistently brings to this process.

I urge my colleagues to pass this bill and help our country make important progress in transportation, safety and critical infrastructure.

Mrs. BOXER. Mr. President this bill includes many projects that are important for my State of California, and I wish to take a minute to highlight those projects.

For the Bay Area, $113.75 million in new funding is included for transportation improvements. The projects include $100 million for the BART extension to the San Francisco International Airport and $4 million for upgrades to the Muni System.

In addition, the bill includes: $3 million for AC Transit-CalWorks Job Center. This funding will continue successful Job Access programs and expand those services further for CalWorks recipients; $750,000 for the City of Palo Alto Intermodal Transit Center. These new funds will go toward the planning and design of a new regional intermodal transit center in Palo Alto.

There is $1 million for Oyster Point Ferry Vessel. Funding will be used to build a ferry vessel to serve a new ferry route between San Mateo County and downtown San Francisco. This route will serve over 2,000 passenger trips daily.

There is $1 million for the Zero Emissions Bus—ZEB—Program. The Santa Clara Valley Transportation Authority will use this funding to move away from using clean diesel technology to even cleaner Fuel Cell technology.

There is $4 million for the Silicon Valley Rapid Transit Corridor. These funds will be used to extend the BART system to Santa Clara County.

For the Sacramento region, $5.5 million in new funding is included to improve transportation. Most of these funds—$4 million—will be used for job access to help under-served communities get to work. The remaining funds will be used to improve the Intelligent Transportation System.

For the residents of Los Angeles, $12.1 million is included to improve a variety of transportation projects, including $5 million for LA Eastside Corridor Light Rail. The new funds will be used to develop a six-mile, nine-station light rail system running through Little Tokyo, Boyle Heights, and East Los Angeles.

There is $2 million for Alameda Corridor East. This funding will be used to help reduce traffic congestion for residents and businesses in the Alameda Corridor East and improve the shipment of goods from the ports of Los Angeles and Long Beach.

There is $3 million for the MTA Bus Program. These new funds will be used by MTA to make bus service in Los Angeles County more efficient. Improvements will be made to Metro Rapid Bus facilities and new technology will be utilized to upgrade traffic signals for more efficient bus service.

There is $2.1 million for LA Metrolink San Bernardino Line: Platform Addition and Extensions. These funds will be used to improve commuter access and safety. The project

consists of constructing new platforms, extending current platforms, and improving pedestrian access.

For transportation projects in San Diego and the surrounding communities, $113 million is included. The new funding includes $65 million for the extension of the San Diego Trolley's Blue Line from the Mission San Diego Station to an Orange Line connection near Baltimore Drive in La Mesa. The approximately 5.9-mile line will run adjacent to Interstate 8 and add four new stations.

This extension will increase the efficiency of San Diego's public transportation, while reducing congestion and providing an environmentally-friendly alternative for commuters.

The new funds also provide $48 million for the North County Transit District's Oceanside-Escondido Rail Project. This project will convert 22 miles of freight rail corridor into a light rail system running east from Oceanside to Escondido.

During our current time of economic uncertainty, all of these projects will help strengthen California's economy by improving infrastructure and creating new jobs. These improvements will move products and people more efficiently, while also promoting a cleaner and healthier environment.

In addition to the various transportation projects, this bill includes $50 million for a new Federal courthouse in downtown Los Angeles. The Los Angeles area is experiencing an increase in cases that is stretching the existing courthouse beyond its limits.

Currently, the Los Angeles court complex operates out of two separate buildings located several blocks apart, which causes delays, security concerns and general confusion. The two buildings cannot accommodate expected growth and high security trials—making them inadequate to handle modern judicial needs.

The need for a new Los Angeles Courthouse is great. In order for the courts to effectively serve the public and provide adequate security, we need to provide them with the resources to get the job done. The construction of this courthouse is a step in the right direction.

I thank Chairman SHELBY and Ranking Member MURRAY for their support to help improve California's transportation system.

Mr. McCAIN. Mr. President, I have concerns regarding this bill, the Transportation, Treasury, and general government appropriations bill for fiscal year 2004, as reported by the Senate Appropriations Committee. While the bill appears to contain fewer earmarks than in previous years, it still contains far too many earmarks and provisions to change current policies.

The need for efficient and safe transportation in America has never been greater. Today, we as a Nation transport more people and goods than ever before. As our Nation's dependence on international trade grows, so does our Nation's dependence on a transportation system that can keep goods moving not only at our borders, but across the Nation. On top of our commercial needs, Americans in general are more mobile than ever before. Due to this reality, the safety and security of our highways, airways, railways, and waterways must be a national priority. And as legislators, it is our duty to ensure that important transportation programs are fully funded. The measure before the Senate takes important steps towards achieving that goal.

At the same time, however, I am troubled by many provisions in H.R. 2989, the fiscal year 2004 Transportation, Treasury, and general government appropriations bill as amended by Senate text in S. 1589. Once again, I find myself in familiar territory, rising in opposition to another appropriations bill that needlessly earmarks the hard-earned money of American taxpayers. While the bill in total is $300 million below the President's budget request, the transportation title of the bill alone contains over $7.5 billion in objectionable funding provisions that are either above the President's request for specific programs, locality-specific earmarks by appropriators, or both.

The bill earmarks all intelligent transportation funds ($125 million) for 54 specific projects, including an intelligent transportation system for the Philadelphia Chamber of Commerce and a Weather Research Institute in North Dakota. The administration did not request any of the projects earmarked.

The bill further would provide $1.3 billion for new fixed guideway systems. Under this funding, the bill alters the President's request by increasing or decreasing funding for 14 projects with full funding grant agreements already in place and earmarks funding for an additional 25 projects. The changes in funding levels for projects with grants agreements will have a significant impact on those projects, causing construction delays and cost overruns. The additional earmarks may very well affect the ability of other projects to receive full funding grant agreements in the future, because the earmarks are outside of the Federal Transit Administration's FTA review process and fund projects that are not ready or do not meet FTA's standards.

The bill provides $18.4 million for the disposal of obsolete vessels in the National Defense Reserve Fleet of the Maritime Administration, $7 million above the President's request. While there is no question that these federally owned obsolete vessels pose serious environmental risks to the waters in which they are now moored, I cannot support funding above the President's request. The ship disposal program developed by the administration has taken into account not only the need to expedite disposal of these vessels, but also the limitations of the disposal market and other conditions for disposal. I do not believe the same can be said for the appropriators.

Further, the bill as reported by the Senate Appropriations Committee, in what I have been told is a drafting error, increases the administrative ''take-down'' authorized in the Motor Carrier Safety Improvement Act to finance motor carrier safety programs and motor carrier safety research from .45 percent to 2.55 percent and decreases the administrative ''take-down'' authorized in TEA–21 to administer Federal highway programs from 2.65 to 1.05 percent. As I understand it, the Committee intended to increase both ''take-downs'' in order to make additional funds available for earmarks. Not only is this authorizing language in an appropriations bill, such a change was not requested by the administration.

The Senate bill also contains a provision to direct the Secretary of Transportation to enter into an agreement with the State of Nevada and the State of Arizona or both to provide a method of funding for construction of a Hoover Dam bypass bridge from funds allocated for the Federal Lands Highway Program. While this clearly is authorizing language in an appropriations bill, what is really odd, is the language is already law, as it was contained in the Consolidated Appropriations Resolution for fiscal year 2003.

The bill would appropriate over $1.3 billion for Amtrak, $446 million above the President's request and nearly $300 million above Amtrak's fiscal year 2003 appropriation. Repayment of Amtrak's $105 million loan from DOT, made in 2001 to avoid Amtrak's threatened shut-down, would be postponed for a second year. The appropriations bill also renews conditions on Amtrak's funding adopted last year, conditions I believe are the reason Amtrak has a $200 million carry-over from fiscal year 2003 for next year.

While I commend David Gunn, Amtrak's president, for his efforts to get Amtrak's costs under better control and exposing the costly mistakes made by his predecessor, I cannot support an appropriation for Amtrak above the President's request without real reform. Mr. Gunn refuses to make any changes to Amtrak's routes, many of which lose $200, $300, or even $400 for every passenger they carry. And while Amtrak is touting record ridership for fiscal year 2003, my colleagues need to realize that Amtrak still accounts for less than 1 percent of intercity travel. Amtrak's record ridership amounted to an increase of 276,632 passengers—about 15 percent of daily airline boardings. And the harsh reality is that to attract this small number of additional riders, Amtrak slashed fares; and through July 2003, revenues were down $85 million compared to 2002. If Amtrak thought it would make up price cuts with the fares received from additional riders, it seriously miscalculated.

The report that accompanies the bill earmarks $1 million for the city of Crowley, LA's Historic Parkerson Avenue Redevelopment project. This is in

addition to $500,000 given to the project 2 years ago. I'm sure that Crowley is a lovely community. But there are thousands of small towns just like Crowley that are equally deserving of redevelopment. What makes Crowley more deserving of a Federal grant than every other small town in America?

The report also contains a provision earmarking $250,000 for a towboat display in Oklahoma. A retired towboat will be sandblasted, cleaned, painted and refurbished with a classroom area. Do you really think taxpayers would want their hard-earned dollars spent on this display? Is next year's appropriations bill going to contain funding to promote tourism so taxpayers all across America will know that they can come see a new towboat display in Oklahoma? While I say that sarcastically, one has to wonder how taxpayers are going to know that they have paid for and should visit such a display in Oklahoma.

The report sets an all-time record for the amount of airport specific earmarks for the Airport Improvement Program by listing 241 airports. In the final appropriations bill for fiscal year 2003 there were 164, in fiscal year 2002 there were 101, and in fiscal year 2001 there were 158.

There is also an unauthorized transfer of $100 million from the FAA's modernization account to the Airport Improvement Program. This transfer of $100 million is then set aside for—surprise, surprise—discretionary grants that can be used to fund projects at the 241 airports that are listed. So we are taking money from the program that funds air traffic control modernization—such as newer and better radars—to fund the 241 airport earmarks.

The bill appropriates $52 million for the airport and airway trust fund for the essential air service program. This is not authorized and was not requested by the President. The trust fund was specifically established to fund the capital and operating expenses of the Federal Aviation Administration, FAA, not to subsidize airline service.

In addition to the Transportation funding, the bill contains appropriations for Treasury and general government. I do want to acknowledge that the appropriators seem to have kept parochial spending to a minimum in the Treasury and general government appropriations titles of the bill. However, I have identified approximately $283 million in locality-specific earmarks in these titles.

While the amounts associated with each individual earmark may not seem extravagant, taken together, they represent a serious diversion of taxpayers' hard-earned dollars at the expense of numerous programs that have undergone the appropriate merit-based selection process. It is my view that the officials who run these programs should be the ones who decide how best to spend the appropriated funds. After all, they know what their most pressing needs are.

For example, the Treasury and general government titles include the following earmarks or special treatment: Language urging the IRS to make no staffing reductions at the Martinsburg National Computing Center and the programmed level at the Administrative Services Center in Beckley, WV; $350,000 to continue the Upper Great Plains Native American Telehealth Program at the University of North Dakota; $2.025 million to acquire land in Anchorage, AK, to build a new regional archives and records facility for the National Archives and Records Administration; $500,000 for the Ruffner Mountain Educational Facility in Alabama; $500,000 for the Saenger Theatre Restoration Project in Alabama; $500,000 for the State of Alaska to assist in preparation for its statehood celebration; and $500,000 for the State of Hawaii to assist in preparation for its statehood celebration. There are more projects on the list that I have compiled, which will be available on my Senate Web site.

In closing, I am encouraged that the appropriators have begun to curb their appetite for earmarking in this bill, however there are still hundreds of millions of dollars in unnecessary earmarks that severely restrict the authority granted the agencies charged with carrying out the policy goals established by Congress. In addition, there are numerous statutory provisions that infringe on the jurisdiction of the authorizing committees, and circumvent the authorizing process. Both the authorizing committees and appropriations committee must renew their commitment to work through the long established legislative process of authorizing programs and then appropriating funds accordingly. We can and must do better in providing oversight and establishing policies that grant the administration the funding and flexibility it needs to move our nation forward.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I ask unanimous consent that the substitute amendment be adopted and considered original text for the purpose of further amendment, with no points of order being waived.

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

The amendment (No. 1899) was agreed to.

Mr. SHELBY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 1900

Mr. DORGAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. ENZI, Mr. HAGEL, Mr. BAUCUS, Mr. CRAIG, and Mr. DODD, proposes an amendment numbered 1900.

Mr. DORGAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prohibit the enforcment of the ban on travel to Cuba)

On page 155, between lines 21 and 22, insert the following:

SEC. 643. (a) None of the funds made available in this Act may be used to administer or enforce part 515 of title 31, Code of Federal Regulations (the Cuban Assets Control Regulations) with respect to any travel or travel-related transaction.

(b) The limitation established in subsection (a) shall not apply to the administration of general or specific licenses for travel or travel-related transactions, shall not apply to section 515.204, 515.206, 515.332, 515.536, 515.544, 515.547, 515.560(c)(3), 515.569, 515.571, or 515.803 of such part 515, and shall not apply to transactions in relation to any business travel covered by section 515.560(g) of such part 515.

The PRESIDING OFFICER. The Senator from Idaho.

AMENDMENT NO. 1901 TO AMENDMENT NO. 1900

Mr. CRAIG. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for himself, Mr. DORGAN, Mr. ENZI, Mr. HAGEL, Mr. BAUCUS, and Mr. DODD proposes an amendment numbered 1901 to amendment No. 1900.

Mr. CRAIG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prohibit the enforcment of the ban on travel to Cuba)

In the amendment strike all after ''Sec. 643.'' and insert the following:

(a) None of the funds made available in this Act may be used to administer or enforce part 515 of title 31, Code of Federal Regulations (the Cuban Assets Control Regulations) with respect to any travel or travel-related transaction.

(b) The limitation established in subsection (a) shall not apply to the administration of general or specific licenses for travel or travel-related transactions, shall not apply to section 515.204, 515.206, 515.332, 515.536, 515.544, 515.547, 515.560(c)(3), 515.569, 515.571, or 515.803 of such part 515, and shall not apply to transactions in relation to any business travel covered by section 515.560(g) of such part 515.

(c) This section shall take effect one day after date of enactment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, my colleague, Senator CRAIG, on behalf of other colleagues, including Senator ENZI from Wyoming—and I will send the list to the desk in a few moments—

has offered an amendment this morning that deals with a recognized controversial subject but, nonetheless, a very important subject. It deals with the right of the American people to travel freely. It deals with the issue of travel to Cuba. I want to describe to you why this amendment, which is bipartisan—three Democrats and three Republicans are offering this amendment and the second-degree amendment—is important and exactly what the amendment does.

First, what does the amendment do? This amendment is identical to an amendment that was passed by the House of Representatives—identical. It is the same wording, and the House of Representatives very simply said the Office of Foreign Asset Control shall not use funds in this bill to enforce the travel ban with respect to Cuba. Let me explain why that is important.

The travel ban with respect to the country of Cuba is unique and different than other travel circumstances or restrictions that exist. We have over the years indicated that the best approach for dealing with Communist countries is engagement.

We have a great debate in the Congress about how do we deal with Communist China. We say: Engage them in trade and travel; engage them; engagement is constructive. The same is true with Vietnam, a Communist country. Engagement through travel and trade inevitably will lead them toward a more open society, democratic reforms, and market systems. So we have said engagement is constructive, and engagement with China and Vietnam is something that has been a part of the philosophy of this Congress and Presidents for some long while now. Frankly, it has been constructive. I think it has produced results.

The different issue here is with respect to Cuba. We have had an embargo on Cuba for 40 years, through Republican and Democratic Presidents. We slapped an embargo on trade and travel in Cuba. Now we have lifted the veil just a bit with respect to trade, and we are able to sell some food in the Cuban marketplace, and the Cubans are required to pay cash for that food. For the first time in 42 years, we are actually selling food in Cuba. Twenty-two train car loads of dried peas left North Dakota farms to go to Cuba, paid for with cash. That makes sense. It doesn't make sense to have an embargo on food. I never felt it made any sense for anybody to slap an embargo on food. Food should not be used as a weapon in foreign policy. So we have opened the restrictions just a bit.

The other issue is travel in Cuba. As the Presiding Officer and my colleagues know, we have a restriction on travel. We do not allow the American people, except by a specific license, to travel in Cuba. Currently, American citizens are banned from traveling in Cuba. That is different than virtually anywhere else in the world. It just applies to Cuba.

What is the result of that ban? The result is we don't have the kind of engagement with Cuba we have with China and with Vietnam, leading them toward democratic reforms, undermining their governments, undermining the Communist government with the movement and the flow of goods and communications and travelers from a great democracy such as this country.

Here is the result of what is now happening with the travel ban. I have described this previously. Let me say again, this is a policy that cannot be defended. It just does not make any sense.

This is a woman named Joan Slote. I have mentioned Joan Slote. She is a wonderful woman. She is retired, in her midseventies. As you can see by the photograph here, Joan Slote is wearing a bicycle helmet. She is wearing her bicycling outfit. She is a senior olympian. She bicycles around the world. She loves to do it and is apparently very good at it. She went bicycling in Cuba. She answered an advertisement by a Canadian cycling magazine and joined a group of people to bicycle in Cuba. She didn't know it was illegal for an American to travel in Cuba. She didn't know our policy to punish Fidel Castro is actually restricting the rights of the American citizen. So she went bicycling in Cuba and she came back from Cuba and got a letter from the Department of the Treasury, an organization called OFAC, Office of Foreign Assets Control.

By the way, that is the organization that is supposed to be tracking terrorists. This is the organization that is supposed to be taking apart all these streams of money moving back and forth across the world to track down terrorists, but they have some people down there at Treasury who were, in fact, tracking people such as Joan Slote who rode a bicycle in Cuba with a bicycle club.

So Joan was in Europe, bicycling in Europe, and she got notice that her son had brain cancer, had a brain tumor. She rushed back, apparently packed very quickly from her apartment, and went down to visit with her son, to spend time with her son, who was very ill. Her son subsequently died from this brain tumor.

In the middle of all of this, a letter had shown up at her place, although she was gone, saying: You are being fined by the Federal Government for traveling in Cuba. You are being fined $7,636. She didn't get that letter. It was sent to her but she didn't receive it because she was gone.

Then she got a notice from the Department of the Treasury, Office of Foreign Asset Control, the organization that is supposed to be tracking terrorists. She got a notice saying, you better pay up or you are in big trouble. She has gotten subsequent notices from a collection agency. She has gotten notices that they are going to attach her Social Security check and garnish her Social Security payments.

In fact, interestingly enough, she finally settled for a $1,900 fine. That is after I shamed OFAC, saying, How dare you go after these old ladies? She settled for $1,900.

After she sent them the check, a month and a half after she sent them the check, she got a letter from them saying they were going to attach her Social Security payments because they had no record of her payment. They couldn't even keep that straight.

The point is this: She represents a lot of people. She represents people from this country who have traveled in Cuba, not knowing it was illegal to do so. We have had the Office of Foreign Assets Control down at Treasury busy with their green eyeshades trying to track down persons who travel in Cuba to see if they can slap them around with a fine.

Kevin Allen, from Washington State, his dad had been a minister in Cuba who moved to this country and died and he asked that his ashes be deposited on the grounds of the church where he ministered in Cuba. So Kevin Allen left Washington State with his deceased father's ashes to take them to Cuba. He was a Pentecostal minister in prerevolutionary Cuba.

OFAC decided they should fine this fellow $20,000 for taking his deceased father's ashes to be buried on the grounds of his former church.

Marilyn Meister is a 72-year-old Wisconsin retired schoolteacher. She took a trip to Cuba. She took it with some Canadians. She said it was wonderful until she encountered a customs agent on the way home. She said he ''flew into a rage . . . and made me feel like a horrible criminal'' when he found out I had been in Cuba. They tried to fine her $7,500.

Donna Schutz, a 64-year-old retired social worker from Chicago, went to Cuba with a group from Toronto—a $7,650 fine from the Department of the Treasury.

I mentioned Joan Slote's case.

One of the more interesting cases for me is Tom Warner, a 77-year-old World War II veteran. He posted on his Web site the schedule for the February 2002 conference, the United States-Cuba Sister Cities Association in Havana. OFAC accused this 77-year-old World War II veteran of ''organizing, arranging, promoting and otherwise facilitating the attendance of persons at the conference'' without a license. This veteran never even went to Cuba. He didn't attend the conference. The conference, incidentally, was licensed by OFAC but he didn't go. All he did was give the information on his Web site.

He was given 20 days to tell OFAC everything he knew about the conference and the organizations that participated in it and now he has to hire a lawyer.

Aside from this, what are they doing down in Treasury? We have organizations such as the American Farm Bureau. They want to sell agricultural products into Cuba because it is now legal, in a very narrow way, to do that.

It is legal because we in the Senate made it legal. We passed legislation that made it legal to sell agricultural products into Cuba.

Last year they had an expo with farm groups going to Cuba. The result has been very beneficial and very positive for American farmers and ranchers.

This year they applied for a license to do the same thing, to go down to promote agricultural products grown in this country and raised in this country to be sold in Cuba. They are now denied a license to go to Cuba to promote those products.

There has been a new crackdown now on all of this just in the last couple of weeks. This is the Web site for the Department of Homeland Security. They have been asked by the President to crack down on this. They are going to use Department of Homeland Security intelligence and investigative resources. They are going to use Homeland Security intelligence and investigative resources to go track down people who travel to Cuba.

Look, we are trying desperately to prevent another terrorist act from occurring in this country. God forbid it should happen. We want to find those who are planning terrorist acts against this country and stop them. That is what homeland security is.

Mr. President, 5.6 million containers come into this country every year on container ships. Just 5 or 6 percent of them are now inspected; 95 percent are not. We have so much to do in homeland security. All of a sudden, now, the new mission on the Web site at Homeland Security is going to use intelligence and investigative resources to identify travelers or businesses engaged in activities in Cuba.

There is an amendment that has passed the House on exactly the same appropriations bill. This amendment is a reasonable approach to deal with this in the interim. It prohibits the use of funds by OFAC to enforce this travel ban with respect to this travel in Cuba. It will avert these problems. It will allow the Department of Homeland Security to use the scarce resources it has to focus on protecting and securing our homeland.

I hope my colleagues will agree with me that it is productive and constructive to allow our farmers to promote agricultural goods in Cuba. It is not constructive at all to decide to try to slap around Fidel Castro by imposing limits on the right of American people to travel.

I have no brief to offer, no positive brief, certainly, for the Castro regime in Cuba. The quicker it is gone the better. The quicker we bring Democratic reforms to Cuba the better.

I have been to Cuba. I have met with the dissidents in Cuba. Those dissidents, in almost all cases, say they believe there would be a hastening of the day when there are Democratic reforms in Cuba and a new government in Cuba, through trade and travel and engagement—just as our policies exist with respect to China, Vietnam, and other similar countries. I hope one day we will have a policy of that type.

The Senators who have joined me are Senator CRAIG, Senator ENZI, Senator BAUCUS, Senator HAGEL, and Senator DODD—and let me also ask unanimous consent to have Senator BINGAMAN to be added as a cosponsor of the amendment.

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

Mr. DORGAN. Let me again point out I offered a first-degree amendment. My colleague, Senator CRAIG, has offered a second-degree amendment.

I now yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I stand here as cosponsor of the first-degree amendment and offered the second-degree amendment to modify it slightly. But I certainly join with my colleague from North Dakota on this issue, as do many of our colleagues, in recognizing the critical need for change in our current policy. I, along with other Senators, including Senator DORGAN, have for about 4 years here in the Senate Chamber worked to change our trade relationship with Cuba, a trade relationship that is now bringing literally hundreds of millions of new dollars a year to our shores from Cuba for agricultural foodstuffs trade and medical supplies, all of it done largely in cash, and certainly no credit from the United States taxpayer because it is not allowed.

What we are offering today is a very clean amendment, which passed in the House, to significantly disallow OFAC, which is the Office on Foreign Assets Control, from utilizing resources for the purpose of enforcement of the Cuba travel ban.

What I think is important this morning is for my colleagues to understand what the mission of OFAC is. The Office of Foreign Assets Control of the U.S. Department of the Treasury administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction.

OFAC acts under Presidential wartime and national emergency powers as well as authority granted by specific legislation to impose controls on transactions and freezes foreign assets under U.S. jurisdiction. Many of the transactions are based on United Nations resolutions or United Nations or other international mandates which are multilateral in scope and involve close cooperation with allied governments. That is a very substantial mission during a very critical time in our country when we are seeking out not only on our shores but other shores around the world terrorists and those who traffic in narcotics.

Yet 10 percent of OFAC's budget is used to track down little old grandmas from the west coast who, through a Canadian travel agency, choose to bike in Cuba. Ten percent of their budget is on United States citizens who seek to travel in Cuba—probably 99.999 percent of them for recreational and vacation purposes only.

You talk about the wise expenditure of money. You talk about the appropriate allocation of public resources for the purpose of tracking down terrorists and narcotics traffickers. OFAC, get your mission straight. What are you doing? Why are you spending all of your money, or at least 10 percent of your money in that category? We suggest it is not a wise expenditure of money. And the amendment would disallow them spending their money for these purposes.

My colleague has talked about the reality we face with the island of Cuba off our shores. For over 40 years, the United States Government has placed an embargo on Cuba and prohibited Americans from traveling to the island. For about 35 of those years, I supported them aggressively and openly—at least in my years here in Congress—up until a few years ago when it was obvious that the embargo wasn't working anymore, or that it was working very poorly, or that it was penalizing our producers from access to an available cash market. I am talking about agricultural goods and medical supplies. I began to work to change that. That policy did change, and now in a very smooth way there is work and there are negotiations with Cuba on those issues.

I am from Idaho. Ernest Hemingway once made his home in Idaho as well as in Cuba. Ernest Hemingway died in Idaho. His legacy remains there. Our State is very proud of this citizen and his great literary legacy. Yet when professors from the University of Idaho chose to go Cuba for an exchange, to find out more about Ernest Hemingway and his works, OFAC said: No; well, maybe; well, possibly. Finally, after we intervened, they said OK. Upstanding citizens of the State of Idaho and professors at the university were denied the right to go there, to the home of Ernest Hemingway where many of his works still remain. In fact, I understand the home has been preserved and is kind of a time capsule of Ernest Hemingway and his work because when he left Cuba and came back to the States and began to reside in Ketchum, ID, he literally packed a bag and walked away, and much is still there, including a notebook lying open on his desk with a pen and some of his personal handwritings visible in the notebook. The Cuban Government didn't touch it; they left it alone.

None of us agrees with Fidel Castro. That is really not the issue here. The issue is, Is our policy working or are we suggesting that OFAC is not spending its money at a critical time in our Nation's history for the purpose of tracking down terrorism or for the purpose of the interdiction of narcotics traffickers?

In 40 years, you want to assess policy. We live in a dynamic world and times change. It is now time, in my opinion, to assess that policy with Cuba. I have worked very closely with Cuban Americans in this country. We have made sure that we have worked with them to get it right when it comes to agricultural foodstuffs and medical supplies. We have worked closely with them on this issue. The Cuban community is split. I don't disagree with their feelings and concerns as they relate to the issue of travel to Cuba. But many Cuban Americans who are United States citizens now want to go to Cuba to visit and see what their homeland was once like because Cuba itself, I am told, is a time capsule of the 1950s. Much of the Cuban attitude and certainly their fiscal policies have stopped that country from growing and expanding.

Exchange, opening the door, turning on the lights, and allowing our citizens the opportunity to travel there is the right way to change a country.

Historically, even during the coldest times of the cold war and except in the rarest of circumstances did we deny or totally embargo the ability of U.S. citizens to travel to Communist countries because we believed it critical that we engage and stay engaged and continue dialog. If Ronald Reagan were able to be involved in this debate today, my guess is that he might suggest it was that dialog and that openness and that recognition on the part of the Soviet Union that they could no longer continue in the direction they were going because we were simply overpowering them both militarily and economically, and the Soviet Union crumbled. The Wall came tumbling down, and the rest is history. Most of us on this floor have had the wonderful opportunity to witness that history. It was not isolation, it was engagement that changed and wrote that history.

I am suggesting that this simple move—this very clear move to allow travel—to disallow our Government's aggressive enforcement and to disallow this agency's spending of 10 percent of their resources for this purpose is a step in that direction.

I hope our colleagues will join the Senator from North Dakota, myself, others—and the Presiding Officer is a cosponsor—in this vote and that we begin to work with the administration to change that relationship as it relates to engagement with the Cuban Government and with the island of Cuba and, most importantly, its citizens.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I strongly support the amendment that would suspend the absurd restrictions against travel by United States citizens in Cuba. When you stop and think about it, why should the U.S. Government restrict the freedom of U.S. citizens to travel? Particularly we should end the restriction on travel to Cuba.

Over 25 colleagues of mine have cosponsored legislation that says we should end the travel ban, something I very much agree with. When we have the vote, not too far from now, it is my expectation and certainly my hope the majority of my colleagues will agree it does not make sense for the U.S. Government to restrict the travel of United States citizens to Cuba.

Why do I say that? First, it limits one of our basic freedoms, the freedom of United States citizens to travel. How ironic it is that democracy in the United States of America, which purports to be a country that encourages democracy around the world, basically restricts American liberties. Why restrict American liberties in order to encourage democracies in other countries?

The administration's restriction of United States citizens' travel to Cuba affects our ability to fight the war on terrorism. Why do I say that? Because the Treasury Department must waste scarce and valuable resources to enforce these travel restrictions. It is maddening to me the administration is trying to administer resources for that effort instead of fighting terrorism, which is much more pernicious and where we must spend much more.

Another reason it makes no sense to restrict United States citizens' travel to Cuba is it makes it harder for Americans to establish business relationships, to sell products to Cuba, to get to know the Cuban people and put deals together. People in other countries can travel to Cuba—the French, Germans, Canadians. Their governments say sure, great, we want our citizens to travel to Cuba. But we are preventing our American farmers, our ranchers, our American citizens from selling products to Cuba and getting to know the Cuban people. It makes no sense. I believe we should lift the travel restrictions. It would increase sales of American products to Cuba, increase contact with Cuba, increase the ability of American citizens to develop relationships with people in Cuba which inure to the benefit certainly of the United States and to the Cuban people.

I also add parenthetically that earlier this year the Treasury Department, under the guidance of the State Department, went an extra step in pursuing their wrongheaded approach in restricting travel of United States citizens to Cuba by refusing to allow a license for a second United States agribusiness expedition in Cuba. The first expedition was very successful, resulting in $92 million in sales. That is $92 million of agriculture sales forfeited because our own Government would not allow United States citizens to travel as farmers and ranchers and businessmen particularly to organize the expedition.

Worst of all, restricting American citizens from going to Cuba also hurts Cubans. The travel ban shelters the Castro regime and protects them from American influence, limiting the opportunity for Cubans to interact with Americans. The infamous arrests of 75 dissidents last spring is a case in point. They were arrested because they got, allegedly, too close to Americans. In other words, the arrests indicate the Cuban Government fears increasing contacts between dissidents and American citizens. More evidence and more contact between Americans and Cuban citizens will help encourage democracy.

Our country has fallen into the mistaken belief that we should have carrots and sticks with Cuba; that is, reward Cuba for doing good things and punish Cuba for doing bad things. That gives Cuba veto power over United States foreign policy with respect to Cuba and puts the policy in the hands of Castro and lets him decide what we Americans do or do not do, lets him decide whether we can allow American citizens to travel to Cuba. It makes no sense whatever. Yet that is a policy this administration encourages.

The long and short of this is—and I am repeating arguments others are making—coolly and calmly stand back and ask what is right, what makes sense. Should the U.S. Government prevent American citizens from traveling to Cuba? What will be accomplished by maintaining that restriction? What is to be accomplished if we let American citizens travel? One thing we certainly know, over the last 40 years restricting the travel of American citizens to Cuba and the embargo we have against trade in Cuba has not worked. It has not changed the Castro regime. Fidel Castro is still president. It has not worked.

If something has not worked, why not try something else, try something that seems logical? What seems logical is to engage Cubans. Cuba is a country. The United States is a country. Cuba is not a threat to the United States of America. Certainly Fidel Castro is in many respects not anybody we look up to particularly when he has such a repressionist regime, but it makes sense to engage Cuba. That will probably accelerate the changes in Cuba if we want; that is, the changes toward a more democratic system.

I have traveled to Cuba a couple of times. I was there recently with good Montanans, farmers and ranchers. I was struck with the poverty that exists in Cuba. The Castro dictatorship has decimated the Cuban economy, which is all the more reason why if we were to let Americans visit Cuba certainly with respect to food and agricultural products and trade with Cuba, that would help the Cuban people as well as give the United States farmers and ranchers another business opportunity.

It is time for a change. I understand the politics of this issue. We all know the politics. We also know politics are probably wrong. The reasons why the U.S. Government still has this travel ban are for political reasons that are not right. It is an opportunity for the United States and Congress to go on

the right course, the right direction, and put those political considerations aside and not be held hostage by the political interests but, rather, allow American citizens to travel to Cuba.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Wyoming.

Mr. ENZI. Mr. President, I am fortunate in that I represent the least populous State in the United States; the advantage allows me the opportunity to meet almost everybody in the State. It has given me an opportunity to talk to the entire Cuban community in my State. As a result, since I first got here, I have been working to try and make a difference in our Cuban policy.

The first difficulty I knew of this policy concerned a constituent who had been visiting his family in Cuba on the one trip allowed per year. While he and his family were on the plane returning to the States, his father died in Cuba. He was not allowed to go back for another year.

Now, we have made some changes and I hope we can keep making incremental changes. That is all we are talking about—small, incremental changes, ones that make some common sense.

I am appalled at how Cubans are being treated by their government. We have seen this kind of treatment in other countries at other times. It brings to mind some of the escapes we saw from East Germany before the wall came down.

I just finished reading a book called ''The Secret Empire'' by Mr. Taubman. It goes into how Eisenhower established the CIA, had the U2 program and then the satellite program. It brings back a lot of memories of events that happened during our life, part of which is Cuba, with the Cuban missile crisis and some of the other events that happened after that.

We have had a policy in place now for 40 years. For 40 years we have said: Sanctions. And for 40 years it has not worked.

When I was growing up, my dad often said, ''If you keep on doing what you have already been doing, you will wind up with what you already got.'' That is kind of where we are on the Cuban situation. We keep on doing what we have always been doing and we wind up with exactly what we have always had.

Fidel Castro is not interested in helping the side I am working on. He does not really want United States participation there. He keeps throwing out little roadblocks to keep it from happening. Fidel Castro does not like the amendments we have offered even though he may appear sometimes to be on that same side.

For instance, with visas, he is now offering open visas. Of course, he knows we are not going to give visas, so that really does not allow any people into the country.

He keeps violating human rights. All of that is to keep his people in contact with a free democracy, the United States, to keep our people from talking to the people in Cuba.

The people in Cuba can already get everything they need. They get it from other countries. Unilateral actions have not worked. That is what we are talking about here, a unilateral action: The United States, standing by itself, saying, Don't do anything with Cuba. Meanwhile, all the other countries provide everything that is needed there. They are about to learn something about providing it on credit, which we are not doing. We are requiring cash on the few inroads we have made.

But we keep going in the wrong direction. The Transportation bill funds an organization that takes it in that wrong direction. We have had people-to-people trips to Cuba. There is a fellow in Wyoming who had conducted some of these people-to-people trips to Cuba. The word is, they are limited on where they can stay and who they can talk to, so they are getting a very biased view.

I visited with him. I asked: How limited are you? He said: We aren't limited; we cannot stay in the homes of individuals, but there is some selection on hotels. What we do during the daytime we have freedom to do. The only freedom we are lacking is that people are afraid to talk to us because of the regime. That does add a degree of difficulty.

I thank Senator LUGAR, the chairman of the Foreign Relations Committee, for holding a hearing on the Cuba situation. That is another one of those firsts that is allowing us to make a little bit of progress. I think incrementally we will keep making progress.

The amendment before us is just incremental progress. It is not a drastic change in policy. It is something the House has already approved. I hope my colleagues will join us in approving the second-degree amendment and the amendment.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I support the amendment offered by my friend from North Dakota.

I am a cosponsor of bipartisan legislation that was introduced earlier this year that would allow travel between the United States and Cuba.

Current policy with regard to Cuba, as enforced by the Treasury Department's Office of Foreign Assets Control, permits travel to Cuba only with permission in the form of a license from the Treasury office for certain reasons such as to visits relatives, or for journalism, religious, or humanitarian purposes.

According to Treasury documents, between 1996 and 2003, about one-third of Cuba travel cases opened for investigation were referred for civil penalty enforcement action. Typical penalty assessments for unauthorized travel range from $3,000 to $7,500.

For 40 years, the United States has maintained an isolationist position toward Cuba, and the current regime has remained throughout that time. I believe that permitting travel to Cuba would help demonstrate to Cuban citizens what a democracy is all about.

Mr. President, it is time to lift the travel restrictions to Cuba.

I urge the adoption of this amendment.

Mr. LEAHY. Mr. President, I commend my friend from North Dakota and my friend from Idaho for their amendments to prohibit the Treasury Department's Office of Foreign Assets Control from wasting taxpayer funds to enforce the ban on travel by American citizens to Cuba.

Today, any American who wants to travel to Iran, North Korea, Syria, Vietnam, to just about anywhere, can do so as long as that country gives them a visa. As far as the U.S. Government is concerned, Americans can visit any of those countries.

Cuba, on the other hand, a country that poses about as much threat to the United States as a flea does to a buffalo, is off limits.

Of all the ridiculous, anachronistic, and self-defeating policies, this has got to be near the top of the list. OFAC is spending scarce funds to prosecute harmless, law-abiding, upstanding American citizens who want nothing more than to experience another culture, and in doing so, leave a bit of America behind.

For 40 years, administration after administration, and Congress after Congress, has stuck by this failed policy. Yet Fidel Castro is as firmly in control today as he was half a century ago.

The Dorgan and Craig amendments would inject some sense into our policy toward Cuba, and they would protect one of the most fundamental rights that most Americans take for granted—the right to travel freely.

A few years ago, I traveled to Cuba with Senator JACK REED. We were able to go there because we are Members of Congress.

I came face to face with the absurdity of the current policy because I wanted my wife Marcelle to accompany me. A few days before we were to leave, I got a call from the State Department saying that they were not sure they could approve her travel to Cuba.

I cannot speak for other Senators, but I suspect that like me, they would not react too kindly to a policy that gives the Government the authority to prevent their wife, or other members of their family, from traveling with them to a country with which we are not at war and which, according to the Defense Department and the vast majority of the American public, poses no threat to our security.

I wonder how many Senators realize that if they wanted to take a family member with them to Cuba, they would probably be prohibited from doing so.

Over a decade has passed since the collapse of the former Soviet Union. The Russians long ago cut their $3 billion subsidy to Cuba. We now give millions of dollars in aid to Russia.

Americans can travel to North Korea. There are no restrictions on the right of Americans to travel there. Which country poses a greater threat to the United States? The answer is obvious.

Americans can travel to Iran, and they can spend money there. The same goes for Syria.

Our policy is hypocritical, inconsistent, and contrary to our values as a nation that believes in the free flow of people and ideas. It is beneath us. It is impossible for anyone to make a rationale argument that an American should be able to travel freely to North Korea, or Iran, but not to Cuba. It can't be done.

We have been stuck with this misguided policy for years, even though virtually everyone knows, and says privately, that it makes absolutely no sense and is beneath the dignity of a great country.

It not only helps strengthen Fidel Castro's grip on Cuba, it hands a huge advantage to our European competitors who are building relationships and establishing future investments in a post-Castro Cuba.

When that will happen is anybody's guess. President Castro is no democrat, and he is not going to become one. Human rights are systematically denied in Cuba. That is beyond dispute. But it is time we pursued a policy that is in our national interest, that helps pave the way for the day when Castro is gone, and which stops punishing American citizens.

Those who want to prevent Americans from traveling to Cuba, who oppose this bill, will argue that spending U.S. dollars there helps prop up the Castro government.

To some extent that is true. The same can be said of spending dollars in Sudan, Syria, or any country. The Cuban Government does control the formal economy. It also runs schools and hospitals, maintains roads, and, like the U.S. Government, is responsible for a whole range of social services. Any money that goes into the Cuban economy also supports those programs, which benefit ordinary Cubans.

There is also an informal economy in Cuba, because few Cubans can survive on their meager salaries. So the income from tourism also fuels that informal sector, and it goes into the pockets of ordinary Cubans.

As much as we want to see a democratic Cuba, President Castro's grip on power is not going to be weakened by keeping Americans from traveling to Cuba. History has proven that.

Let's inject some maturity into our relations with Cuba. Let's have a little more faith in the power of our ideas. Let's have the courage to admit that the cold war is over. Let's get the Government out of the business of telling our wives, our children, and our constituents where they can travel and spend their own money in a country that poses no threat to us.

Mr. DURBIN. Mr. President, I strongly support the amendment of my colleague from North Dakota, Senator DORGAN, and I ask unanimous consent to be listed as a cosponsor.

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

Mr. DURBIN. Senator DORGAN's amendment prohibits the implementation of travel restrictions on Americans who wish to visit Cuba.

We all agree on the goal of peaceful change toward democracy and a free market economy in Cuba. I'd like to ask my colleagues how restricting the ability of Americans to travel to Cuba advances that goal?

My mother was an immigrant from Lithuania, and as a Member of Congress I traveled to Lithuania when it was still under Communist domination. The Communist government kept me out for days, but eventually even they let me into the country.

During the cold war, Americans were able to travel to Soviet bloc countries, and if they were kept out, it was by the Communists, not by their own Government.

I believe that interaction between Americans and ordinary Cubans can only advance change in Cuba.

The more Americans go to Cuba, the more ordinary Cubans will interact with them. I believe Castro has more to fear from American tourists transmitting American ideas to Cubans than from our sanctions regime. An army of tourists could be the most effective force for change we could muster.

In fact, our sanctions policy has done more to motivate ordinary Cubans to rally around their leader than it has to weaken the Castro regime. Restricting the rights of Americans to travel to Cuba undercuts our shared goal of bringing change to Cuba.

I support Senator DORGAN's amendment and urge my colleagues to support it as well.

Mr. DODD. Mr. President, I am proud to be a cosponsor of the amendment to lift restrictions on travel to Cuba. I and many of my colleagues have been trying for the last five years to restore American citizens' right to travel where they choose, including to the island of Cuba, if that is their desire.

The broad cross-section of bipartisan cosponsors of this amendment are in agreement that the time has come to lift the very archaic, counterproductive, and ill-conceived ban on Americans traveling to Cuba. Not only does this ban hinder rather than help our effort to spread democracy, it unnecessarily abridges the rights of ordinary Americans. The United States was founded on the principles of liberty and freedom. Yet when it comes to Cuba, our Government abridges these rights with no greater rationale than political and rhetorical gain.

Cuba lies just 90 miles from America's shore. Yet those 90 miles of water might as well be an entire ocean. We have made a land ripe for American influence, forbidden territory. Look, there is no doubt in my mind that Fidel Castro does not want the light of freedom shone on his island. He is a dictator and wants nothing more than to keep his people in the darkness. Sadly, U.S. policy has helped make his worker easier. We have enabled the Cuban regime to be a closed system, with the Cuban people having little contact with their closest neighbors.

Surely we do not ban travel to Cuba out of concern for the safety of Americans who might visit that island nation. Today Americans are free to travel to Iran, Sudan, Burma, Syria, and even to North Korea—but not to Cuba. You can fly to North Korea; you can fly to Iran; you can travel freely. It seems to me if you can go to those countries, you ought not be denied the right to go to Cuba. If the Cubans want to stop Americans from visiting that country, that ought to be their business. But to say to an American citizen that you can travel to Iran, where they held American hostages for months on end, to North Korea, which has declared us to be an enemy of theirs completely, but that you cannot travel 90 miles off our shore to Cuba, is a mistake.

To this day, some Iranian politicians believe the United States to be ''the Great Satan.'' We hear it all the time. A little more than two decades ago, Iran occupied our embassy and took innocent American diplomats hostage. To this day, protesters in Tehran burn the American flag with the encouragement of some officials in that government. Those few Americans who venture into such inhospitable surroundings often find themselves pelted by rocks and accosted by the public.

Similarly, we do not ban travel to Sudan, a nation we attacked with cruise missiles a few short years ago, for its alleged support of terrorism; to Burma, a nation with one of the most oppressive regimes in the world today; to North Korea, whose soldiers have peered at American servicemen through gun sights for decades; or Syria, which has one of the most egregious human rights records and is one of the foremost sponsors of terrorism.

I totally agree with my colleagues that it borders on negligence when 10 percent of the Treasury's Office on Foreign Assets Control budget is devoted to tracking down and punishing grandmothers and grandfathers because they have visited Cuba. Don't we have more important programs to spend resources on? How about tracking down the financial resources that continue to support terrorist groups like al-Qaida? We know that activities of that organization and others like it are a direct threat to U.S. national security. We know that more government resources are need to ensure that events like September 11, 2001 never again are repeated against our citizens. Chasing down bikers who have visited Cuba is doing nothing to ensure our citizens are protected against terrorist attacks.

It is time to get our priorities straight and end the inconsistency

with respect to U.S. travel restrictions to Cuba. We ban travel to Cuba, a nation which is neither at war with the United States nor a sponsor of international terrorist activities.

Why do we ban travel? Ostensibly so that we can pressure Cuban authorities into making the transition to a democratic form of government.

I fail to see how isolating the Cuban people from democratic values and ideals will foster the transition to democracy in that country. I fail to see how isolating the Cuban people from democratic values and from the influence of Americans when they go to that country to help bring about the change we all seek, serves our own interests.

The Cuban people are not currently permitted the freedom to travel enjoyed by many peoples around the world. However, because Fidel Castro does not permit Cubans to leave Cuba and come to this country is not justification for adopting a similar principle in this country that says Americans cannot travel freely. We have the Bill of Rights. We need to treasure and respect the fundamental rights that we embrace as American citizens. Travel is one of them. If other countries want to prohibit us from going there, then that is their business. But for us to say that citizens of Connecticut or Alabama cannot go where they like is not the kind of restraint we ought to put on people.

If Americans can travel to North Korea, to the Sudan, to Iran, then I do not understand the justification for saying that they cannot travel to Cuba.

I happen to believe that by allowing Americans to travel to Cuba, we can begin to change the political climate and bring about the changes we all seek in that country.

Today, every single country in the Western Hemisphere is a democracy, with one exception: Cuba. American influence through person-to-person and cultural exchanges was a prime factor in this evolution from a hemisphere ruled predominantly by authoritarian or military regimes to one where democracy is the rule. Our current policy toward Cuba blocks these exchanges and prevents the United States from using our most potent weapon in our effort to combat totalitarian regimes, and that is our own people. They are the best ambassadors we have. Most totalitarian regimes bar Americans from coming into their countries for the very reasons I just mentioned. They are afraid the gospel of freedom will motivate their citizens to overthrow dictators, as they have done in dozens of nations over the last half century. Isn't it ironic that when it comes to Cuba we do the dictator's bidding for him in a sense? Cuba does not have to worry about America spreading democracy. Our own Government stops us from doing so.

Let me review for my colleagues who may travel to Cuba under current government regulations and under what circumstances.

The following categories of people may travel to Cuba without applying to the Treasury Department for a specific license to travel. They are deemed to be authorized to travel under so-called general license: Government officials, regularly employed journalists, professional researchers who are ''full time professionals who travel to Cuba to conduct professional research in their professional areas,'' Cuban Americans who have relatives in Cuba who are ill—but only once a year.

There are other categories of individuals who theoretically are eligible to travel to Cuba as well, but they must apply for a license from the Department of the Treasury and prove they fit a category in which travel to Cuba is permissible. What are these categories? The first is so called freelance journalists, provided they can prove they are journalists; they must also submit their itinerary for the proposed research. The second is Cuban Americans who are unfortunate enough to have more than one humanitarian emergency in a 12-month period and therefore cannot travel under a general license. The third is students and faculty from U.S. academic institutions that are accredited by an appropriate national or regional educational accrediting association who are participating in a ''structural education program.'' The fourth is members of U.S. religious organizations.

The fifth is individuals participating in public performances, clinics, workshops, athletic and other competitions and exhibitions. If that isn't complicated enough—just because you think you may fall into one of the above enumerated categories does not necessarily mean you will actually be licensed by the U.S. Government to travel to Cuba.

Under current regulations, who decides whether a researcher's work is legitimate? Who decides whether a freelance journalist is really conducting journalistic activities? Who decides whether or not a professor or student is participating in a ''structured educational program''?

Who decides whether a religious person is really going to conduct religious activities? Government bureaucrats are making those decisions about what I believe should be personal rights of American citizens.

It is truly unsettling, to put it mildly, when you think about it, and probably unconstitutional at its core. It is a real intrusion on the fundamental rights of American citizens. It also says something about what we as a government think about our own people.

Do we really believe that a journalist, a government official, a Senator, a Congressman, a baseball player, a ballerina, a college professor or minister is somehow superior to other citizens who do not fall into those categories; that only these categories of people are ''good examples'' for the Cuban people to observe in order to understand American values?

I do not think so. I find such a notion insulting. There is no better way to communicate America's values and ideals than by unleashing average American men and women to demonstrate by daily living what our great country stands for and the contrasts between what we stand for and what exists in Cuba today.

I do not believe there was ever a sensible rationale for restricting Americans' right to travel to Cuba. With the collapse of the Soviet Union and an end to the cold war, I do not think any excuse remains today to ban this kind of travel. This argument that dollars and tourism will be used to prop up the regime is specious. The regime seems to have survived more than 40 years despite the Draconian U.S. embargo during that entire period. The notion that allowing Americans to spend a few dollars in Cuba is somehow going to give major aid and comfort to the Cuban regime is without basis, in my view.

Political rhetoric is not sufficient reason to abridge the freedoms of American citizens.

Nor is it sufficient reason to stand by a law which counteracts one of the basic premises of American foreign policy; namely, the spread of democracy. The time has come to allow Americans—average Americans—to travel freely to Cuba.

I urge my colleagues to support the pending amendment and restore American citizens' rights to travel wherever they choose, including to the island of Cuba.

Mr. BINGAMAN. Mr. President, I rise today in support of the amendment introduced by Senators DORGAN and CRAIG that will suspend enforcement of the travel ban on Cuba.

As many of my colleagues know, in March of this year the Office of Foreign Assets Control at the Department of Treasury published new regulations that would severely restrict licensed travel by United States citizens to Cuba for educational activities. I think I would not be incorrect to call this regulatory change another backward step in a Cuba policy that has proven to be wrongheaded and counterproductive. We have in place at this time a trade, investment, and travel ban with Cuba that has been in place since the early 1960s that has had no tangible effect on the policies that have been implemented in that country. We now have proposed by the Department of Treasury a further tightening of these restrictions with no logical policy justification of which I am aware. We are talking about continuing the exact same policy with Cuba that has been in place for over 40 years and then wondering why we have the exact same results—year after year after year. I am afraid it makes no sense to me.

As a response, Senators BAUCUS and ENZI introduced legislation—of which I was an original cosponsor, S. 950—that was specifically designed to reverse this travel ban. The Dorgan-Craig

amendment is a shortened version of this legislation. Having recently passed in the House, I believe it reflects a visible trend on both sides of the aisle in both the Senate and the House toward a very simply proposition: the ongoing embargo with Cuba represents a significant foreign policy failure on the part of the U.S. Government in that it has only solidified the position of Castro and perpetuated the power of his brutal regime. What we have seen is a vicious circle where our unwillingness to engage Cuba has led to an inability on our part to influence the direction and speed of that country's political and economic development. Given the prominent issues in the country and the potential trajectories a post-Castro Cuba might take, this is not an exercise in theory. There are very real costs for the United States, in both the region and the world, if we do not work constructively and purposively toward a transition to a peaceful, democratic society and a free market economy in Cuba.

No one in Congress approves of the policies or the politics used by Castro. I personally deplore the regime's repressive tactics and support the movement in the country that has attempted to increase political participation. As it stands now, the lack of freedom and opportunity in Cuba stands in direct contrast to the rest of Latin America, and is a very real reflection of the inability of Castro to be in touch with the needs and desires of his people. Cuba now stands practically alone in Latin America in its ability to nurture the growth of democracy, establish the protection of individual human rights, and create a semblance of economic security.

But this is a question of how best to achieve the goals we all want. I am of the view that more, not less engagement will get us where we want to go. I am of the view that our strongest lever and possibility for change comes from intensive and ongoing interaction with the Cuban people. This amendment is a small but important step in that direction. I urge my colleagues to support it.

Mr. ENSIGN. Mr. President, I am in opposition to the Dorgan amendment to lift the Cuba travel ban.

Mr. President, a few months ago, Fidel Castro saw his opportunity to deal with his internal critics once and for all. Seventy-five dissidents and independent journalists were rounded up, tried in kangaroo courts, and given sentences as high as 28 years in prison—for a cumulative total of 1,454 years—simply for the crime of being independent journalists, or economists, or democracy advocates.

Castro's actions were so galling, so blatant, that even some of his most craven apologists expressed shock. The European Union which until then had been happy to make a tidy profit at the expense of Cubans, imposed travel restrictions and other sanctions on the Castro dictatorship. Newspapers changed their position on sanctions. For example, the Los Angeles Times wrote, ''After years of calling for liberalized relations with Cuba, this editorial page must now urge American policymakers to hit the brakes. Before Congress even thinks about loosening restrictions, it should demand that Castro free those rounded up and demonstrate that his nation is moving toward democracy and away from totalitarianism.''

Nothing has changed. Those dissidents are still rotting in Castro's jails.

Nonetheless, today, the majority of the United States could decide to ignore the pain and suffering of those 75 dissidents and turn the other way. They could decide to reward Castro by voting to lift the travel ban and let American dollars finance Castro's instruments of repression.

The appeasers keep saying that weakening the embargo by lifting the travel ban will hasten Castro's demise. Whenever they say this, I always ask: How?

The answer is always vague—something about how travel by Americans to Cuba will somehow transform Cuba and change Castro's ways. Well, I look at Cuba today and see a lot of European and Canadian tourists that have been going there for years—yet Cuba has not been transformed, and Castro has not changed one iota.

The fact is, American tourists cannot change Cuba any more than Europeans or Canadians or Latin Americans have—because in Cuba you cannot do business with individual Cubans—you have to do business with Castro.

Castro practices tourist apartheid. He sets aside hotels, beaches, stores, restaurants, and hospitals for foreigners. Cubans are not permitted in those places. Anyone who believes that Americans drinking mojitos while sunning themselves on the beaches of Varadero is going to liberate the Cuban people doesn't understand the nature of tyranny.

Tourists even fund Castro's security apparatus when they stay in hotels owned by foreign investors. In Cuba, when a foreign investor comes to town, they do not hire or pay Cuban workers directly—only the Castro regime can legally employ a Cuban citizen. They pay Castro in hard currency for each worker—often as much as $10,000 per employee. Castro then pays the workers in worthless Cuban pesos—the equivalent of $15 or $20 a month—and pockets the rest.

The result is that foreign businesses in Cuba are paying Castro hundreds of millions of dollars in direct cash subsidies—while the Cuban people get nothing. These foreign investors have effectively replaced the Soviet Union as the source of Castro's hard currency subsidies.

Under these circumstances, American travel to Cuba cannot liberate the Cuban people.

To the contrary, it would only help Castro prop up Cuba's teetering economy and perpetuate his dictatorship. Under these conditions, American dollars would do nothing to promote democracy or entrepreneurship of independence from the state. All it would do is directly subsidize the oppression of the Cuban people.

Fortunately, we have a President who is not going to allow that to happen—who will veto this bill if presented to him with a lifting of the travel ban.

One of these days Cuba will be free—and I want to be able to look the Cuban people in the eye, and say to them that not one dime of the money used to repress, imprison and torture them came from legal American investors. I want to be able to look them in the eye, and say our tourists did not come and rape their wives and daughters, who had to sell their bodies to foreign tourists to feed their families under Castro's regime. I want to be able to say that we did not subsidize their oppression.

The Cuban people will remember who supported them and who supported Fidel Castro. Mr. President, this Senator chooses to stand with the Cuban people, and to oppose the Dorgan amendment.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Alaska.

Mr. STEVENS. Mr. President, this amendment would limit the funding of the Treasury's Office of Foreign Assets Control.

There are about 135,000 Americans who go to Cuba every year. Some Members of the Congress have been there. But why should we now open up travel to Cuba and give additional cashflow to the Castro regime?

There is no rule of law there. Tourists have been frequently detained, as in the case of American citizen Ron Shelton. I wish we had a poster to show that.

It is unconscionable that after the recent crackdown and arrest by Castro of nearly 80 dissident human rights activists and opposition leaders that this comes up now at this time to sort of reward him for that activity.

It is a cash-starved dictatorship, and no matter what anyone says, opening the doors for American tourism will feed that dictatorship and give him the ability to select his successor without any participation of the Cubans in a democratic way.

We have always said we would restore relations with Cuba when they had a change in their system and restored democracy to Cuba.

The Cuban regime is listed by the State Department as one of the seven nations responsible for sponsoring terrorism. The other six nations are Iran, Iraq, Libya, North Korea, Sudan, and Syria. The Cuban regime was added to the list in 1982, and remains there because of Castro's personal support of revolutionary and terrorist groups.

Now, Canadians and Europeans have been traveling to Cuba for the last 10 years, but those tourist dollars have not assisted the Cuban people, as my colleagues have reported. There still

are great signs of problems for the average Cuban. But the Cuban regime continues to host numerous terrorist organizations as well as many fugitives from U.S. justice.

Castro provides safe haven and support to terrorists all over the world. State Department officials have asserted Castro's government ''has at least a limited developmental offensive biological warfare research and development effort.'' I do not see that this is the time to authorize sending tourism dollars to support a proterrorism regime.

In May of 2001, Castro visited Iran and met with Mohammad Khatami. At Tehran University, Castro publicly praised Iran for its struggles against American imperialism and said his visit would strengthen the bonds between the two nations. Both of those countries are covered by the current U.S. sanctions.

Castro publicly stated:

> My visit to Iran for me and my nation is a great privilege. I truly believe that the relations of the two countries will be stronger after this trip.

He took Cuban tourism to Iran and thinks that is going to improve relations between the two proterrorist nations. I do not believe we should overlook the fact that he said:

> Iran and Cuba, in cooperation with each other, can bring America to its knees.

Let me repeat that. He said, in 2001:

> Iran and Cuba, in cooperation with each other, can bring America to its knees. The U.S. regime is very weak, and we are witnessing this weakness from close up.

That is speaking as a Cuban close off our shores.

The administration has indicated to us on the Appropriations Committee that it understood that ''amendments may be offered that would weaken current sanctions against Cuba. The administration believes it is essential to maintain sanctions and travel restrictions to deny economic resources to the brutal Castro regime'' particularly when he has already stated his goal is to weaken the United States and to bring this Nation to its knees.

I am told that if the final version of this bill contains such a provision, the President's senior advisers would recommend he veto the bill.

As the chairman of the Appropriations Committee, I bring to the floor the message of the President of the United States, and I move to table this amendment and ask for the yeas.

Mr. REID. Will the Senator withhold?

Mr. STEVENS. Yes.

Mr. REID. Mr. President, I advise all Members it is very likely that following this vote—10 or 15 minutes after the finalization of this vote—there will be another vote. Everyone should be advised of that.

Mr. STEVENS. Yes. I was going to say that. I emphasize, after we vote on this motion to table, we believe there will be another motion to table soon after 12:30.

Mr. President, I do move to table this amendment, the underlying amendment, and that will take the second-degree amendment along with it, I understand. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to table amendment No. 1900.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Missouri (Mr. BOND) and the Senator from Montana (Mr. BURNS) are necessarily absent.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting the Senator from California (Mrs. BOXER) and the Senator from Massachusetts (Mr. KERRY) would each vote ''nay.''

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 59, as follows:

[Rollcall Vote No. 405 Leg.]

YEAS—36

Alexander	Frist	McConnell
Allen	Graham (FL)	Murkowski
Bunning	Graham (SC)	Nelson (FL)
Chambliss	Grassley	Nickles
Cochran	Gregg	Reid
Coleman	Hatch	Santorum
Cornyn	Kyl	Sessions
Corzine	Lautenberg	Shelby
Dole	Lieberman	Smith
Domenici	Lott	Snowe
Ensign	Lugar	Stevens
Fitzgerald	McCain	Thomas

NAYS—59

Akaka	Dayton	Levin
Allard	DeWine	Lincoln
Baucus	Dodd	Mikulski
Bayh	Dorgan	Miller
Bennett	Durbin	Murray
Biden	Enzi	Nelson (NE)
Bingaman	Feingold	Pryor
Breaux	Feinstein	Reed
Brownback	Hagel	Roberts
Byrd	Harkin	Rockefeller
Campbell	Hollings	Sarbanes
Cantwell	Hutchison	Schumer
Carper	Inhofe	Specter
Chafee	Inouye	Stabenow
Clinton	Jeffords	Sununu
Collins	Johnson	Talent
Conrad	Kennedy	Voinovich
Craig	Kohl	Warner
Crapo	Landrieu	Wyden
Daschle	Leahy	

NOT VOTING—5

Bond	Burns	Kerry
Boxer	Edwards	

The motion was rejected.

Mr. STEVENS. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that Senator ROBERTS be named as a cosponsor.

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

Mr. STEVENS. I ask for the adoption of the second-degree amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1901.

The amendment (No. 1901) was agreed to.

Mr. STEVENS. Mr. President, I ask for the adoption of the basic underlying amendment.

The PRESIDING OFFICER. The question is on agreeing to the first-degree amendment, as amended.

The amendment (No. 1900), as amended, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. For the information of all Senators, I intend to make a motion on the soon-to-be-offered amendment of Senator FEINGOLD rather soon.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Wisconsin.

AMENDMENT NO. 1904

Mr. FEINGOLD. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 1904.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

> (Purpose: To provide that Members of Congress shall not receive a cost of living adjustment in pay during fiscal year 2003)
>
> At the appropriate place in the bill, insert the following:
>
> SEC. ____. Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost of living adjustments for Members of Congress) during fiscal year 2004.

Mr. FEINGOLD. Mr. President, before I begin my remarks on this amendment to cancel the scheduled pay raise for Members, I want to note it is possible at some point the Senator may raise a point of order under rule XVI that this amendment constitutes legislating on appropriations. That is a nondebatable question so I would like to take this opportunity to make a parliamentary inquiry of the Chair.

The PRESIDING OFFICER. State your inquiry.

Mr. FEINGOLD. Is there a defense of germaneness available for this amendment?

The PRESIDING OFFICER. There is.

Mr. FEINGOLD. I thank the Chair.

There it is. This amendment is germane to the underlying measure. In fact, it is clearly germane. As some may know, the pay raise provisions for

general scheduled Federal employees directly impact the automatic pay adjustment for Members. Without the provisions included in the underlying bill, Members' pay would be less than it would be otherwise.

I want to make sure there is no misunderstanding. There is no legitimate point of order that might be raised. This is the pay raise vote for the year. The amendment is germane to the underlying bill, and I wanted to make that crystal clear in the event some might try to portray this vote on this issue as a purely procedural vote.

My amendment is very straightforward. It would simply eliminate the roughly $3,400 pay raise for Members of Congress that is scheduled to go into effect next January. Put simply, this is the wrong time for Congress to give itself a pay hike. Our economy is still recovering from the recent slowdown. The financial markets have been rocked, wiping out a large portion of the life savings and retirement accounts of many families. Thousands of workers were laid off and have not returned to work, and families face increasing financial pressures. After finally balancing our budget, we are now facing record annual deficits. CBO reports our deficit for the fiscal year that just ended on September 30 was an all-time record $374 billion. If we do not count the Social Security surpluses, and I do not think we should count them, the deficit is nearly $530 billion.

For the current fiscal year, CBO projects a unified budget deficit of $480 billion. Without counting Social Security, the deficit is projected to be $636 billion. Those figures do not include, of course, the $87 billion in additional funding the President has requested for operations in Iraq and Afghanistan.

Over the next 5 years, CBO projects the budget deficits to total $1.4 trillion. Without using Social Security surpluses, the deficits are projected to total $2.4 trillion. The budget spends all of the Government's general revenues and goes well beyond that, running through all of the Social Security trust fund balances. That is something we should do only to meet the most critical national priorities.

I submit a $3,400 pay raise for Members is not a critical national priority. No one can argue this pay raise is justified because Members have not had a pay raise in a while. This is the fifth pay raise in as many years.

On January 1, 2000, Members received a $4,600 pay raise. On January 1, 2001, Members received a $3,800 pay raise. On January 1, 2002, Members received a $4,900 pay raise. On January 1, 2003, Members received a $5,000 pay raise, and unless we stop it, on January 1, 2004, Members will receive a $3,400 pay raise.

That will mean that as of next January, Members will have received five consecutive pay hikes totaling over $21,000. Members will be receiving an annual salary that is $21,000 higher than they did in 1999 because of automatic pay raises.

Now, $21,000 is more than the average annual Social Security benefit for a retired worker and spouse. It is more than the average annual Social Security benefit for a disabled worker, spouse, and child. It is more than someone working minimum wage could make in a year and a half.

While Congress is receiving all of these pay raises, the rest of the country has not been so fortunate. The most recent employment report we have from the Bureau of Labor Statistics says the number of unemployed is nearly 9 million people and the unemployment rate is 6.1 percent. The number of long-term unemployed is over 2 million, the highest levels in over a decade. I think that bears repeating. The number of long-term unemployed is 2 million people.

So I ask, How can Congress give itself a $3,400 pay raise while nearly 9 million people are unemployed and 2 million have been out of work for more than half of a year?

It was recently announced that Social Security recipients will be receiving only the most modest cost-of-living adjustment. The average retiree will be receiving a COLA of about $19 per month or $228 per year. I should add, half of the Social Security COLA will be eaten up by a hike in Medicare premiums. It will not be lost on the millions of retirees that while they are getting a COLA of $228 in 2004, Members of Congress will be giving themselves a pay hike of $3,400.

This automatic stealth pay raise system is just wrong. As I have noted before in discussing this matter, it is an unusual thing to have the power to raise our own pay. Few people have that ability. Most of our constituents do not have that power. That this power is so unusual is a good reason for the Congress to exercise that power openly and exercise it subject to regular procedures that include debate, amendment, and a vote in the RECORD. That is why this process of pay raises without accountability must end. I think it is wrong. I believe it may be unconstitutional.

The 27th amendment of the Constitution states:

> No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

I recognize some of my colleagues may want a pay raise, and I certainly understand that feeling. I do not suppose there is anyone who is working today who would not want a pay raise. Two years ago, a colleague said to me that Members deserved a pay increase because of all that we had been through. I strongly disagree with that assessment, but I understood the sentiment.

I mention all of this because I firmly believe even those who favor a pay hike should support an open and public vote on the increase. Certainly having a vote on the record for a pay hike is better than the stealth pay raise that takes place with no action. Standing up and making a case before the voters is far better than letting the pay raise take effect. I, for one, would be interested to hear someone explain just why Congress should get a $3,400 pay raise in the face of record budget deficits, an economic downturn, and record unemployment. Who knows. Maybe somebody can actually make the case, but we really should scrap the current stealth pay raise system, and I have introduced legislation to stop this process.

The amendment I offer today does not go that far. All it does is stop the pay raise that is scheduled to go into effect in January, the fifth pay raise in 5 years. Let's stop this backdoor pay raise and then let's enact legislation to end this practice once and for all.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. STEVENS. I am in opposition to this amendment.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I will ask for the yeas and nays in a minute on my motion. I think we should be clear about the issue before the Senate. The issue really is whether the cost-of-living provision in this bill should apply to Members as it does to others who work for the Federal Government. We have provided COLAs to military personnel, civil servants, Social Security beneficiaries, a whole list of other categories of Federal service, Civil Service and Federal service. This is not a pay raise. It is an increase that is required by law.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Today, Senators regrettably voted to increase their pay for the fifth year in a row. Next year, as a result of today's action, most of our salaries will be $3,400 higher than they are this year.

While I have supported the congressional pay raise in the past, I cannot in good conscience support it this year. It simply sends the wrong signal to the millions of Americans who are unemployed, or who have taken jobs that pay far less than their previous jobs in order to make ends meet. There are millions of people out there who may not be unemployed, as the formal statistics count them, but they are surely underemployed working part-time instead of full-time, taking a low-paying hourly job just to have some money coming in, or taking a new job that pays them substantially less than their last job. According to the Labor Department, nearly 5 million people who want full-time jobs have settled for part-time work, an increase of 30 percent in 3 years. In September, despite the fact that the economy created 57,000 new jobs, the percentage of the population with full-time jobs actually declined, and the number of people unemployed for 27 weeks or more increased.

In fact, just today, on the very day that the pay increase passed the Senate, a cover story in the newspaper USA Today explained how millions of people across America are having to take what the paper called ''survival jobs.''

A recent report in the Wall Street Journal said that more than 50 percent of Americans who took new jobs last year took a pay cut. Some of my colleagues may call these ''new jobs,'' arguing that it shows the President's three successive tax cuts are starting to work. I don't know what economy they are looking at, but where I come from, when a $50,000 a year worker finds a new job that pays her $30,000, the statistics may count this as a new job, but try telling this American that tax cuts have made her ''better off.'' I don't think it's worth mortgaging our financial future by borrowing record amounts in order to create new jobs that pay Americans less than they made before. And I don't think that we should be getting a pay raise when so many hard-working Americans are getting pay cuts.

In conclusion, it's simply the wrong time for us to take this action, and I do not support it.●

Mr. STEVENS. I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Nevada (Mr. ENSIGN), and the Senator from Alaska (Ms. MURKOWSKI) are necessarily absent.

I further announce that if present and voting the Senator from Nevada (Mr. ENSIGN) would vote ''nay.''

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. BOXER) would vote ''yea.''

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''nay.''

The result was announced—yeas 60, nays 34, as follows:

[Rollcall Vote No. 406 Leg.]

YEAS—60

Akaka	Carper	Dorgan
Alexander	Chafee	Durbin
Allen	Cochran	Feinstein
Bennett	Coleman	Frist
Biden	Conrad	Graham (FL)
Bingaman	Cornyn	Gregg
Bond	Corzine	Hagel
Breaux	Craig	Harkin
Burns	Crapo	Hatch
Byrd	Daschle	Hollings
Cantwell	Dodd	Inhofe
Inouye	Lott	Roberts
Jeffords	Lugar	Santorum
Kennedy	McConnell	Sarbanes
Kohl	Mikulski	Shelby
Kyl	Nelson (NE)	Smith
Landrieu	Nickles	Stevens
Lautenberg	Pryor	Sununu
Levin	Reed	Voinovich
Lieberman	Reid	Warner

NAYS—34

Allard	Enzi	Nelson (FL)
Baucus	Feingold	Rockefeller
Bayh	Fitzgerald	Schumer
Brownback	Graham (SC)	Sessions
Bunning	Grassley	Snowe
Campbell	Hutchison	Specter
Chambliss	Johnson	Stabenow
Clinton	Leahy	Talent
Collins	Lincoln	Thomas
Dayton	McCain	Wyden
DeWine	Miller	
Dole	Murray	

NOT VOTING—6

Boxer	Edwards	Kerry
Domenici	Ensign	Murkowski

The motion to lay on the table was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, Senator BOXER was unavoidably absent today. She has asked me to announce she would have voted to table.

AMENDMENT NO. 1905

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Iowa.

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. FEINGOLD, Mr. KENNEDY, and Mr. DURBIN, proposes an amendment numbered 1905.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prohibit the Internal Revenue Service from using funds to go forward with its proposed cash balance regulation)

At the appropriate place, insert the following:

SEC. . None of the funds made available in this Act may be used by the Secretary of the Treasury or his delegate to issue any rule or regulation which implements the proposed amendments to Internal Revenue Service regulations set forth in REG–209500–86 and REG–164464–02, filed December 10, 2002, or any amendments reaching results similar to such proposed amendments.

Mr. HARKIN. Mr. President, this amendment has some history in the Senate and the House. I will try to enlighten Senators as to the background and what it is about. Hopefully, we can have support for the amendment and adopt it.

Basically, it stops the Treasury Department from moving forward with a regulation that would allow companies to convert from a traditional defined benefit pension plan to a cash balance plan in a way that would hurt older workers. We are not saying they can't promulgate a rule that wouldn't allow a company to go from a defined benefit plan to a cash balance plan. We are just saying, they should not do it in a way that hurts older workers. Let me talk about that a little bit and what is behind it.

I am not totally opposed to cash balance plans. Some designs can be very good. Some can be a great deal better for younger workers, for example, than an uninsured defined contribution plan. Some are not. I am not saying we should prohibit any cash balance plans from existing. However, we need to make sure employers put in place a fair and equitable manner for treating these.

I have been following this issue closely for several years. In the mid-1990s, a groundswell of companies started converting from traditional defined benefit plans to hybrid plans, including cash balance plans. A couple of years later, some older workers who were nearing retirement started looking at the effect of this conversion on their account. They were shocked to find they hadn't been accruing any benefits for years. In other words, workers who were, say, in their forties or early fifties when the company converted from a defined benefit plan to a cash balance plan, didn't really know how the conversion would affect them. Then after several years, these older workers looked and found out they had been working for several years and their pension had not increased one penny, even though they had been working. Yet younger workers, age 20, 25, saw their pension plans increase.

A lot of workers nearing retirement, thinking they were going to get what they had assumed was going to be their retirement and their pension, all of a sudden found out their pension had been worn away over several years. It turned out that employers were freezing the accounts in the old plan, then they established a lower opening account balance in the new plan which meant, simply, that the longer you were in the plan, the longer you were working without earning any new benefits. That became a term called ''wearaway.'' In other words, your pension benefits wore away.

Many people said: This is nothing less than age discrimination. In other words, I am working for the company. I have been there for 20 years. They switch their pension program. A younger person gets more in their pension program than I get in mine.

A new 25-year-old employee would be getting more money contributed to their pension account, while a 45-year-old who had been loyal to the company for 20 years would not get anything. I was shocked and appalled to learn about this practice, and so were thousands of loyal, hard-working Americans.

In 1999, I introduced a bill to make it illegal for corporations to wear away

the benefits of older workers during these conversions. We raised the profile of this issue. We raised it with Treasury. In September of 1999, the Treasury Department issued a moratorium on conversions from defined benefit plans to cash balance plans. The momentum against these unfair conversions was building as more and more companies changed, as more and more workers found their pensions were worn away.

In April of 2000, we in the Senate passed a sense-of-the-Senate resolution without objection, stating that the wearing away of current benefits during cash balance conversions is unfair and wrong—a unanimous sense-of-the-Senate resolution in April of 2000.

Well, now we go to 2001 and 2002, and not much is happening. That moratorium stayed on, by the way, through 2000, 2001, and 2002. However, last December, Treasury issued a regulation that would turn the clock back, undo the moratorium, allow more businesses to go forward with conversions in this wrong manner—the manner that would wear away the pensions of older workers.

Very soon after that, 191 members of the House of Representatives, and 26 Senators signed a bipartisan letter to President Bush asking that we do not reopen the floodgates, that we withdraw this rule and promulgate a rule that is fair and equitable. Well, now, as you might imagine, during this period of time some of these workers who found that their pensions had been worn away went to court. In August, a district judge in East St. Louis, in the case of Cooper v. IBM—IBM was one of the larger, well-known companies that engaged in this practice—ruled in favor of the plaintiff on her age discrimination claim.

Now, on September 9—I am talking about last month, and this case was decided in August—the House of Representatives voted 258 to 160—again bipartisan, with 65 Republicans voting for the amendment—saying that the IRS should not issue a regulation that would overturn this ruling by the district judge in East St. Louis.

So now we are into October. I might just say that all of these have been positive steps. We had a sense-of-the-Senate resolution in 2000. We had the moratorium. Last December, the Treasury Department—I might add, if I am not mistaken, I don't think there was a Secretary of the Treasury at that time in place—issued this rule to turn the clock back, and 196 members of the House and 26 Senators signed a letter to President Bush saying withdraw this rule and have one that is fair and equitable.

In August, there was the district court ruling. On September 9, last month, the House voted 250 to 196 that the IRS should not issue a regulation that would overturn this ruling. There have been a lot of positive steps, but this regulation is still hanging out there.

One other thing happened. Last January, Senator DURBIN and I indicated that we might place a hold on the nomination of Mr. John Snow to be Secretary of the Treasury. Well, Mr. Snow was a very popular person and we didn't have anything personally against him; I want to make that clear. But we wanted to raise this issue. So Mr. Snow, a fine gentleman and outstanding business executive, someone who has gotten high accolades for his tenure in business as a business executive, met with Senator DURBIN and me in my office. He said on this critical issue he would let fairness guide the regulatory process.

Mr. Snow had talked about what they had done at CSX, the company he had been CEO of, and how they had, I believe, instituted a cash balance plan, and a choice between the old plan and the new plan, which sounded fair and reasonable to me—let the worker decide what they want, which means many younger workers would probably pick the cash balance plan, and older workers might stay with a defined benefit plan. Mr. Snow said he would let fairness guide this regulatory process. That is the way we ought to go.

The fairness ought to be in working with Congress to develop this new regulation. So I think the best way to ensure that we do this is to ensure, No. 1, that Congress speaks on this issue; that Congress is involved in working with Treasury to make sure we come up with a fair and equitable rule dealing with pensions.

Secondly, I think the best way to make sure this happens, and to make sure that Congress is able to work and have a seat at the table is to adopt this amendment.

This regulation must be withdrawn. We need to work together to find a reasonable, bipartisan legislative solution to this complex problem. This is an incredibly important issue to American workers. It is very important for them to know that we stand united behind them in this struggle for fairness.

Mr. President, I spoke about this many times on the Senate floor. In terms of what distinguishes the American workplace in so many ways from others around the world, we have always valued loyalty and productivity in the American workplace—loyalty and productivity. If you are hard working and you are productive and you are loyal, U.S. companies have always valued that—at least they used to. That is one of the reasons companies have offered defined benefit pension plans. The longer you work and the more loyal you are to the company, you get a bigger pension. It makes sense.

So the longer you work someplace, the better you do your job, the more you learn about it, the more productive you are, that is what we value. We value that productivity and loyalty.

Now if companies are able to just break these promises at random, what kind of a signal does that send to U.S. workers? It tells workers they are foolish to be loyal because their employer could just change the rules of the game at any time and leave them out in the cold. It destroys the kind of work ethic that we have come to value and that I believe built this country, which distinguishes us from other countries around the world. We value fairness when it comes to workers. A deal is a deal.

I offer this analogy. Let's say I am offered a job. The employer says to me: OK, Senator HARKIN, we are going to hire you and we are going to have a 5-year job here for you to do. If you stay with us for 5 years and you work for 5 years, we will give you a $50,000 bonus. I think that is a pretty good deal, so we shake hands, and I agree on that. So I worked at the company for 3 years, then my boss comes to me and says: HARKIN, you know that deal we made where we said if you would work here 5 years, you would get a $50,000 bonus? Well, you have been here for 3 years and, guess what, the deal is off. Just like that, the deal is off. But I went to work for that company depending upon that.

That is what happens to a lot of people. They depend upon the kind of pension program the company has. That is one of the things, when companies recruit workers out of college or vocational schools, people look at what kind of pension program they have. Well, if after a certain amount of time they say, sorry, it is off, you don't get any of this, what does that say about loyalty and productivity?

I don't think that is the way we want to treat workers in this country where the employer holds all the cards and can change the deal anytime they want.

Again, I didn't have any stake—but, HARKIN, you didn't contribute anything to that bonus. We said if you worked here 5 years, we would give you a $50,000 bonus, but we paid you the salary we agreed upon, did we not?

Yes.

You didn't put anything into that $50,000 bonus; that is something we were going to give you. Now we reneged on it. You don't have anything to gripe about.

Wait a minute. I have given 3 years to this company. I worked hard. I was productive because I wanted to get that bonus for 5 years, so it is not true to say I didn't put anything into the bonus.

This is like saying you didn't put anything into the pension plan. This is something the company offered you. Oh, yes, you did. You may have put in 20 or 25 years of loyal, hard work and diligence. If you had known 20 years ago they were going to pull the rug out from underneath you, would you have stayed with that company or would you maybe have gone someplace else?

Again, I hope people disabuse themselves of the idea that somehow a pension is just what the company offers you and you don't have any stake in it. You have a big stake in it. It is what they promised you when you went to work there, and you went to work there relying upon that promise.

I am not saying they can't change their pension programs. Times change, conditions change, the workforce changes. I understand all that. New kinds of pension programs come on the market dealing with existing circumstances or what the future might be. That is fine, just as long as, No. 1, they treat workers fairly, and No. 2, that a deal is a deal. It seems to me if you work for a company for 20 years and they want to switch their pension plan, but you made a deal on one and you want to stick with that one, they ought to at least let you continue to work and retire under that plan. If you want to switch, it ought to be up to the worker.

That is what this amendment is all about. It is simply about saying to the Treasury Department they can't issue this proposed rule they have come up with which, as I said, last month the House voted 258 to 160 to say no to and which earlier this year 191 Members of the House and 26 Senators signed a letter to President Bush saying withdraw the rule.

That is what this amendment does. It simply says: Withdraw this rule; work with Congress. Let's have something that is fair and equitable for our workers.

Again, I urge my colleagues to join in support of this amendment in fairness to American workers.

Mr. President, I ask unanimous consent that a letter from the AARP dated October 23, 2003, be printed in the RECORD.

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

AMERICAN ASSOCIATION OF RETIRED PERSONS,
Washington, DC, October 23, 2003.

Senator TOM HARKIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HARKIN: AARP supports your amendment to the Transportation, Treasury and Independent Agencies Appropriations Act for Fiscal Year 2004 that would prohibit the IRS from using funds to go forward with its proposed cash balance regulations. The House passed a similar amendment on September 9, 2003 by a strong bipartisan vote of 258–160.

This amendment would not change existing law. It is in keeping with the court decision in Kathi Cooper, et al. v. IBM Personal Pension Plan, et al. The court concluded that cash balance pension plans discriminate against older workers, cut older workers' benefits, and serve to lower the costs and contribute to the profits of companies sponsoring cash balance plans.

In September 1999, the IRS imposed a moratorium on corporate plans that convert traditional defined benefit plans to a cash balance formula in order to allow Congress and others to review cash balance plans to make sure that the conversions comply with current pension and age discrimination laws. The moratorium suspended consideration of approximately 300 pending applications submitted by corporations to convert an existing plan to a cash balance formula. The Treasury proposed regulations in December 2002 that would lift the moratorium and allow corporations to establish plans that the federal courts have ruled discriminate against older workers.

AARP believes that Treasury should not act on regulations that would encourage companies to change their pension plans in a manner that is contrary to age discrimination laws and the federal court ruling. Rather, Congress should review the ruling and enact the pension reform measures necessary to protect older workers.

AARP urges you to vote for this timely and important amendment. AARP hopes that this amendment will send a strong message that we value older workers and that we reaffirm those older workers should not be subject to age discrimination in their pension plans and their pension benefits should be calculated fairly as directed by Congress and the Federal courts.

Please let me know, or have your staff call Frank Toohey (202–434–3760) of our Federal Affairs office if we can be of further assistance.

Sincerely,

MICHAEL W. NAYLOR,
Director of Advocacy.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator HARKIN on this amendment to protect workers' retirement.

We know that for millions of American workers, their pension benefits are in danger. The continuing weak economy and rising health costs are pressuring thousands of employers to reduce or terminate their traditional defined benefit pension plans.

One way that companies are slashing costs is by converting traditional pension plans to cash balance plans. Older employees are the hardest hit by these conversions. According to the General Accounting Office, annual pension benefits of older employees can drop as much as 50 percent after a company converts to a cash balance plan.

Companies are doing it to save hundreds of millions of dollars in pension costs. But those savings are being taken out of the retirement security of American workers.

These proposed Treasury regulations would give companies legal protection against claims of age discrimination by older employees. Thousands of companies would have a strong incentive to convert to cash balance plans. Millions of workers could lose huge chunks of the pensions they have been promised.

Cash balance pension plans do have some advantages for some workers. Increased portability of pensions is important. So is providing pension benefits for parents, particularly women, who move in and out of the workforce. We support greater benefits for younger workers, who are more likely than ever to have several employers throughout their careers. But Treasury can and must do more to protect the workers who are hurt by these conversions.

The Harkin amendment would halt Treasury's proposed regulations. Workers should have choice about benefits under their pension plans, and they deserve protections when their company converts to a cash balance plan. It is wrong to let companies freeze the benefits for older workers, or reduce future benefits, when these workers have already contributed so many years of service to their companies.

I urge my colleagues to support this amendment, and do the right thing to protect the retirement of our Nation's workers.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, the managers have no objection to the amendment offered by the Senator from Iowa. I urge the amendment be adopted.

Mr. President, we need to check something. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SHELBY. Mr. President, I want to say again the managers have no objection to this amendment, and I urge the amendment be adopted.

The PRESIDING OFFICER. Is there further debate? If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 1905) was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the managers of the bill for accepting this amendment. Again, this amendment is going to send a strong signal that both bodies want to work with the Treasury Department to establish a fair and equitable rule on pensions. I thank the managers.

Mr. SHELBY. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. MURRAY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 1917

Ms. MIKULSKI. Mr. President, I have an amendment that I send to the desk and ask its immediate consideration.

The PRESIDING OFFICER (Mr. ALEXANDER). The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI], for herself, Ms. LANDRIEU, Mr. REID, Mr. SARBANES, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. KENNEDY, Mr. LEAHY, Mr. AKAKA, and Mr. BYRD, proposes an amendment numbered 1917.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prohibit the use of funds for implementing the 2003 revision of Office of Management and Budget Circular A–76)

On page 127, after line 23, insert the following:

SEC. 537. None of the funds made available by this Act may be used to implement the revision to Office of Management and Budget Circular A–76 made on May 29, 2003.

Ms. MIKULSKI. Mr. President, this amendment concerns procedures for contracting out. I ask that the cosponsors be Senators LANDRIEU, REID, SARBANES, LAUTENBERG, LIEBERMAN, KENNEDY, LEAHY, AKAKA, and BYRD.

I rise to offer an amendment that does several things. First, it protects the egregious abuses and unfair practices that are now into a new procedure for contracting out the work of Federal employees. That contracting out procedure is called an A–76, which is the circular that describes this methodology.

You need to know. I understand reform is necessary, but abuse is not necessary. I must say I am very concerned that the White House is pursuing a political agenda masquerading as management reform. In the administration's plan for privatization, the costs are too great. It costs money. It costs morale. It costs the integrity of the Civil Service system.

When I say it costs money, do you know that when we were foraging funds for veterans health care, the administration wanted to spend $75 million to figure out how to contract out the work being done at the VA? What jobs am I talking about? Radiologists, social workers, core essential medical personnel. The administration wants to spend $75 million, while we have veterans waiting in line to figure out how we can contract out the health care we promised them. It costs too much.

Then it costs morale. The minute you hear you might be contracted out, you have to write a job description. Then you have to wait around to see if you are contracted out. Then, even if you win it, you might be contracted out because you will again have to compete in 5 years. Morale in key agencies such as the National Institutes of Health is completely in disarray.

It also costs the integrity of the Civil Service system. Every democracy in the world has a civil service system that is absolutely independent and has absolute integrity to carry out the core functions of government, regardless of what political party is in charge. That is why democracies have civil service, to administer the core functions of government. That is why we always wanted to be sure that it wasn't patronage that determined who became an FBI agent, that it was not crony politics that decided who got a Social Security check. We would have an independent civil service that would administer these things.

That is not where we are going. We are heading to cronyism and political patronage. At the very time we are fighting a war against terrorism, I don't understand why the White House is spending its time figuring out how we can undermine our Civil Service.

Make no mistake, I am not opposed to privatization. In some instances, privatization works very well. In my own State of Maryland, in an agency called the Aeronautics and Space Agency, of which I am a ranking member for funding, we have privatization.

Let's look at Goddard Space Agency in my own home State. We have 3,000 Civil Service jobs and 9,000 private contractor jobs. Both are doing an outstanding job, and I am proud of them.

What I am opposed to is that this new A–76 is inherently unfair to Federal employees. The deck is stacked against them to pursue an ideology driven agenda, not a management reform agenda.

My amendment is simple. It throws out these new crony rules, these new unfair rules which stack the deck against Federal employees, and asks that the administration go back to the drawing board to come up with new guidelines for competition that are truly fair. Why is this important? OMB is pushing contracting out, even when it doesn't make sense, or even when it puts our Nation's security at risk, or the integrity of medical research on the line, or even when it costs more to conduct competitions than it saves in the long run.

Did you hear what I said? Even when it doesn't make sense, even when it puts national security at risk, and in some instances now they have some cockamamie scheme that could even put the integrity of medical research on the line. Hello. Where are we going? I think we need to go back to the drawing boards.

Let me say why this is unfair. Let me go through some very specific reasons. No. 1, it does not allow Federal employees to submit their own best bids. The new rules create something called streamlined competitions. That is just a code word for employees not having a chance to come up with their own cost-saving ideas. I don't know how you can call it competition if you don't even allow the employees to form a team and to come up with ideas on how to save money, as well as how to save jobs.

No. 2, guess what, in all of this contracting out it does not even require contractors to show they are saving money. The old A–76 required contractors to show they would save the Government significant money, at least $10 million or 10 percent, whichever is less. This new A–76 has gotten rid of this requirement. Guess what. The competitions themselves cost money. To do an evaluation on what should be contracted out by and large costs $8,000 an employee. So now Federal workers who might be losing their jobs to contractors do not even do it to save the taxpayer any money, let alone the integrity of the Civil Service.

It is also destabilizing. This is really a morale buster. Boy, you talk about a morale buster; it is just to say: You know, every couple of years we are going to put you up for grabs. This new A–76 forces Federal workers to recompete every 5 years for their jobs, but it does not require contractors to recompete every 5 years for the contract that is won.

How will the Government attract and keep bright young workers if their jobs are at risk every 5 years? And if the Federal employees should be up for bid every 5 years, why shouldn't the private sector bid every 5 years? If you want to destroy agencies such as NIH and VA, just do it this way.

Also, it provides an unfair advantage to contractors that provide lesser benefits. If a contractor saves money by shrinking wages and eliminating health care, that is not improving Government efficiency. But that gives them an unfair advantage when they bid. Their bids do not show efficiency; they win contracts because they either eliminate or shrink health care.

That is not the way we should go. It is bad 46 million Americans do not have health care, let alone now forcing Federal employees not to have it.

To be sure everybody understands this, I would like to give three examples. Let's take the National Institutes of Health. This is one of the most beloved agencies in our country. If anything would ever happen to the National Institutes of Health, it would be devastating to the American public. This is one of the agencies everyone loves. Why do we love NIH? Because out there every day there are people working to find cures to save lives. So guess what. OMB took a look at NIH. Guess what they wanted to contract out. OMB wants to contract out lots of things, but one of the things they want to end is the NIH fire department. Why do they have their own fire department? Because of all the research going on, we need not only brave first responders but those who are best at handling chemical, biological, and radiological events.

In fact, the entire Capital region relies on them for emergencies and also training others. We need our own fire department at NIH because they know every building, they know every rack where the research is going on, and they know every mouse and what they have taken in tests to keep us alive.

How do you bid on a fire department? I don't know how you contract out a fire department.

I am telling you this is terrible.

They not only go to the firefighters, but they go to scientists, scientific support, and other jobs at NIH which are slated for competition.

There is a group called Senior Scientists Category 2. These are postdoctoral research fellows. OMB wants to contract out the decision-making process in selecting these scientists. They want to contract it out. They want to provide a bid for outside contractors to select these key scientists. I cannot believe it.

I listened to Dr. Zerhouni testify. By the way, Dr. Zerhouni is a very eminent physician, an entrepreneur, formerly of Johns Hopkins, now the head of NIH, and an outstanding Bush appointee. He told me they had to spend $15 million at NIH to study how they could contract this out. That is $15 million that could have gone to find a cure for Alzheimer's and diabetes. Dr. Zerhouni and others said it took over 100,000 hours of staff time. Dr. Zerhouni protested. He went right to OMB and said don't contract out my fire department. It is a waste of time and a waste of money. Please let us select these postdoctoral fellows. He was overridden by OMB. We are grateful for this man who heads up NIH, and who because of his own research could be a candidate for the Nobel prize. But they overrode him under the guise of a political agenda masquerading as management reform that has absolutely left the morale at NIH in shambles.

Let us take VA. I couldn't believe it. Just when Senator BOND and I are trying to come up with more money for our veterans, we got a request from VA saying they want to spend $75 million to study contracting out. Whoa—$75 million? I am the appropriator along with Senator BOND. Seventy-five million could have put up 75 new outpatient clinics. It could have provided prescription drugs for 77,000 veterans. Just when our men and women are coming back from Iraq, we want to contract out VA health care and things such as radiology, pathology, and pharmaceutical care.

I am telling you: Boy, don't they feel good. We should be lucky to have these doctors and nurses and professionals. Guess what. They have tried this. The jobs they want to contract out are actually even held by veterans themselves. You are telling me we should take money from veterans health care to pay for studying how to contract out veterans' jobs to provide health to other veterans. By my calculation, one study they did didn't work out.

Let me tell you about the most heartbreaking example.

At the Medical Center in Bethesda—we all know about Naval-Bethesda. It is an outstanding facility. People here at the Senate have used it. Our own President goes there for his annual checkup, as has every President preceding him. It is great. At Naval-Bethesda down in the kitchen there are 21 custodial food service employees. They work in what they call the hospital scullery. They are a very unusual group of people. They are mentally challenged. There are 21 people who work there. They have worked there as a special unit. This Federal Government reached out using it as a model for hiring people with mental disabilities who could be self-sufficient and self-employed.

Boy, have they done a good job. They clean up the kitchen. They prep the food. Everybody at Naval-Bethesda loves them. Devorah Shapiro has worked there for 10 years. She is in a group home. James Eastridge is from Hagerstown. He started working there 22 years ago, and he hasn't missed a day of work. He gets all kinds of awards.

Guess what. At Naval-Bethesda working in the kitchen are people who are trying desperately to be self-sufficient. And we are going to contract out 21 jobs in the kitchen for people who wash the dishes and prep the food? I am telling you, shame on you, OMB. Shame on you, OMB, for what you are doing here. I think this is outrageous.

That is why I have the Mikulski amendment. It is for those people. It is for those veterans who have gotten their education from the GI bill and who are serving there—our scientists, our seafood inspectors, the people who are doing the mapping at the FAA for our flight plans for our military and commercial planes.

I could go on and on and on. Those are the kinds of people I am talking about. They aren't bureaucrats sitting there looking at their fingernails. They are not people just sitting around. They are people who work every day. They are people at NIH who win Nobel prizes. They are people out there in the Coast Guard who are protecting us from drug dealers and from terrorists. They are people like those who lost their lives in the Oklahoma bombing.

That is why I am offering this amendment. I have told you my opinion on contracting out. But to the naysayers and those people who are fussbudgets, let me reassure you this amendment doesn't prohibit contracting out. It does not. It simply changes the rules to make them more fair. All it does is throw out the unfair May 29 version to give the administration a chance to rethink its one-sided, overly aggressive policy.

Speaking of that, I know OMB has tasked every Federal agency to get rid of 400,000 jobs. You know my feeling about that. It is just outrageous. Instead, we should pass the Mikulski amendment and go back to the drawing boards. There are simple reasons why. This new process doesn't require appreciable cost savings. It allows contractors to make appeals but not Federal employees. It fails to track the cost and quality of contractors. It encourages it. It doesn't offer alternatives to progress. It is bad for diversity. The jobs being contracted out tend to be primarily service jobs and clerical jobs which are often women. It is also in the blue-collar jobs that have a very strong diversity group. It doesn't allow Federal workers to bid on contractor work. It doesn't give them an appeal process. I could go on and on.

It is a new A–76. It is a dangerous trend to replace our Civil Service employees with cronyism and political patronage contracts. I believe this A–76 system is inherently unfair. We should send it back to OMB. Let us work in a very constructive way to get the best value for the taxpayer and make sure we have the best people operating our missions—driven not by money but by agencies.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I would like to take a little time to discuss this issue. Let me say at the beginning it is my intention to offer a second-degree amendment.

We have been through this before. Actually it is the same thing. We are going back through it again. It is sort of interesting. You would think most people here as well as in the country would like to have an efficient government workforce. We would like to in instances which are potentially possible have the private sector involved in things. At the same time, we recognize there is a strong Federal employee group, and they will continue to be there. No one thinks that is all going to change. That is not the intention.

The idea that all of this is going to change—the example used of people in the food service at the Naval Hospital. As a matter of fact, I was just there this morning. That isn't going to happen. They are there for other reasons, and those reasons will be considered.

I think it is really too bad to take an issue like that—and there is a good basis for them being there—and attempt to use stories like that to make it sound unreasonable.

The idea of competition, of course, has been around for a good long time. A–76 is not a brand new idea. It was passed during the Clinton administration. In this Congress we passed it, and continues to endorse the idea, certainly of competitive sourcing, streamlining Federal agencies. What is wrong with that?

We hear all the time, we could do a better job with the energy, the ports we have, of course. Make Government more accountable to the taxpayers. That is a good idea, it seems to me. We use the Government's direct competition with the private sector, thereby ensuring competition. As a matter of fact, there is competition in these potential job changes. In most cases, there has been efficiency in the Government workforce, and the Government workforce continues to be there in a more efficient way. I have trouble finding a problem with that, unless it is totally political, which I suspect it perhaps is.

The competitive source initiative is designed to improve Government performance and efficiency. That is what it is all about. When the Government competes with the private sector, we erode the local tax base; we drive up prices; we decrease performance by Federal agencies. By doing what we are talking about doing, we have cost savings. Whether or not the Federal workers stay in place or whether we do it through contract, we save money. That has been the history. Competition does that. Competition causes whoever is there, whether they be Federal or private, to find more efficient ways to do

the job they are seeking to do. What is new about that? For all who have been in the private sector, that is the way we do things. There is nothing wrong with that.

We are seeking to use the Center for Naval Analysis. Two independent groups, along with the General Accounting Office, have found through extensive research that competition sourcing reduces costs by about 30 percent regardless of who wins. The cost savings success stories include the printing of the fiscal year 2004 budget of the U.S. Government, the location in Washington, DC. Competition was completed in 2002, printing of four of the five volumes of the President's budget requested by Congress. Precompetition costs were $505,370; competition results, $387,000. It was retained in house. This reduction in costs by having outsourcing competition to do the same job ended up being done by Federal employees with a 23 percent savings. Those are the things we are talking about.

It seems to me, and a lot of people believe, we have two issues. One is a practical, efficiency, cost saving issue. It is pretty well proven. The other is the philosophy of competition and of the use of the private sector where appropriate.

I was chairman of the National Parks Subcommittee. The thought that we would replace rangers in the park has never been the idea. We are talking about the service jobs, the maintenance jobs. We are talking about those jobs, not park rangers. No one is talking about that.

It is interesting to note, as the competition has taken place, there have been great savings: 2,500 positions have been reviewed under the competitive sourcing since 2001, and not 1 full-time Federal employee has been involuntarily replaced.

These are the issues we are dealing with. We have been through this before. We went completely through this bill, and now we are back seeking to do it again.

The Mikulski-Landrieu amendment would prevent agencies from taking advantage of recent revisions of OMB Circular A–76 to improve program performance and lower cost through the application of public-private competition. This amendment denies taxpayers the process the General Accounting Office believes would result in better transparency, increased savings, improved performance, and greater accountability. That is not bad stuff.

Undue processes that have been shaped around the consensus of a supermajority of the public and private sector representatives: A commercial panel was convened by GAO to study the comprehensive sourcing. Why are some of the revisions to OMB Circular A–76 important? The rule makes important changes to level the playing field for public and private sector sources to offer the best services by eliminating the longstanding policy of prior revisions of the circular that discourage the Government from competing with the private sector even though the Government might be able to provide a better value. It discourages Government transportation as well. That is part of the problem we had.

The faulty premise of the Mikulski amendment is based on a series of misplaced concerns that inaccurately suggest that a new private-public competition process provided by Circular A–76 is unfair. In fact, the revised circular promotes reasoned decisionmaking and increases opportunity for fair consideration of both in-house and private sector providers.

The revised circular does not allow Federal employees to submit their best bid: It significantly expands Federal employees' opportunities and their capacity to serve the taxpayer by expressly requiring agencies to ensure their in-house providers have access to available resources, skilled manpower, funding, thereby ending the longstanding practice of direct conversions where agencies convert work from in house to private sector without considering the in-house capabilities, encouraging the in-house provider to offer more and more efficiently in house in order to compete with the bids. This is what it is all about.

The revised circular, it is alleged on the other side of the aisle, does not require appreciable cost savings. It seeks to ensure cost-effective performance from both the private and public sectors and has succeeded in doing that.

I cannot help but remember when we got this passed in the subcommittee in the Clinton administration, nothing happened. Now we are finally getting something in place to have competitive outsourcing and making it work and we have constant complaint about the opportunity to compete. It simply makes Government much more effective and much more efficient.

As I pointed out, there has not been a loss of Federal employees despite the talk we hear from the other side of the aisle. That is an interesting fact. We will be talking about this for some time, I am sure. As I mentioned, we will probably have a second-degree amendment to be offered later.

I hope we can continue to provide the opportunity for this Government to be more efficient, for this Government to be able to compete with the outside private sector—that is where most people are, in the private sector—to have an opportunity to participate in those jobs that are appropriate and noninherently governmental. That is the direction we are taking.

I hope we can continue to get some facts out and not get carried away by the kind of emotion of people being let out of their jobs without any opportunity because that is absolutely not the case.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I am a cosponsor of the Mikulski-Landrieu amendment, and I say to my colleague from Wyoming, before he leaves, the more I listened to him, the more committed I became to this amendment. In fact, with each passing minute as he spoke, I was increasingly strengthened in my view that it is the right and honorable thing to support this amendment and to urge my colleagues to support it. I will outline why that is the case.

Before I do that, I ask unanimous consent that Senator REID of Nevada be added as a cosponsor.

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

Mr. SARBANES. The Senator from Wyoming spoke as though the amendment is going to repeal public-private competition sourcing.

My colleague talked about what was done in 2001 and the competitions that have taken place since that date. So, as one listened to him, one was thinking: Well, is this whole competitive arrangement going to be stopped in its tracks? Nothing could be further from the truth.

What this amendment seeks to do is to stop an OMB revision, of last May 29, with respect to the terms on which these competitions are going to take place. That is all it does. When I was first listening to the Senator from Wyoming, I thought to myself: Well, surely we would meet what seems to be his concern if we just went back to the system that prevailed before the OMB revision. But then, at the end, he became clear and said, no, he wants those revisions as well. That is what I am very much opposed to.

This amendment seeks to ensure the Government work is allocated in a fair and equitable manner. I believe it would provide the American taxpayers with the best value for Government services and for their tax dollars.

Often—in fact, federal employees win most of these competitions. There seems to be a premise on the part of the Senator from Wyoming that savings is most often achieved when work goes to the private sector. That is not the case.

What has happened is the OMB is driving an ideological agenda. It has rewritten the rules governing competitive sourcing, which, I think, in effect, jeopardizes fair competition, jeopardizes getting the best value for Government services, and jeopardizes the taxpayers' dollars.

Earlier this year, the Office of Management and Budget, on May 29, issued a new circular, a new ruling that rewrote the rules by which this competition takes place. The concept of public-private competitions or competitive sourcing is not new, but the manner in which it is to be conducted is drastically altered by the rules of May 29 put forward by OMB.

The new process established by OMB unfairly favors private sector contractors over Federal employees, opens highly specialized Government jobs to the lowest bidder, imposes arbitrary quotas and deadlines on Government

agencies, and, I think, lead, in fact, leads to a waste of Government money rather than saving Government money.

We all seek to make the Federal Government more cost effective and efficient. However, to achieve these goals, there are certain tests which should be met.

First, we need to demonstrate with certainty that cost savings are achieved through the outsourcing of work to the private sector. No effective method has been put in place for oversight of the private contractors doing work for the Federal Government. This is most apparent at the Department of Defense where competitive sourcing has been most prevalent. It is my understanding that DOD cannot fully account for how many contract workers they currently employ or the cost to the American taxpayers for the work they do.

Second, we must ensure that Federal employees are given the opportunity to compete on fair terms. Often, in these public-private competitions Government employees can be placed at a distinct disadvantage by making proprietary information about the Government bid available to their commercial competitors at a time when that information can be used to unfairly enhance the commercial offering. Government employees are not offered the same opportunity to enhance their bids.

There is a great temptation that with this access to proprietary information for the commercial bidder to lowball their bid to win the contract, and then increase prices once the competition is eliminated.

Unfortunately, because there is so little Government oversight of contractors, it is difficult to assess the costs of contractor work. When contract costs escalate, it is difficult to fix the problem.

Thirdly, I am concerned that many highly specialized Government jobs will be let out to the private sector without proper consideration of qualitative factors. I believe many of these positions are inherently governmental and should not be awarded to the lowest bidder.

The Senator from Wyoming, in effect, dismissed concrete examples offered by my colleague with respect to the problems. But how do we understand this issue if we do not focus on concrete examples?

At NIH, competitive sourcing, it has been asserted to us, threatens not only the critical scientific work conducted there but also the security of the installation itself.

NIH scientists have testified before a joint House-Senate hearing that they believe competitive sourcing has created a wave of unnecessary anxiety and bureaucratic duplication, and that the implementation of the initiative at NIH was not well thought out.

Additionally, the administration rejected a request by NIH officials to exempt the fire department from competitive sourcing. Because the nature of the work done at NIH often involves hazardous materials, the Federal firefighters assigned to NIH have specialized training in the handling of chemical, biological, and radiological events.

This kind of expertise cannot be matched in the private sector, and losing this asset would certainly be to the detriment of NIH's mission. Yet the administration refused to classify the firefighters as core public employees who would not be privatized.

I want to add another dimension to this consideration as one of the largest employers in the country, the Federal Government should serve as a model for other businesses.

In recent years, we have made great strides in extending employment to disadvantaged groups. I believe the Government must lead by example in this area. At Bethesda National Naval Medical Hospital, competitive sourcing threatens the jobs of mentally challenged workers who perform important services in the hospital's scullery.

My very able colleague from Maryland outlined this situation. To counter what I thought was a very powerful statement of this point, the Senator from Wyoming sort of dismissed it as, quote, an emotional argument.

Is it an emotional argument to register the fact that the National Naval Medical Hospital is seeking to provide some dignity and self-respect for mentally challenged workers to do these basic, virtually custodial, services in the hospital's scullery?

This employment enables these individuals to lead independent lives. There is no accounting for that in this OMB circular. These are real examples. These are real people. This problem ought not to be dismissed. It is one of the consequences of the revision of this OMB circular.

The House has passed its version of the Mikulski amendment by a vote of 220 to 198. Obviously, when it was considered by our colleagues on the other side, they saw merit in it.

Furthermore, this proposal from OMB artificially inflates the cost of the Federal employees' bid by arbitrarily assuming a 12-percent overhead as part of the bid. The Inspector General of the Department of Defense has said the 12-percent overcharge arbitrarily placed on all in-house bids is insupportable and that either a new overhead rate must be established or an alternative methodology must be devised to allow overhead to be calculated on a competition-specific basis.

If we are to have this competition—and we have had it, as the Senator from Wyoming pointed out when he went back in earlier references, for some period of time—it needs to be on a fair basis. You need to make sure the playing field has not been tilted. The regulations of May 29 tilted the playing field unfairly, not only to the disadvantage of the Federal worker but to the disadvantage of the Federal taxpayer.

It needs to be understood that if the rules of competition are not fair, the awarding of the work to the private contractor may cost the taxpayer more money with a less quality product. That is what is at issue here. This amendment doesn't stop the competitive sourcing process. It only stops the revised regulations, the radical revised regulations that were put into place on May 29 and which have tilted the playing field, have moved away from a fair process, and resulted in a bad deal for the American taxpayers. We need to have an even playing field. We need to make sure the rules of competition are fair. This amendment is designed to accomplish that, and I strongly urge my colleagues to support it.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, the Democratic leader has conferred with the majority leader. They believe this legislation should be finished today, whether it is at 5 o'clock or 8 or 12. That is the goal we have, finishing this bill today.

I say to all Members who have amendments to offer, they should notify the two managers of amendments they wish to offer.

On this amendment, I have been advised that there is going to be a second-degree amendment or we will work out some way to have two side-by-side votes at the appropriate time. If we could arrive at a point where we might be able to have a time agreement on the matter now before us, could the Chair advise how much time the two Senators from Maryland have taken on their speeches?

The PRESIDING OFFICER. We don't know. We would have to go back and check the CONGRESSIONAL RECORD.

Mr. REID. Well, we wouldn't want to go to all that trouble. We have a general idea how much time was taken. We want to make sure everyone has ample opportunity to speak on this amendment. If we can solicit from both sides who is interested in this amendment, maybe we can arrive at a time agreement so, if for no other reason, Members could have some idea when the next vote will occur. I can ask the two managers to see if they can work something out on a time agreement.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise to strongly oppose the Mikulski amendment to the Transportation, Treasury, general government appropriations bill. I have the highest regard for both Senators from Maryland but have a real difference of opinion in regard to the relevancy and the need for this amendment that would throw out the new OMB A–76 circular that was issued in May of this year. The A–76 rules were designed to fix a process which government managers, private sector contractors, and Federal employees unions agreed was broken. Congress recognized the problem as well. Therefore, Congress established the

commercial activities panel as part of the 2001 national defense authorization bill. In other words, Congress recognized that there was a problem with the A–76 back in 2001.

The panel was convened specifically to consider A–76 revisions and other issues related to competition. It was led by Comptroller General David Walker, head of the General Accounting Office. The other members of that panel should be of interest to the Members of the Senate: David Walker was chairman; Pete Aldridge, Under Secretary of Defense for Acquisitions; Frank A. Camm, senior analyst from Rand; Mark C. Filteau, President, Johnson Controls; Steven Goldsmith, Senior Vice President, Affiliated Computer Services; Bobby Harnage, Sr., National President, American Federation of Government Employees, AFL–CIO; Kay Cole James, Director of the U.S. Office of Personnel Management; Colleen M. Kelley, National President, National Treasury Employees Union—this is the panel that considered changing A–76 and came back with a recommendation—David Pryor, Director, Institute of Politics, Harvard University; Stan Soloway, President, Professional Services Council; Angela B. Styles, Administrator of the Office of Federal Procurement Policy in the administration; and another very distinguished labor leader in this country, Robert M. Tobias, distinguished adjunct professor at American University who is the former President of the National Treasury Employees Union.

This was a very distinguished group that looked at the A–76 process and said it is broken and it needs to be fixed. What this amendment would do is take us back to that broken A–76 which was recognized for some time and deny us the opportunity to use this new A–76 that was agreed upon by this distinguished panel.

I could go on at length as to how the new rules are an overall improvement on the old. But this is not really what this amendment is about.

The real purpose of the amendment we are hearing from the other side of the aisle is to stop the Bush administration's competitive sourcing initiative by disrupting the administrative processes associated with it. While Senator MIKULSKI's amendment would not stop competitive sourcing, as I say, it would force the executive branch to continue to use a process that everybody agreed was broken and in need of repair.

When the administration first came out with their six management initiatives, one of the things I became very upset about, as someone who has a great appreciation for people who work in government, was that they had set some artificial percentages that Departments would have to follow in terms of outsourcing. So it would be 5 percent this year and then 10 percent.

We had a hearing on this, and we made it clear that we thought it was bad public policy, that what directors should be doing, and people who work for them, was to look at their manpower to see if those people who are in place can do the job better; and in many cases they could, but they were not given money for the training they needed to upgrade their skills. I say to colleagues on both sides of the aisle, we got the administration to back away from that. They publicly have backed away from it. Clay Johnson, the new management person at OMB, has said we are backing away from it. He gets it; he understands that that policy wasn't in the best interest of the people who work for the Government or in the best interest of the taxpayers of this country.

I urge colleagues to defeat this amendment. I want you to know that Senator THOMAS and I will offer an amendment later this afternoon to address what we have identified as some remaining issues of concern with the A–76 rules and the Bush administration's competitive sourcing agenda. I believe these amendments will indeed level the playing field. I believe they will give the fairness that my colleagues on the other side of the aisle would like to see in terms of the issue of competitive sourcing.

The amendment will apply to all competitive sourcing activities all across the Government. It will do the following:

It will require all agencies to provide Congress with detailed information on how it is implementing public-private competition. This includes a description of how the agency's competitive sourcing decisionmaking process is aligned with the Department's strategic workforce plan. That is the beginning—the strategic workforce plan: How are we going to get the job done and shape our workforce to achieve the goals we set for our Departments?

It also requires the agency to report the projected number of full-time equivalent employees covered by the competition scheduled to be announced during the next fiscal year. So right off the bat, we are going to require these people to identify what they are looking at in terms of outsourcing or putting up for competitive bid.

I believe having rigorous reporting requirements is the right approach. This would have to do it prospectively and retroactively. How much money are we saving? How much more efficient are we? Then they would have to come back and report after they did it to see how it was working.

Mr. SARBANES. Will the Senator yield for a question?

Mr. VOINOVICH. After I am finished with my presentation.

It has been the prerogative of every administration since the 1950s to decide when to conduct public-private competitions and the manner in which these competitions would be conducted. That is the prerogative of the executive administrative branch of Government. Congress, in its oversight role, has the right and responsibility to know what the executive branch is doing.

This amendment will require the Bush administration to provide exactly that information. This will create a uniform reporting requirement on competitive sourcing activities at all executive branch agencies of Government across the board—not just Treasury. This affects the entire operation across the board of the Federal Government. That information will guide congressional oversight and allow us to judge if further congressional action is necessary.

The amendment also gives appeal rights to a Federal organization when it loses a bid. Currently, when private contractors lose a competition with a Government entity, or another private sector contractor, they have a right to appeal the decision to the General Accounting Office. The Federal organization currently does not have that right. This provision levels the playing field and makes the competition process fair to Federal employees. We put them in the same position as we do the private contractors. We want them to be able to appeal it. This time, it says if our employees lose, they can appeal that, just as the private contractor can appeal.

Third, this amendment modifies the provision of the new Circular A–76, which requires that activities identified for competitive sourcing must be recompeted every 5 years if the Federal organization wins the competition. I am concerned about the effects this requirement may have on employee morale. This amendment removes the provision. In doing so, it sends a signal that as long as the MEO continues to perform well, it doesn't need to be subject to future competition. In other words, if the Federal workers win the competition, why should they, at the end of 5 years, have to have it recompeted? If you want to recompete it, the Department decides that; it means they are not getting the job done. But to have an automatic 5 years that says, hey, boys and girls, you are getting the job done, but after 5 years we are going to recompete it, that is not fair.

Fourth, this amendment requires the executive branch Departments and Agencies to spend such sums as are necessary to ensure that they have strong contract oversight capabilities. One of the problems we have in a lot of Federal agencies is we don't have the people who can properly oversee this competitive sourcing, nor do we have the people inside. There is a contract management office in the executive branch, and they don't have the necessary resources to properly do their job.

It is not enough to farm something out to a private company and then not find out whether or not they are doing the job. We should have that. When I was the tax assessor of Cuyahoga County, we had internal people who watched the appraisal company that we had do the annual job. When I became the

auditor, we had nobody inside. So we would hire a company, and nobody would know whether they were doing a good or a bad job or who helped us draft a contract to make sure we got what we wanted. So we brought them in house. It is the same thing we need in the Federal Government.

If you are going to do competitive outsourcing, you had better have people in house who can do it right and, once it is done, make sure you are getting what you are supposed to get: We are saving money, and we are more efficient. If it is not happening, then you can throw the red flag.

This amendment demonstrates congressional awareness of this problem and directs the executive branch agencies to do what is necessary to correct any deficiencies. This is a lot of work. I have talked to Clay Johnson at OMB. He gets it. He knows we must do a better job in these agencies.

Fifth, the amendment prohibits private sector contractors who win competitions from relocating jobs overseas. Our reasoning is very simple. Jobs that were previously performed by U.S. citizens should not go to foreigners. We know today that more and more of that is happening with these private companies. Say it would be some company that competes for data processing and they get the job and then they would have people in Bangalore, India, do the work for them. This would require that if somebody won the competition in the private sector, those jobs had to be in the United States and not farmed out to India or some other country.

Overall, this amendment represents a very balanced approach to further addressing some lingering concerns Congress may have with the Bush administration's competitive sourcing initiative. I have spent a lot of time on this issue. I have been working on the Governmental Affairs Committee. I am chairman of the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia. We were the ones who put together, with Senator AKAKA, amendments to the Homeland Security Act that created more flexibility, and it was something we worked on, on a bipartisan basis.

I have several other pieces of legislation that just got voted out of the Governmental Affairs Committee on a bipartisan basis this week. I care about our Federal workers. I do. I believed that our Federal workers, when I was mayor, Governor, and now as a Senator, if given the right tools and are empowered and get the training they need, can beat anybody. We have to make sure they have an even playing field. But at the same time we do that, I don't think we should go back to an A–76 procedure that we, many years ago, said was broken.

So, Mr. President, I urge my colleagues to not support the amendment proposed by my good friends—people I respect—from Maryland, and that they support the amendment I have put together with Senator THOMAS.

I will say that we are trying to still, between now and then, work with people on the other side of the aisle, and they have other ideas on how we can do this better. This is a serious issue.

I will now yield for a question to my colleague from Maryland.

Mr. SARBANES. Mr. President, I will seek the floor on my own accord, if the Senator is finished.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. VOINOVICH. I yield for a question.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I listened very carefully to my distinguished colleague from Ohio. I don't gainsay his concern about the Federal workers. I accept his assertion in that regard, and it has been my own experience in dealing with him in the past. I was concerned about one thing when he listed the members of this Commission.

He talked about this very diverse Commission, but it is my understanding that Commission, when it made its recommendations, had unanimity with respect to some and differences of opinion with respect to others. In any event, the OMB circular issued on May 29, the matter that is at issue here with the Mikulski-Landrieu amendment, does not track the recommendations of the Commission. In other words, it departs from it in significant respects, and much of the problem we are talking about is a consequence of that departure.

What we have before us is not something that has been worked out and a consensus has developed, although we had a broad group that went into the deliberations and it doesn't reflect a consensus in the Congress. Witness, the vote in the House of Representatives where a majority of the House of Representatives supported the House version of the Mikulski amendment. So there is no consensus on that score.

All this amendment would do would be to say: No, we are not going to let the OMB hand down these revisions, this new circular, to rewrite the rules in this way. We will put that on hold, and we will go back and look again at this issue to see if we can't come up with a solution which commands a consensus.

I feel very strongly that is the way we should seek to deal with this matter. This isn't repealing competitive sourcing. All it is saying is that this OMB circular, which was put into place a few months ago and which many very strongly feel does not give you a level playing field or fair competition, that is going to be put on hold and provide us an opportunity then to revisit this issue in a more careful, balanced, and judicious way, and out of that process hopefully come up with a consensus.

I think that is a reasonable way to proceed in the circumstance. It doesn't nullify or vitiate the competitive sourcing approach. It only seeks to assure that it will be done in a fair, balanced, level playing field way. I think that is an important objective to achieve, and it is not reflected in the May 29 OMB circular.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Does the Senator yield?

Mr. SARBANES. I certainly yield to the Senator.

Mr. VOINOVICH. Mr. President, the 2001 National Defense Authorization Act required that panel be put together to look at a new A–76 rule, and the commercial activities panel worked on this issue for a significant amount of time and reflected a cross section of labor and management, the final regulation that was put out by the administration was looked at by several of the people who were on that panel with whom I personally spent some time.

In spite of whatever criticisms you may have with that A–76 process, it was the consensus that the new A–76 regulation is far better than the one we have on the books, which is not getting the job done or we wouldn't have asked that a commercial panel come up with a new A–76 recommendation in terms of a regulation.

My argument would be that the regulation proposed by the administration—by the way, I don't think they even got into the issue of the A–76 regulation over in the House. This was just a question of whether we were going to have competitive bidding. Some people were for it; some people were not.

With all due respect, I have talked with some of the people over on the other side and I don't think a lot understood what this was about. I am saying to the Senator, the new regulation, though he and others may have some problems with it, is far better than the one we decided wasn't getting the job done. I would argue that some of the concerns that have been raised about competitive bidding are being responded to with the amendment I am going to be offering with Senator THOMAS this afternoon.

Mr. SARBANES. Is my colleague asserting that the members of the panel supported or support the OMB circular of May 29?

Mr. VOINOVICH. Mr. President, I am saying there was some difference of opinion, and it didn't do everything they wanted, but the consensus was that the new A–76 regulation that was proposed by the administration was better than the old A–76 procedure that we have.

Mr. SARBANES. It is my understanding that a number of members of that panel disagree with the OMB circular of May 29, and if that is the case, I don't see how the Senator can be using this panel as supportive of the OMB circular.

The Senator mentioned this panel that was studying it and he went through the membership of the panel.

He emphasized how diverse it was in terms of where it drew people from. But it is my understanding that the OMB circular does not reflect the position of a number of members of the panel. Is the Senator asserting to the contrary?

Mr. VOINOVICH. Mr. President, will the Senator yield? I am asserting that talking to individual members of the panel indicated to me that the circular that was put out by the administration was better than what they had before in terms of the A–76 process.

Now, if you are asking me did everyone agree with everything that was on there, I can't verify that fact, but I will say this: The consensus that we got, particularly from David Walker who was chairman of the panel, indicated that he thought that what they came back with was better than the old A–76 process.

Then, by the way, other issues were raised. Frankly speaking, that is one of the reasons why I am here with an amendment that deals with competitive sources. There was a concern about the fact that our employees would—if they won the competition—have to come back every 5 years. There was concern that there wasn't a right of appeal if our employees lost the competition. There was concern about the fact that the agencies have the individuals they need on board to put competition together, and that once they are put together, they have people who can monitor the private sector doing the work to make sure they are getting this cost savings and the efficiencies they expected they were going to get from the process.

Last but not least, as you know, I am making it very clear that the amendment makes it very clear that if they do win, it can't be farmed out to some foreign workers.

These amendments are a reflection of trying to deal with some of the concerns that employee unions and other people have with this A–76.

Mr. SARBANES. Mr. President, I have the floor, I believe. I am not going to press my colleague further because I think it is manifest by the comments he just made in terms of deficiencies in the OMB circular, that the members of this panel who studied this matter did not concur or support the OMB circular.

Obviously, by his own statement just now, a number of concerns and problems were raised with respect to the OMB circular. I, therefore, renew my very strong support for the amendment of my colleague in an effort to try to, in effect, hold things in place while we try to figure out what constitutes a fair and reasonable solution.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Democratic assistant leader.

Mr. REID. We are waiting to receive a copy of the amendment that would allow us to have the two votes in relation to the Mikulski amendment. That is forthcoming, I understand, from legislative counsel. The two managers have been visited, along with the proponent of this legislation. Senator KENNEDY wishes to speak on the amendment that is pending. I see the Senator from Wyoming. If he wishes to speak also on this amendment, my proposal would be that the managers—everyone thinks we should move forward on the Dodd-McConnell amendment, which would take just a short period of time while we are waiting to get legislation from the legislative counsel approved.

What I would propose in the form of a unanimous consent request is that the Senator from Massachusetts be recognized to speak on the pending amendment; following that, the pending amendment be set aside and Senator DODD and Senator MCCONNELL be allowed to offer their amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. I do not know where Senator MCCONNELL is, but I want to clear this with him before we set this amendment aside and move to that.

Mr. REID. I understand.

Mr. SHELBY. We will try to get in touch with him shortly.

Mr. REID. I will renew that request later.

Ms. MIKULSKI. Reserving the right to object, are we possibly setting my amendment aside so that the language of the Senator from Wyoming could arrive from legislative counsel? It would enable the debate to proceed without waiting for legislative counsel and then return to the debate with the Senator from Wyoming.

Mr. REID. Absolutely right.

Ms. MIKULSKI. The Senator from Wyoming would be protected and we would be expediting the process?

Mr. REID. Yes, and the Senator is also protected.

Ms. MIKULSKI. I think that is a reasonable solution. I want to cooperate in any way I can to ensure the Senator's right to offer a second degree and to expedite the debate.

I withdraw my objection.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. I still reserve my right to object, and I would object until we clear this with Senator MCCONNELL that he is ready to proceed.

The PRESIDING OFFICER. The Senator from Nevada has the floor.

Mr. REID. I will withdraw my unanimous consent request.

The PRESIDING OFFICER. The unanimous consent request has been withdrawn.

Mr. REID. Mr. President, I will take a moment to speak in support of the Mikulski-Landrieu outsourcing amendment. This amendment would require the administration to revise the guidelines for conducting outsourcing studies, which it changed this spring. We have been hearing a lot about competition and I am all for competition. It makes our economy strong. But I have to wonder if competition is good in some cases, why isn't it good for companies like Halliburton, which receive huge contracts without submitting bids?

The administration seems to think that competition is good for the little guy, but not for big corporations that have connections to the White House. Competition should be fair. There should be an equal playing field. That means, when we are talking about the jobs of people who have given years of service to a public agency, we have to consider the value of their experience.

Experience matters. Experience is valuable. And having experienced workers in critical positions is in the public interest. The administration's changes to the rules for outsourcing studies put workers at a disadvantage, and favor contractors. For example, under the former rules, contractors were required to demonstrate a 10 percent cost savings before they could win a job competition. This ensured that we wouldn't sacrifice experience for a negligible savings. Under the administration's new rules, contractors are not even required to demonstrate a cost savings in order to receive a contract.

The administration claims that privatization is about saving money, but where is the supposed savings in that rule? In fact, it costs a lot of money just to conduct these studies—money that could be better spent on pressing needs. Recent estimates show that privatization studies at the Department of Interior cost over $5,000 for every position studied. At the National Institutes of Health, privatization studies this year cost $3,500 per position and next year NIH predicts they will cost $6,000 per position. This money is wasted because we are finding that public workers provide better service than private contractors.

In case after case, public workers have won competitions for their jobs. In Nevada, the Bureau of Land Management conducted six studies of 13 positions—at a cost of over $92,000—only to find that BLM workers are the most capable and efficient to do their jobs. That $92,000 could have been better spent on so many things. And that is the heart of the problem with these outsourcing studies.

I have heard estimates that the Interior Department could divert as much as $110 million in unauthorized funds to pay for outsourcing studies. We are finding that the supposed cost savings in privatization just aren't there and we are also finding that the experience and dedication of public workers has great value, which we simply can't afford to throw away.

The Mikulski-Landrieu amendment would require the administration to at least set fair rules for these competitions. The House of Representatives agrees with this amendment. It passed

this language by a vote of 220 to 198. I hope my colleagues in the Senate also recognize the need to correct these unfair changes the administration has made to its rules for privatization studies.

Mr. KENNEDY. I thank the Senator from Alabama. In the time agreement that they have, I will be glad to yield and cooperate.

I rise to bring to the attention of my colleagues the result of the existing OMB outsourcing proposals which have really had a very adverse impact on one of the great institutions of our Government, which is the National Institutes of Health. I will relate to that in just a moment.

I commend Senator MIKULSKI, Senator LANDRIEU, Senator SARBANES, and others who have raised this issue. I am mindful at this time that one out of every four of those who serve in the Federal Government are veterans. More than 11,000 of our activated reservists are now on active duty over in Iraq.

I am very mindful, having watched the agencies over a period of time, that there is some opportunity to get greater efficiency and better productivity. Excellence is demanded by many of the agencies, as well as expertise which so many of our Federal employees bring to these agencies. We are a very gifted and fortunate Nation.

The case that comes to mind and pops right out is just a recent example of these current regulations and what it is doing at the National Institutes of Health. NIH is the premier, the gold watch, in terms of basic research all over the world. They are the envy of the world at the NIH. We constantly are facing different challenges of getting the youngest, most talented, most creative, most innovative, most committed, and most hard-working researchers in the world to go to the NIH.

We have had Dr. Zerhouni, who has appeared before our HELP Committee, with Dr. Varmus and others talking about the new paths and opportunities that are out there in terms of the NIH, which are enormously exciting and challenging.

Then, what happened later this last spring? Well, there was a challenge that involved some 677 employees who were grant managers. Grant managers are the ones who review the various research possibilities that are being collected. In many instances, they have the most sensitive kinds of jobs at the NIH because we know that only about 30 to 35 percent of all of the qualified applications actually get funded. We are actually going to see a reduction this year, at a time when we have the greatest opportunities in any time in the history of the world for breakthroughs in all kinds of drugs that affect families, whether talking about cancer, about heart, or Alzheimer's. We would empty the nursing homes in this country if we had a breakthrough as a result of trying to find a prescription drug for Alzheimer's.

The grant managers are the ones who help make the judgments and the decisions in terms of prioritizing these various grants which are really the heart of the NIH programs, and they were challenged.

We had some 677 employees working for a period of weeks because the estimate that was given by OMB was that this would result in significant savings. The employees got together, they made an application, and they won the contract. They won it hands down. And it cost them $7 million. Overall, competitions at NIH will exceed $15 million.

Not only that, but the signal that it sent on through this blue ribbon agency—sure, there may be important changes that ought to be made out at the NIH; sure there may be different changes in terms of direction and what they ought to be doing on clinical trials; sure there could be better utilization of different kinds of reviews, but the fact that we are going to fine the agency which has this degree of expertise and can make the difference in terms of people's lives, being subjected to this, what I think is effectively, harassment.

As I understand the amendment of the Senator from Maryland, it is to assure that we are going to find a common playing field, and the basic rules for competition will be the standards which have been reviewed and recommended and are not the ones which have been embraced by this administration.

I know others have pointed this out. But when we see that, we are going to have competition between some contractors who are not providing the kind of protections or benefits, health benefits, when we know the benefits that exist under the Federal contractors, so that they will be able to continue the slide, in terms of meaning that more and more people are going to lose their benefits, when we find out effectively there is no opportunity for appealing the decision, not for the Federal employees, although there are appeal decisions available to contractors, when we look at the no review and following the cost and the quality of the work performed by the contractors, we have seen time in and time out—and all of us have these examples in our own States—where people bid in and they bid in cheap, they try to add onto the costs of various proposals, which then results in the work not being done, and too often the Federal Government gets stuck holding the bag.

The kinds of unfair competitions which have been reviewed to date, in terms of current conditions, I find so compelling and so unfair. What the Mikulski amendment will ensure is that we are really going to have a system that will be respected, that will be supported by those in all agencies as well as the private sector, and as a result of which we will be able to ensure greater productivity and the savings of taxpayers' money. That is the way to go, not the skewed way which is currently, I think, working to the great disadvantage of hard-working, skilled, dedicated, and committed Americans who are doing a job. Whether they are trying to work out in the immigration process with all the implications that has in homeland security, whether they are border guards trying to guard our borders, whether they are in the Customs Service and dealing with all the challenges they are facing out there, day in and day out—people who join those services need to be highly skilled and highly competent.

Maybe there are better ways of doing it, but the current proposal is not the way to go. The Mikulski amendment will change and alter that. I hope it will be accepted.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the majority leader spoke to the Democratic leader on more than one occasion following a conference between Senator BYRD and Senator STEVENS, seeing if we could move some of these appropriations bills. The sprint is now on. We on this side believe we can move them quickly. It sounds a little unusual that the minority is pushing appropriations bills, but we are doing that because we want to do everything we can to avoid this omnibus bill. Anything we can accomplish that avoids the omnibus, we are better off.

There are just a very few issues that remain. One of them is the Dodd-McConnell or McConnell-Dodd amendment. That is an important amendment. It will take a little bit of time—not a lot. We also need to finish this matter here now before the Senate. I want the record to be spread with the fact that we are doing everything on this side to move the legislation. We have agreed to set amendments aside. We have done everything within our power to move it along.

We have sent a hotline to Senators on our side to find out what amendments they have to offer. We have gotten a response back. It is not complete, but certainly it is reasonable at this stage.

Again, what I want to say is we don't want someone coming later saying we are not moving the appropriations bills because of the minority. We are willing to move these bills as quickly as possible. We have two managers here who are experienced on the bills before us. I believe they are doing everything they can.

I hope the majority leader can find out what is slowing this bill up. It is taking far too much time, in my opinion.

I have also have been told—not by the majority leader but by his floor staff—that if we finish the bill tonight there will be no votes tomorrow. I hope, with all the things we have to do, that will be some incentive.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask unanimous consent Senator CORZINE

and Senator EDWARDS be added as cosponsors to the Mikulski amendment.

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

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Ms. MIKULSKI. Mr. President, I am sponsor of the amendment that is currently pending on the Senate floor. I ask unanimous consent Senator AKAKA also be added as a cosponsor.

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

Mr. AKAKA. Mr. President, I rise in support of the Mikulksi-Landrieu amendment to the Transportation/Treasury Appropriations bill.

I believe the Administration's revision to A–76 is unfair to Federal workers and threatens cost-effective and accountable Federal contracting.

The Commercial Activities Panel, which was mandated by Congress to find ways to improve A–76, was deeply divided on this issue. In fact, the Panel was so deeply divided that it issued two proposals to fix A–76: one supported by Federal employee unions and the other by Federal contractors, the Comptroller General, and certain Administration officials.

OMB's A–76 revision is controversial. The revision allows Federal jobs to be contracted out without appreciable cost-savings. Under the revision, Federal workers could lose their jobs before they have the chance to improve efficiencies. It does not allow Federal workers to compete for work already contracted out. Nor does the revision consider measures to improve government efficiencies outside eliminating Federal jobs. Moreover, it allows contractors to appeal decisions to contract out, but not Federal workers.

The revision does not reflect the idea of fair competition, and the revision is not in the public's interest.

The Mikulski-Landrieu amendment promotes fair competition by prohibiting the Administration from using what I believe is an unfair process for determining whether government work should be contracted out. The amendment does not stop privatization, nor would it force agencies to use the old A–76 rules or prevent OMB from making changes to A–76.

As the Ranking Member of both the Senate Governmental Affairs Financial Management Subcommittee and the Armed Services Readiness and Management Support Subcommittee, I believe we should develop contracting out policies that are fair to Federal workers and achieve the best return on the dollar. These goals are complementary.

I urge my colleagues to support this amendment.

Mr. LAUTENBERG. Mr. President, I rise to support the Mikulski-Landrieu amendment. This is a very important amendment. It overturns the newly revised guidelines—known as OMB A–76—for the ''competitive outsourcing'' of government jobs.

This A–76 process the administration has proposed isn't about saving money or promoting efficiency. It implements a rabid anti-government ideology by stacking the deck against Federal employees; there's nothing fair about it.

As a member of the Governmental Affairs Committee, which has had hearings on this issue, I have had an opportunity to hear OMB officials try to justify the new rules. To put it bluntly, they haven't succeeded.

This administration's desire to privatize vast swaths of the Federal workforce needs a lot more scrutiny from Congress.

Ultimately, the outsourcing of jobs is about people—the people who work for our Government and the people who pay taxes.

Civil servants are the backbone of our government and we should remember that the skills, talent, and professionalism of the men and women in the Federal workplace are the best in the world.

The overwhelming majority of civil servants are dedicated to their jobs. Many of them could make more money in the private sector but they work in the government because they see public service as a higher calling.

Many of us here in Congress strongly disagree with the administration's privatization agenda. For instance, it struck me as ludicrous that we would federalize baggage screening at airports and then turn air traffic control over to the lowest bidder. So I offered an amendment to the FAA reauthorization bill to prevent that. Eleven of my Republican colleagues voted for that amendment, which the Senate adopted, 56–41.

People correctly point out that taxpayers are the owners of the Federal Government and deserve the most effective and efficient government possible.

I agree, but I would also point out that Federal employees are taxpayers, too, and they have ''invested'' even more than their taxes—they have invested their working lives. They deserve to be treated fairly and with respect.

Mr. HARKIN. Mr. President, I rise today to support my friends from Maryland and Louisiana, who have offered an important amendment to get rid of unfair rules that disadvantage Federal Workers. I want to talk about one group of Federal Workers in particular—those with mental disabilities who are at risk of losing their jobs if these outsourcing rules are allowed to stand. I joined both of my colleagues from Maryland in sending a letter to Mr. Bolten, the Director of OMB, and to Defense Secretary Rumsfeld, expressing our outrage about workers at one workplace in Maryland, and urging them to adopt a government-wide policy protecting these workers and others like them from losing their jobs.

Senator MIKULSKI has spoken about employees with mental disabilities working at the Naval Medical Center in Bethesda, mentioned in a Washington Post article earlier this month. These 22 workers in the hospital kitchen are providing dependable and reliable service in very hard-to-fill positions. In return, the Navy provided them with a steady paycheck and the ability to lead independent, productive lives. This relationship is mutually beneficial, but it is being jeopardized by outsourcing. And these workers could lose much more than their jobs. They could lose their independence. That is what is at stake for these workers.

As the author of the ADA and longstanding advocate for the rights of people with disabilities, I am shocked that the administration would consider outsourcing these jobs and reversing decades of Federal policy protecting people with disabilities from discrimination and ensuring that the Federal Government serve as a model employer.

These workers have been hired under a longstanding program that encourages the employment of individuals with mental disabilities. The program has operated under presidents from both parties and has been well implemented. No one has ever thought to attack it, until now. In 2000, the government employed 1,734 workers with mental retardation, about 1/10 of 1 percent of the 1.8 million Federal workers. If this outsourcing is allowed to continue, that number could shrink dramatically.

Our Senate report on committee-passage of the ADA in 1989 noted this sad truth ''According to a recent Louis Harris poll not working is perhaps definition of what it means to be disabled in America.'' Thirty-two percent of people with disabilities are working full or part time compared to 81 percent of people who don't have a disability. The administration ought to be doing more to increase the number of workers with disabilities, not outsourcing the jobs of the few who are employed.

I am proud to support the amendment of the Senators from Maryland and Louisiana.

Ms. MIKULSKI. Mr. President, we are looking forward to moving this bill. I know the Senator from Wyoming wishes to offer a second degree. I note that he is on the floor.

I also note that the Senator from Ohio has done a great deal of work on the Civil Service. He has some very interesting ideas.

I wish we could continue the debate on these amendments. The Senator from Ohio will be offering an amendment. We are ready to debate and discuss it.

If we all work together, I think we can finish the bill in the interest of the

American public, the integrity of the Civil Service, and the taxpayer.

I will save my rebuttal until the pertinent parties are on the floor.

I am ready to go. If we could have the second degree, we are ready to debate it.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SHELBY. Mr. President, I ask unanimous consent that Senator THOMAS be recognized to offer a first-degree amendment on the issue of competitive sourcing; I further ask consent that there be 40 minutes of total debate equally divided in the usual form relative to both the Thomas and Mikulski amendments; I further ask consent that following the use or yielding back of time, the Senate proceed to a vote in relation to the Thomas amendment, to be followed by a vote in relation to the Mikulski amendment, with no amendments in order to the amendments prior to the vote and 2 minutes equally divided prior to the second vote.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I ask the Senator's request be modified to have 10 minutes on the second vote rather than the usual 15 minutes.

The PRESIDING OFFICER. Is there an objection to the modification? Without objection, it is agreed to.

Is there an objection to the unanimous consent request?

Mr. BYRD. Reserving the right to object—I withdraw my reservation.

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

Mr. REID. We are going to have a vote at approximately 4:25. Senator DODD has been here since 11 o'clock this morning to offer an amendment. He and Senator MCCONNELL are working on this now. I ask consent they come up next, but Senator SHELBY is not in a position to approve that. We are going to do everything we can so they come up after the next vote. It is probably the most important amendment to the whole bill. We hope we can dispose of that as soon as possible.

AMENDMENT NO. 1923

The PRESIDING OFFICER. The Senator from Wyoming is recognized for a first-degree amendment.

The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. THOMAS], for himself and Mr. VOINOVICH, proposes an amendment numbered 1923.

Mr. THOMAS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

AMENDMENT NO. 1923

(Purpose: To substitute a requirement for an annual report on competitive sourcing activities on lists required under the Federal Activities Inventory Reform Act of 1998 that are performed for executive agencies by Federal Government sources, and for other purposes)

At the appropriate place, insert the following:

SEC. . (a) Not later than December 31 of each year, the head of each executive agency shall submit to Congress (instead of the report required by section 642) a report on the competitive sourcing activities on the list required under the Federal Activities Inventory Reform Act of 1998 (Public Law 105-270; 31 U.S.C. 501 note) that were performed for such executive agency during the previous fiscal year by Federal Government sources. The report shall include—

(1) the total number of competitions completed;

(2) the total number of competitions announced, together with a list of the activities covered by such competitions;

(3) the total number (expressed as a full-time employee equivalent number) of the Federal employees studied under completed competitions;

(4) the total number (expressed as a full-time employee equivalent number) of the Federal employees that are being studied under competitions announced but not completed;

(5) the incremental cost directly attributable to conducting the competitions identified under paragraphs (1) and (2), including costs attributable to paying outside consultants and contractors;

(6) an estimate of the total anticipated savings, or a quantifiable —description of improvements in service or performance, derived from completed competitions;

(7) actual savings, or a quantifiable description of improvements in —service or performance, derived from the implementation of competitions completed after May 29, 2003;

(8) the total projected number (expressed as a full-time employee equivalent number) of the Federal employees that are to be covered by competitions scheduled to be announced in the fiscal year covered by the next report required under this section; and

(9) a general description of how the competitive sourcing decisionmaking processes of the executive agency are aligned with the strategic workforce plan of that executive agency.

(b) The head of an executive agency may not be required, under Office of Management and Budget Circular A–76 or any other policy, directive, or regulation, to conduct a follow-on public-private competition to a prior public-private competition conducted under such circular within five years of the prior public-private competition if the activity or function covered by the prior public-private competition was performed by Federal Government employees as a result of the prior public-private competition.

(c) Hereafter, the head of an executive agency may expend funds appropriated or otherwise made available for any purpose to the executive agency under this or any other Act to monitor (in the administration of responsibilities under Office of Management and Budget Circular A–76 or any related policy, directive, or regulation) the performance of an activity or function of the executive agency that has previously been subjected to a public-private competition under such circular.

(d) For the purposes of subchapter V of chapter 35 of title 31, United States Code—

(1) the person designated to represent employees of the Federal Government in a public-private competition regarding the performance of an executive agency activity or function under Office of Management and Budget Circular A–76—

(A) shall be treated as an interested party on behalf of such employees; and

(B) may submit a protest with respect to such public-private competition on behalf of such employees; and

(2) the Comptroller General shall dispose of such a protest in accordance with the policies and procedures applicable to protests described in section 3551(1) of such title under the procurement protest system provided under such subchapter.

(e) An activity or function of an executive agency that is converted to contractor performance under Office of Management and Budget Circular A–76 may not be performed by the contractor at a location outside the United States except to the extent that such activity or function was previously been performed by Federal Government employees outside the United States.

(f) The process that applies to the selection of architects and engineers for meeting the requirements of an executive agency for architectural and engineering services under chapter 11 of title 40, United States Code, shall apply to a public-private competition for the performance of architectural and engineering services for an executive agency.

(g) In this section, the term ''executive agency'' has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

Mr. THOMAS. This is a Thomas-Voinovich amendment. We worked on this together. I will cover a little bit about what it does.

This is a reporting requirement addressing a number of the concerns various Senators have had about competitive sourcing. The amendment does the following:

It requires the Secretary of Interior to annually report on its competitive sourcing efforts, including the list of the total number of competitions completed, the list of the total number of competitions announced, the activities covered, the total number of full-time equivalent Federal employees studied under the completed competition, the total number of full-time equivalent Federal employees being studied but not completed. It also asks for the incremental costs directly attributable to conducting the competitions, including the costs to paying outside consultants and estimated total anticipated savings or description of the improvements and service or performance derived from the competitions. Also, actual savings and improvements in our services or performance derived from the competition, the total projected number of full-time equivalent Federal employees covered by competitions scheduled to be announced for the next fiscal year.

It requires a general description of how the competitive sourcing decisionmaking process of the Department of Interior is aligned with the strategic workforce plan of the Department.

The amendment is a responsible measurement to allow additional accountability and transparency to public-private competitions. That is really what we have been concerned about.

Two weeks ago the House overwhelmingly adopted a similar reporting requirement during consideration of the Treasury-Transportation appropriations bill. This amendment will give Congress additional oversight of competitive sourcing, unlike the Reid amendment that stopped it altogether. Competitive sourcing allows for tax dollars to be used more efficiently and improves agency efficiency. The provision would apply to all Federal agencies and not simply Interior.

This is something we need. We talked a little bit about the changes brought about in the past. The fact is in the past there was nothing done to implement A–76. Now there is a plan. The plan will be reported. The plan will be transparent. I certainly urge all Senators to give it some consideration and hopefully to vote in favor of continuing to have competitive sourcing, continuing to strengthen the efficiency of the Government, continuing to give a chance for the private sector to participate.

I yield now to my friend from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I would like to save my remarks. I am waiting for something to come from my office that I can share with the Members of the Senate from the chairman of the Commercial Activities Panel I made reference to in my remarks earlier. I will let the other side continue with their remarks.

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. Mr. President, I feel at a bit of a disadvantage. I am all set to debate, but we keep waiting. We waited for the amendment. Now we have to wait for the Senator from Ohio to make his points in the argument and then he tells me to go ahead and make the argument. My argument is to rebut their amendment. So I am waiting for the Senator from Ohio to make his argument.

I have great admiration for the Senator from Ohio, particularly in the area of Civil Service. I know he has put in countless hours in terms of the Civil Service. Perhaps if he could explain his amendment. I listened carefully to Senator THOMAS, but I am not sure I grasped the full extent of the amendment. There are many elements about the amendment I find attractive and I would like to comment on those. Those I find deficient I would like to identify.

I do want the Senator from Ohio to know I think you are an expert on Civil Service. I have great admiration for you.

Mr. VOINOVICH. Mr. President, in my previous remarks in opposition to the Senator's amendment, I went into the details of the amendment we presented to the floor. So those five provisions I just mentioned—and they were reiterated by the Senator from Wyoming—basically constitute the amendment. I think that lays it out. I am more than happy to hear the Senator's thoughts in regard to that.

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, first, again I wish to make clear what I said about my two colleagues and my great respect for them. And I know of their work on civil service. I am particularly aware of the work of the Senator from Ohio. But I must say, the Thomas-Voinovich amendment proves my point that the May 29 A–76 circular on the new framework for contracting out is deficient. And it is deficient because it is unfair. It absolutely tilts the bidding process, to almost rig it to the fact that private contractors would win the bid. Their corrections of the A–76 that they offer in their amendment point out how deficient May 29 was. So they make my point.

No. 2, I note also that they call for more reporting and more accountability. I think that is great, but, guess what, we are going to contract out Federal employees like the fire department at NIH, like the people with mental disabilities in the kitchen at the Bethesda Naval Hospital, and then we are going to hire people to watch the contracts.

Why are we contracting people out and then hiring people to watch the contracts that we have contracted out? Where are we going? What is the point? Where is the management reform in that?

So I respect the need for greater accountability and oversight. In fact, I think it is called for. Know that I know that the old A–76 also had some potholes in it.

What my amendment does is it says: You cannot implement May 29. Go back to the drawing boards. Work with the Commission that the Senator from Ohio described. But let's implement all of the recommendations, not only the selective ones that tilt the playing field to the contracting out. So that is where my amendment is.

I ask my colleague from Ohio and my colleague from Wyoming, am I right in saying that your amendment would want more accountability; it would allow an appeals process, which now they do not have; that they would not bid every 5 years; and they cannot contract overseas?

I ask either the Senator from Wyoming or the Senator from Ohio, have I grasped your amendment? Have I? What are your five points? I will repeat it: Greater accountability; reporting requirements; the right for Federal employees to have an appeal, just like the private contractors; that they would not have to compete every 5 years; and this wonderful one that says they cannot contract out to move jobs overseas.

Is that what I understand your amendment to be?

Well, I salute you. I think those are excellent improvements, but they are not a substitute for my amendment because even if your amendment goes through, I identified 15 things that were wrong with A–76.

Now, you are willing to correct five. I was not as prescriptive. But you are willing to correct five. There are 10 others that need correcting. And I am just going to give a few, as I hear your arguments.

When I look at the ones that are not in there, the ones that are not included: One, it does not require appreciable cost savings. A contract out does not have to show that it is saving money. The other one is it does not end the unfair advantage given to contractors who provide their employees with inferior health benefits. So when there is a competition between the Federal employees and this so-called private contractor, the Federal employee's health benefits will count in the contract but not for the contractor.

Also, what it does is it does not consider alternatives to privatization; in other words, to give them the chance to reorganize and to streamline. That has been done at NIH. It has been done at other agencies.

It also encourages the privatization of inherently Government work. This is a big sticking point.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Ms. MIKULSKI. Mr. President, I yield 2 minutes of my time to my colleague from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I simply make the observation that the offering of this amendment by the Senators from Wyoming and Ohio clearly admits and sends the signal that the OMB circular issued on May 29 was grossly deficient.

Now, they are addressing it in certain limited respects. And to the extent that is the case, so be it. But it does not really solve the basic problem which we confront, and that is that OMB handed down this circular which grossly tilts the playing field and which structures an unfair competition.

It seems to me the best way to resolve this situation is to adopt the amendment offered by my colleague from Maryland, Senator MIKULSKI, which in effect would hold the May 29 OMB circular. We could then revisit this question and address the range of the deficiencies that are in that circular. My own view is, if people of good will undertake that enterprise, we will be able, I hope, to reach a consensus and have a better product as a consequence.

I think this is, in a sense, elemental fairness for the Federal employee and for the Federal taxpayer. This issue is always portrayed as though contracting out to the private sector is beneficial to the Federal taxpayer. That is clearly not the case. In fact, there has been instance after instance in which Federal employees win competitions, therefore validating the argument that they are better for the

taxpayer than putting it out into the private sector.

Now, OMB, because it is not meeting its targets—these ideological targets that have been placed upon them, which they in turn are imposing upon the agencies because they cannot get the outcome they seek—has come in with a new circular, of May 29, which tilts the playing field in an unfair way. That really cries out for the passage of the very well considered amendment of my colleague from Maryland.

I strongly urge my colleagues to support the Mikulski amendment.

The PRESIDING OFFICER. The 2 minutes have expired.

Who yields time?

Mr. VOINOVICH addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Ohio?

Mr. THOMAS. Mr. President, I yield to the Senator.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, could the Chair inform me when I have used 5 minutes?

The PRESIDING OFFICER. The Senator will be notified.

Mr. VOINOVICH. Mr. President, I would just like to clarify something for my colleagues in the Senate. First of all, the A–76 old rule was considered to be broken. Congress recognized the problem, and they established a Commercial Activities Panel as part of the 2001 Defense Authorization Act. The panel was convened specifically to consider revisions to the A–76 competition. It was led by Comptroller David Walker, the head of the General Accounting Office.

Now, there have been some allegations here that the circular that was put out by the Bush administration was not reflective of the panel's decision.

First of all, the recommendations coming from the panel were either agreed to unanimously or by a supermajority of the public and private representatives.

I will say, in all candor, I correct my earlier statements. They were not supported by Bob Tobias. They were not supported by Colleen Kelley. And they were not supported by Bobby Harnage. So let's clarify that. The union representatives did not like it that much.

So the question is, Is the new A–76 better than the old one that the Senators from Maryland want us to adopt?

As I noted earlier, the A–76, the new regulation, quoting David Walker:

> . . . is generally consistent with the commercial activities panel's sourcing principles and recommendations and, as such, provides improved and foundation for competitive sourcing decisions in the Federal Government. In particular, the new circular permits . . .

Then he goes on to talk about the new circular.

He goes on to say:

> If effectively implemented, the new Circular should result in . . . [greater credibility] and greater accountability regardless of the service provider selected.

As part of an executive session at Harvard University that was convened by Dean Nye, in which I participated, I got to know several members of the Clinton administration. One of those members of the administration was Steve Kelman, administrator of the Office for Federal Procurement Policy at OMB. He had the job of Ms. Styles who has left the administration. I asked Steve what he thought about the new A–76 circular and he said that overall it was better than the old A–76 and that the only problem he had with it was this recompete after 5 years for those people in the public sector who won the competition.

What I am saying is that the A–76 circular that was submitted by the Bush administration is not perfect. There are differences of opinion about it, but it is a far cry better than the old A–76 circular.

What we are saying today is that we should not go back to that, that the new circular is better. Our amendment enhances the playing field for our Federal workforce in that it requires certain reporting requirements that say this competition is not going to be done willy-nilly, that it is going to be done as part of their workforce shaping.

By the way, I would like to correct one Senator from Maryland who said the administration has given the charge to go out and do this arbitrarily. They did that initially. I blew a gasket. I blew a fuse. Senator DURBIN and I had a hearing on that. We had a second hearing on it and the administration has backed off from the quotas. So there is not going to be a rush out there to do competitive bidding. We are going to require them to have reporting requirements, letting people know beforehand that they are going to go to competition.

Once they go to competition and if the private sector wins, they are going to have to report whether they are getting the money efficiencies and whether they are getting the other efficiencies they thought they were going to get.

The PRESIDING OFFICER (Mrs. DOLE). The Senator has used 5 minutes.

Mr. THOMAS. Madam President, I yield 2 more minutes.

Mr. VOINOVICH. It provides that if the Government employees lose the competition, they will have a right to appeal, just as the private sector has a right of appeal. So we are giving them that opportunity. We are eliminating the every 5-year competition if it is won in-house.

It also provides that if the private sector gets the work, it has to go to American people and not be farmed out overseas.

I believe this amendment, plus the revised A–76 regulation, is a far better system than going back to something that we acknowledged back in 2001 was not working. We fixed it. It may not be perfect. I am not saying it is. I am not saying that everybody agrees with it. But it is a far cry better than to go back to what we had before.

Fundamentally, I think the other side wants to go back there because there are many people who are opposed to competitive bidding. I want everyone to know, competitive bidding ought to be something that is available to the administrative branch of Government, but it ought to be something that is carefully considered before they go forward and do it.

My feeling always is, I would rather stay with the people who are working in the Federal Government and give them the training, the empowerment, and tools to get the job done. We have leveled the playing field. We slowed down the process.

I believe with Clay Johnson over there at OMB and with Kay James over at OPM, we have two outstanding people. That is what it is about, the integrity of the people. They are not going to go forward and do some of the things that the folks on the other side of the aisle think they are going to do.

I am staying on top of this issue. I am going to monitor this issue to make sure they continue to do what they have represented that they are going to do to me and so many other members of the Governmental Affairs Committee.

The PRESIDING OFFICER. Who yields time?

The Senator from Maryland.

Ms. MIKULSKI. Madam President, how much time remains on my side?

The PRESIDING OFFICER. Nine minutes thirty-five seconds.

Ms. MIKULSKI. I yield myself 5 minutes and withhold 4 to see if Senator KENNEDY or another Senator wishes to speak. Right now I would like to yield myself 5 minutes. I ask the Chair to confirm, as I get a little excited when I am talking about this.

The PRESIDING OFFICER. The Chair will notify the Senator when 5 minutes have expired.

Ms. MIKULSKI. Madam President, what I want to say in response to what my colleague has said is, No. 1, he says the May 29 circular is better. There is a fundamental difference between us on that. I don't believe it is better. I stand with the way the National Treasury Union Workers feel about it and the way the other Federal employees feel about it.

If you are on the side of the companies that are going to benefit from privatization, you like it. If you are the ones who are on the firing line or the chopping block, you don't like it.

What I do acknowledge is that the amendment offered by my two colleagues from the other side of the aisle does improve the A–76 process.

I also acknowledge that I know the Senator from Ohio did go ballistic. I am glad that he went ballistic. I thank him for standing sentry down in the Government Affairs Committee against bounty hunting, against quotas, and against sending jobs overseas. I salute him on that. But he is one man against

a whole tide here. This is why I think his amendment has merit.

But I tell you, deep down to my toes, I believe they want to privatize most of the Federal Government, and I do believe that deep down inside they want quotas to privatize. I don't believe that about him.

When we look at this whole issue that he raised about private sector contractors moving jobs overseas, the Senator knows they have already done it. If the call center at the Census Bureau is now in India, Hello? The United States of America calling India to find out about census?

I could go on with other examples. The time is late. I appreciate the fact that the Senator gives Federal employees a right to appeal when they lose a competition which they now don't have. I also acknowledge that his amendment removes the 5-year recompete competition, and I salute him on that, and also ensures contract oversight.

In other words, you have some good ideas here. But in my comments, I say, you can vote for both. I want my colleagues to know they can vote for both. They can vote for Voinovich-Thomas and they can vote for Mikulski. Voinovich-Thomas has ideas of merit. Theirs is a modest improvement.

My amendment improves it all. They improve five things about this. I have identified 15. If you want 15, you vote for Mikulski. But you can vote for them and you can vote for me.

The other thing I want to say is that the Mikulski amendment does not stop contracting out. It simply stops the May 29 circular, which is harsh, punitive, and unfair to Federal employees.

I said to the administration, back to the drawing boards, work with VOINOVICH and THOMAS and COLLINS, and work with MIKULSKI, KENNEDY, and SARBANES, and make sure our Federal workforce keeps on working.

The PRESIDING OFFICER. Who yields time?

Mr. VOINOVICH. Madam President, I need 2 minutes.

I appreciate the kind words from the Senator of Maryland with regard to our amendment. But I think that to go back to the old A–76 circular after the commercial panels spent so much time on it would not be in the best interest of our Government.

I am going to quote from David Walker, who is chairman of that panel, to clarify the fact that the new circular is better than the old system, and that we would be better off having our amendment attached to the new circular rather than to the old rules and old circular. He says:

As I noted previously, the new Circular A–76 is generally consistent with the Commercial Activities Panel's sourcing principles and recommendations and, as such, provides an improved foundation for competitive sourcing decisions in the Federal Government. In particular, the new Circular permits: greater reliance on procedures contained in the FAR, which should result in more transparent, simpler, and consistently applied competitive process, and source selection decisions based on tradeoffs between technical factors and cost.

The new Circular also suggests the potential use of alternatives to the competitive sourcing process, such as public-private and public-public partnerships and high-performing organizations. It does not, however, specifically address how these alternatives might be used.

That is an improvement.

If effectively implemented, the new Circular should result in increased savings, improved performance, and greater accountability, regardless of the service provider selected.

That is why the amendment is so important.

However, this competitive sourcing initiative is a major change in the way Government agencies operate, and successful implementation of the Circular's provisions will require that adequate support be made available to Federal agencies and employees, especially if the timeframes called for in the new Circular are to be achieved.

The point I am making today—one of the reasons we have one of our amendments—is that we are requiring the Federal agencies to have the capacity to properly go through this competitive sourcing. That is what our amendment says. In addition, it says that once the competitive sourcing has been—if the outsiders win, we are going to monitor their performance to make sure we are going to get the savings and the efficiencies we are supposed to get. If we are not, that would mean our workers in the Federal Government would get another shot at what had been farmed out to the private sector.

I know there have been instances in the Defense Department where things have been farmed out and then they have been brought back into the Federal Government.

The PRESIDING OFFICER. Who yields time.

Mr. SHELBY. Madam President, I rise in support of the Thomas amendment. I believe competitive sourcing is an important process for the Federal Government. I believe it will help to improve the overall performance and efficiency of certain activities carried out by the Federal Government.

Allowing these competitions to move forward is important to improve the value of service provided by the Federal Government to all Americans. Whether the contract is won by the incumbent Federal workers or private sector bidders, the Federal Government wins by encouraging greater efficiency and a more focused workforce. That improves service.

I believe we must be careful to clarify that competitive sourcing, as proposed, doesn't apply to those activities considered inherently governmental. Those jobs will be reserved solely for the Federal workforce, and no one is proposing otherwise.

Our goal is clear. What we are trying to do is make the Federal workforce more efficient and competitive. At some point, the Federal Government is going to have to demand that it get a greater return on its investment. I believe that allowing public-private competitive sourcing is a step in that direction. At the proper time, I will urge adoption of the Thomas amendment.

The PRESIDING OFFICER. Who yields time?

Mr. THOMAS. Madam President, I have a couple of points I had intended to make. It was brought up before that this system, as it exists now, doesn't require savings. That is not the case. You don't grant a contract unless there are going to be savings.

They talked about no alternatives. That is what competition is all about, to take advantage of the alternatives.

Someone mentioned management of contracts. That is not a brand new idea. A lot of contracting goes on around the world, particularly in the private sector, and you always have to manage those.

So we have a real opportunity to strengthen competitive outsourcing here. That is what our amendment does. It doesn't go back to zero, but it strengthens it from where we are.

We had a similar one before that the Senate rejected. I urge the Senate to reject this one as well.

Whenever the other side is ready, we will yield back our time.

Ms. MIKULSKI. Madam President, how much time do I have?

The PRESIDING OFFICER. The Senator has 5 minutes 28 seconds remaining.

Ms. MIKULSKI. Madam President, I wish to notify the Chair that other Senators are on the way. I will speak for 2 minutes and then I hope they are here.

Again, I reiterate, the Thomas amendment has some good points. You can vote for both. My amendment does not stop privatization; it just makes it fair. I say something and they something back. But I am telling you, they don't mandate cost savings in this A–76.

Let me tell you a boondoggle. Defense Finance Accounting Service—this is finance accounting—contracted out 650 jobs to a private computer company. Guess what. The DOD inspector general found out that it cost the taxpayers $25 million more than it would cost under Federal employees. Take the call center. They won the competition, and they won it by sending it to India. Lower wages, no health care. Let's ship those jobs overseas.

My gosh, what are we doing? This May 29 circular is despicable, it is unfair, it is harsh, it is punitive, and it will cost taxpayer dollars to do studies, and it is costing morale. If we want people to work for the Federal Government and be enthusiastic and put their best energies forth and put America first, we cannot keep Tinkertoying with them. I hope you can vote for their amendment, but, please, in the interest of the vitality and integrity of the Federal workforce, please vote for the Mikulski amendment.

I yield 1 minute to the Senator from Louisiana.

Ms. LANDRIEU. Madam President, I am pleased to join my colleagues from Maryland to oppose this rule change. Let me say quickly, because I know the time is short, we have tried this in Louisiana at Fort Polk, in Leesville, to be exact—1,500 Federal jobs, people not overly paid, but well paid with good health benefits, and others.

Needless to say, the base plays a vital role in the economy of central Louisiana and is by far the single largest employer in the area. The secondary employment impact on the State is even more significant with Fort Polk accounting for millions of dollars in payroll annually.

The workers at Fort Polk are patriots. They work hard, they stay longer, they get the job done. I heard that not from the unions, not from the workers, not from some local politician—I heard that from the military commanders at Fort Polk who just did not want to see their workforce contracted out.

They already had experience with contractors at Fort Polk, and, frankly, they didn't like it. Base operations were bogged down by the refusal of contractors to take the little steps that improve quality of life, improve the aesthetics at the base, and go that extra mile when troops were deploying or coming home.

It is not that the contractors were not willing to take the work, it is that they wanted to charge the Government more to do it. Despite these objections, the workforce at Fort Polk was subject to the A–76 process. It has been an embarrassment and totally unworthy of the way this Government should treat it workers.

To boil the controversy down to its bare essentials, contractors bidding on the Fort Polk work were made aware of what the DoD civilian bid would be. Now the OMB wants to take this process even further.

Now the OMB says contractors don't have to prove they would save any money. They only have to show they would provide some ''financial benefit.'' Now the OMB says that workers can't include in their bids proposed reorganizations to make themselves more efficient. Now outside contractors will not have to figure in any health care benefits to their workers into these packages.

Good jobs are simply too hard to come by in Louisiana for me to allow this to go forward without a fight.

We know what A–76 really means in Louisiana. It means that workers that are paid a reasonable wage, including real health benefits and a pension, will be replaced. They will be replaced, frequently by the same people, but this time, they won't have health benefits or pensions. The difference will be the profit that corporations will pocket.

Our Armed Forces deserve better than to be supported by civilians who are underpaid, understaffed, and overstretched so that contractors can pocket a few extra dollars per hour. That is not a savings to the American people. It is pennywise and pound foolish.

With this experience, I simply cannot endorse broadening a system that I consider already broken.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. LANDRIEU. I thank the Senator from Maryland for her fight and strong advocacy on this issue.

Ms. MIKULSKI. Madam President, how much time remains?

The PRESIDING OFFICER. Two minutes.

Ms. MIKULSKI. I reserve 2 minutes, waiting for Senators BYRD and LAUTENBERG. Does the Senator from Wyoming wish to speak?

Mr. THOMAS. Pardon me, I did not hear the Senator.

Ms. MIKULSKI. I said I reserve 2 minutes to allow Senator BYRD and Senator LAUTENBERG to speak. Does the Senator wish to speak any longer?

Mr. THOMAS. No, we are ready to vote.

Ms. MIKULSKI. I am going to wrap up. Remember, there are 15 reasons why the new public-private competition is unfair.

It does not allow Federal employees to submit their best bids.

It fails to end the unfair advantage given to contractors who provide their employees with inferior health benefits.

It allows the use of quotes instead of actually soliciting bids from contractors.

It doesn't consider alternatives to privatization giving Federal employees the right to come up with streamlining.

It is very bad for diversity in the Federal workplace. Many of these jobs are clerical. I have already gotten feedback from constituents who refer to the clerical workers as ''let's get rid of them; they will be low-hanging fruit.'' Is that the way we refer to the clerical people who are willing to work 24/7 in keeping the FBI or keeping the DOD going? And guess what. Once it goes, it does not allow the Federal workers to rebid to get it back.

All I am saying is, stop the implementation of the May 29 circular. Let's have a better process. Let's have a better plan. I am not opposed to privatization, but I am opposed to this May 29 circular.

I yield back such time as we may have remaining, and I am ready to vote.

The PRESIDING OFFICER. If all time is yielded back, there will now be a vote with respect to amendment No. 1923. The Senator from Wyoming.

Mr. THOMAS. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 1923. The clerk will call the roll.

Mr. MCCONNELL. I announce that the Senator from Nevada (Mr. ENSIGN) is necessarily absent.

I further announce that if present and voting the Senator from Nevada (Mr. ENSIGN) would vote ''yea.''

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. BOXER) and the Senator from Massachusetts (Mr. KERRY) would each vote ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 1, as follows:

[Rollcall Vote No. 407 Leg.]

YEAS—95

Akaka	Dole	Lugar
Alexander	Domenici	McCain
Allard	Dorgan	McConnell
Allen	Durbin	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham (FL)	Nickles
Breaux	Graham (SC)	Pryor
Brownback	Grassley	Reed
Bunning	Gregg	Reid
Burns	Hagel	Roberts
Campbell	Harkin	Rockefeller
Cantwell	Hatch	Santorum
Carper	Hollings	Sarbanes
Chafee	Hutchison	Schumer
Chambliss	Inhofe	Sessions
Clinton	Inouye	Shelby
Cochran	Jeffords	Smith
Coleman	Johnson	Snowe
Collins	Kennedy	Specter
Conrad	Kohl	Stabenow
Cornyn	Kyl	Stevens
Corzine	Landrieu	Sununu
Craig	Lautenberg	Talent
Crapo	Leahy	Thomas
Daschle	Levin	Voinovich
Dayton	Lieberman	Warner
DeWine	Lincoln	Wyden
Dodd	Lott	

NAYS—1

Byrd

NOT VOTING—4

Boxer	Ensign
Edwards	Kerry

The amendment (No. 1923) was agreed to.

AMENDMENT NO. 1917

The PRESIDING OFFICER. The Senate will come to order.

There are now 2 minutes evenly divided before a vote with respect to the Mikulski amendment.

Ms. MIKULSKI. Madam President, we now come to the Mikulski amendment. Know that the amendment that just passed with the support of my side of the aisle corrects 5 and only 5 of 15 egregious problems with the May 29 circular. That amendment was a downpayment. But if you want to correct all the grievances, vote for the Mikulski amendment. It does not end privatization. It ends the harsh, punitive, and egregious problems with the May 29 circular.

Stand up for America, stand up for the Federal employees, stand up for the Mikulski amendment and vote aye.

Mr. THOMAS. Madam President, the Senate has just adopted an amendment

which approves congressional oversight of public-private. It is a good thing for us to do.

We urge the Senate to oppose the Mikulski amendment because it attempts to amend the problem by going back to the old A–76 process that we all agree was broken.

I urge my colleagues to oppose the amendment that is before us.

The PRESIDING OFFICER. If all time is yielded, the question is on agreeing to the amendment.

Ms. MIKULSKI. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID (after having voted in the affirmative). Mr. President, I have a pair with the Senator from Nevada, Mr. ENSIGN. If he were present and voting, the Senator from Nevada, Mr. ENSIGN, would vote ''no.'' If I were permitted to vote, I would vote ''yea.'' I therefore withhold my vote.

Mr. President, I withdraw my pair.

The PRESIDING OFFICER. The pair is withdrawn.

Mr. REID. Mr. President, I ask that my pair be reinstated.

The PRESIDING OFFICER. The pair is reinstated.

Mr. MCCONNELL. I announce that the Senator from Nevada (Mr. ENSIGN) is necessarily absent.

I further announce that if present and voting the Senator from Nevada (Mr. ENSIGN) would vote ''nay.''

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that if present and voting, the Senator from California (Mrs. BOXER) and the Senator from Massachusetts (Mr. KERRY) would each vote ''yea.''

The PRESIDING OFFICER (Mr. SMITH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 48, as follows:

[Rollcall Vote No. 408 Leg.]

YEAS—47

Akaka	Dorgan	Lieberman
Baucus	Durbin	Lincoln
Bayh	Feingold	Mikulski
Biden	Feinstein	Murray
Bingaman	Graham (FL)	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Pryor
Campbell	Inouye	Reed
Cantwell	Jeffords	Rockefeller
Carper	Johnson	Sarbanes
Clinton	Kennedy	Schumer
Conrad	Kohl	Snowe
Corzine	Landrieu	Specter
Daschle	Lautenberg	Stabenow
Dayton	Leahy	Wyden
Dodd	Levin	

NAYS—48

Alexander	Brownback	Cochran
Allard	Bunning	Coleman
Allen	Burns	Collins
Bennett	Chafee	Cornyn
Bond	Chambliss	Craig
Crapo	Hatch	Roberts
DeWine	Hutchison	Santorum
Dole	Inhofe	Sessions
Domenici	Kyl	Shelby
Enzi	Lott	Smith
Fitzgerald	Lugar	Stevens
Frist	McCain	Sununu
Graham (SC)	McConnell	Talent
Grassley	Miller	Thomas
Gregg	Murkowski	Voinovich
Hagel	Nickles	Warner

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Reid, for

NOT VOTING—4

Boxer	Ensign
Edwards	Kerry

The amendment (No. 1917) was rejected.

Mr. SHELBY. I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, a mass liquidation of the Government is underway. U.S. corporations and industry entrepreneurs are salivating at this administration's effort to open at least 850,000 Federal jobs to private contractors.

If this administration has its way, the most basic services of the Federal Government—from national security to tax collection to air traffic control to the maintenance of our national parks—will be handed over to private contractors like birthday party favors.

And to expedite the process the administration has rewritten the Federal Government's A–76 contracting rules for the entire Federal Government, opening each agency and department to a host of potential abuses. The President's proposal has political disaster written all over it.

I voted in favor of the Mikulski amendment to block this egregious scheme from going into effect.

Also, the record should reflect the fact that the Thomas amendment would allow executive agencies to use funds appropriated for other purposes to monitor the performance of an activity or function that has been subjected to public-private competition. Such a provision is a preemption of the appropriations powers of Congress. The Congress should not be handing over such broad spending authority to executive agencies.

I voted to protect congressional prerogatives and against the Thomas amendment.

AMENDMENT NO. 1928

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. MCCONNELL, Mr. DASCHLE, and Mr. REID, proposes an amendment numbered 1928.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To fund the Election Assistance Commission for fiscal year 2004)

On page 85, strike lines 20 through 25, and insert the following:

Commission, $1,500,000,000, for providing grants to assist State and local efforts to improve election technology and the administration of Federal elections, as authorized by the Help America Vote Act of 2002: *Provided*, That no more than 1/10 of 1 per-

Mr. DODD. Mr. President, I offer this amendment on behalf of myself, Senator DASCHLE, Senator REID, and, of course, on behalf of my colleague from Kentucky, Senator MCCONNELL, as well, to address this matter. I do not want to take a lot of time on this amendment. There are other Members who have obligations they want to meet.

This amendment is pretty straightforward. Let me begin by thanking my colleague from Kentucky, my colleague from Missouri, and others with whom, over the last several years, we have worked to create and pass the Help America Vote Act, which was signed into law by the President 1 year ago next week.

This is a law, of course, to try to improve the conduct of Federal elections across the country. I need not remind my colleagues, of course, of the condition of the Federal election system based on the results we saw in the national elections in the year 2000.

The piece of legislation that authorized these funds was adopted 98 to 2 by this body, and almost by a similar percentage of votes in the other body.

Last week, Senator MCCONNELL and I came to the floor. I was going to suggest we offer an additional appropriation on the $87 billion package for Iraq. But, rightly, as my colleague from Kentucky pointed out, that was not the appropriate place to do this. We agreed in a colloquy that we would try to find an opportunity to provide the additional resources necessary so the State and local officials across this country could meet the obligations of doing these elections in a proper way.

I point out to my colleagues that the sense of timing is important. In the Federal elections in 2004, the first primary of which is in the District of Columbia on January 13—less than 3 months away—all States and localities must provide provisional ballots to any voter who is challenged. Those provisional ballots must be verified, according to State law, in 2004. Also, in 2004, all States and localities must be prepared to implement the anti-fraud provisions that the Senator from Missouri, Mr. BOND, fought so diligently and hard for as part of the Help America Vote Act which affect first-time voters who register by mail. There are other requirements, of course, by 2004, and a whole series of things that must be done by 2006.

Needless to say, as the State and local officials will tell you, getting mechanisms in place to get it done requires advanced timing. This cannot

just happen in the last few months before the elections occur.

I also point out to my colleagues that, obviously, the States are facing tremendous budget constraints themselves. This is not the ideal way we would like to do this, but we have no other choice but to be part of this budgetary cycle and to include these dollars in this particular effort.

In a time when we are committing, obviously, billions in Federal resources to build democracies around the world—and I supported that; I had reservations about it but, nonetheless, that is critically important—we cannot ignore the needs of our own democracy. Obviously, I think we would all agree we need to do what we can as well, as a nation that prides itself on being the leader when it comes to the conduct of our elections, to try to get these systems working better than they have been.

Again, I thank my colleagues who have worked very hard on this matter. This was truly a bipartisan effort. It continues to be one. We have tried to work together on these matters over the last several years so as not to create any partisan feelings. I think that has been the case.

So today, in a bipartisan way, we are asking our colleagues to be supportive of this additional amount in the appropriations process so we can get the moneys back to our States.

I am sure every one of my colleagues has heard from their State and local officials. By the way, the States are doing a very good job. You may have read recent articles of how the States are getting up to speed, putting things in place, getting their implementation plans in order, and doing so with a great deal of expedition and care.

Several States have already utilized some of the newer approaches as a result of their own State efforts, which are proving to be very successful.

I think we are on the right track. I think we are doing the right thing. The National Governors Association, of course, reported the difficulties they are having with their budget problems, as I mentioned a moment ago.

I do not want to take a lot of time of my colleagues. I think they know what the issues are. I have talked to many of them.

Just last week, Senator MCCONNELL and I came to this floor to express our concerns that the Congress not leave here this session without providing sufficient resources to the States to implement the minimum requirements and other election priorities, for Federal elections enacted under the Help America Vote Act. Some of those requirements must be implemented in time for the Federal elections next year.

The States are living up to their end of the bargain—all States are well along in the development of their state plans and many are in the initial implementation stages of the effort. But we must live up to our side of the bargain.

In his budget request, the President recommended funding these programs in fiscal year 2004 at only one-half of the authorized amount, for a total of $500 million. To their credit, the Appropriations Subcommittee fully funded that request, and I thank the distinguished chairman, Senator SHELBY, and my friend and colleague, the ranking member, Senator MURRAY, for their efforts.

However, State and local budgets simply cannot absorb this $500 million shortfall. More importantly, any shortfall in fiscal year 2004 follows on a similar shortfall of over $600 million in the fiscal year 2003 appropriations. Unless we increase funding in this fiscal year, our commitment to the States to share in the funding of the new requirements for Federal elections will fall over $1 billion short.

In a time when we are committing billions of dollars in Federal resources to build democracies around the world, we simply cannot afford to shortchange our own. The basic premise of a democracy is that every citizen must have an equal voice in the determination of its government.

And in this Nation, that voice is expressed through the equal opportunity to cast a vote and have that vote counted. If America is to continue to be the leader and example for emerging democracies around the world, then our system of giving our citizens an equal voice—our system of elections—must meet this test.

Unfortunately, what we learned in the elections of 2000 was that not all Americans enjoy an equal voice. In fact, some citizens were denied a voice at all because of malfunctioning or outdated voting equipment, inaccurate and incomplete voter registration records, and allegations of voter intimidation and fraud.

The silver lining of the 2000 elections was that it created the opportunity to recognize the challenges confronting our system of Federal elections and the ability to respond with bipartisan determination to provide Federal leadership to overcome those challenges. And 98 members of the Senate responded to that opportunity by overwhelmingly passing the Help America Vote Act last year.

I once again want to thank my distinguished colleagues, and coauthors of the Help America Vote Act, Senator MCCONNELL and Senator BOND, for their bipartisan leadership in that effort and for their continuing commitment to see our promise for Federal funding fulfilled.

I especially want to recognize the leadership of my distinguished colleague, Senator MCCONNELL, whose unfailing leadership on this issue has help to bring us to this point. As then Chairman of the Rules Committee, he chaired the first hearings on election reform and introduced one of the first measures in Congress to offer assistance to the States.

And today we stand before you again, united by our desire to fulfil the commitment and promise of HAVA to the States, and to every American voter, to be a full partner in Federal elections. But rhetoric alone will not fulfill this commitment, nor will it fix the problems that came to light in the 2000 elections. It will take leadership and funds. And that is what the Help America Vote Act provides.

HAVA provides federal leadership in the form of new minimum requirements that all states must meet in the conduct of Federal elections. Those requirements will ensure that all voters can check their ballots and correct them before they are cast and counted. The requirements will ensure that no voter who believes he or she is registered and eligible to vote can be turned away from the polls—but must be given a provisional ballot to cast and then have verified pursuant to State law. And those requirements will ensure the accuracy of voter registration lists against fraud and mistakes through the creation of a single statewide registration list. In short, HAVA will strengthen our democracy by giving an equal voice to all citizens by making it easier to vote and harder to cheat.

Implementing these reforms will not be cheap and so for the first time in our history, Congress committed to being a full partner in the funding of these reforms by authorizing $3.8 billion to fund the implementation of these requirements.

Federal funding is critical to nationwide implementation of this Act and may well govern the success and effectiveness of the new law. To help pay for election reforms and avoid an unfunded mandate on the States, HAVA authorizes a total of nearly $4 billion over three fiscal years, including over $2 billion in fiscal year 2003; $1 billion in fiscal year 2004; and $645,000 in fiscal year 2005.

Of the $1.5 billion Congress appropriated last year to fund grants to the States, $650 million has been distributed to all 50 states, the District of Columbia, Guam, Puerto Rico, the U.S. Virgin Islands and American Samoa. I thank my colleagues for their support during the FY03 appropriations process, particularly Senator STEVENS, Chair of the Appropriations Committee and Senator BYRD, the Ranking Member, for providing this substantial down-payment on our commitment to the States.

But we now know that the FY03 appropriation will not provide sufficient funds for the States to fully implement their State plans and meet the new requirements of the law. And the shortfall in the first critical year of funding under HAVA is only compounded by the additional shortfall of $500 million in the bill before the Senate today.

Given the dire financial budget constraints faced by our states and counties, the total shortfall of over just over $1 billion in promised Federal support creates an unfunded mandate that is both unfair and unnecessary and

threatens to undermine the very reforms that were adopted last year.

According to the National Governors Association, the current financial health of state and local governments was at its lowest point since World War II last year and has worsened in the past 10 months. According to the Center on Budget and Policy Priorities, States have struggled to close deficits that have totaled approximately $190 billion over the past three years and the best estimate at this time is that they will face deficits of more than $40 billion in fiscal year 2005.

And the counties are in no better economic situation than the States. According to the National Association of Counties, nearly 72 percent of counties are facing budget shortfalls and 56 percent of counties are facing reductions in State funding for State-mandated programs. While counties are struggling to deal with the revenue reductions, the demand for county-provided services continues to rise.

State and local governments are willing and anxious to implement the new requirements; they simply cannot go it alone. And that was the historic message of the Help America Vote Act: the Federal Government will step up to our responsibility to be a full partner in funding Federal election reforms.

Full Federal funding for HAVA is crucial to ensuring that the reforms that Congress overwhelmingly approved, on a broad bipartisan basis, and the President endorsed with his signature, are implemented. The very integrity of our elections, and consequently our democracy, hangs in the balance.

Full funding of HAVA is critical to our national credibility for fairness and accuracy in Federal elections. It is fundamental to the integrity of our democratic process. This amendment not only fulfils out commitment to date, it assures that the very reforms Congress enacted last year will actually be implemented.

This effort is overwhelming supported by a bipartisan and powerful coalition of State and local election officials, in conjunction with all the major civil rights, disability, language minority, and other voter interest groups in the United States. I thank each and every one of them for their strong support in passing HAVA and their continuing commitment to see that Congress makes good on its promise to be a full partner in Federal elections by fully funding the provisions of HAVA. I ask unanimous consent that a letter from the Coalition be included in the RECORD following my remarks.

No civil right is more fundamental to our democracy than the right to vote and no need for Federal funding is more essential to securing that democracy than is the commitment made by this body to ensure the integrity and accuracy of our Federal elections.

I thank my colleagues for their continuing support of this effort and urge my colleagues to fulfill our commitment of last year to ensure the integrity of our Federal elections and the very foundation of our democracy by supporting this bipartisan amendment to fully fund the Help America Vote Act.

Mr. President, I ask unanimous consent to print a letter supporting this amendment in the RECORD.

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

MAKE ELECTION REFORM A REALITY—SUPPORT THE DODD-MCCONNELL AMENDMENT TO H.R. 2989

OCTOBER 23, 2003.

DEAR SENATOR: We, the undersigned organizations, strongly urge you to support an amendment to be offered by Senators Christopher Dodd (D–Conn.) and Mitch McConnell (R–Ky.) to increase funding for the Help America Vote Act (P.L. 107–252) (''HAVA'') in H.R. 2989, the FY 2004 Treasury-Transportation Appropriations bill. The Dodd-McConnell amendment will increase the level of HAVA funding in that bill from $500 million to $1.5 billion. We ask that you vote in favor of the amendment and vote against any Budget Act point of order that may be raised.

The Help America Vote Act was enacted with overwhelming bipartisan support in order to prevent the many problems of the 2000 election from ever happening again. Among its many reforms, it places significant mandates upon states and localities to replace outdated voting equipment, create statewide voter registration lists and provide provisional ballots to ensure that eligible voters are not turned away, and make it easier for people with disabilities to cast private, independent ballots.

To help pay for these reforms, HAVA authorizes a total of $3.9 billion over three fiscal years, including $2.16 billion for FY03 and $1.045 billion for FY04. To date, however, the actual funding of HAVA has been woefully inadequate. So far, only $1.5 billion of FY03 funding has been appropriated, and $830 million of that amount has yet to reach the states because the President has nominated and the Senate has not confirmed the members of the new Election Assistance Commission. Additionally, only $500 million is currently included in pending FY04 appropriations; once again, this is a sum that falls well below what is needed for successful implementation of HAVA. States and localities were assured by Congress that this new law would not evolve into a set of unfunded federal mandates. It is now time for Congress to honor its commitment to the states and to the American public at large.

Given the difficult fiscal circumstances facing state and local governments, immediate and full funding of HAVA is now needed in order to make essential progress before Election Day in 2004. Without the strong leadership that HAVA promised at the federal level, states and local governments simply do not have the ability to complete implementation of the important reforms that they are now required to make.

No civil right is more fundamental to America's democracy than the right to vote. As our nation spends billions of dollars helping to promote democracies abroad, Congress simply should not allow doubts about the legitimacy of our electoral processes continue to linger here at home.

We thank you for your support of funding for the ''Help America Vote Act,'' and we look forward to working with you on this critical issue. Should you have any questions, please contact Rob Randhava of the Leadership Conference on Civil Rights at (202) 466–6058, Leslie Reynolds of the National Association of Secretaries of State at (202) 624–3525, or any of the individual organizations listed below.

Sincerely,

Organizations Representing State and Local Officials

National Association of Secretaries of State
National Conference of State Legislatures
Council of State Governments
National Association of State Election Directors
National Association of Counties
National Association of Latino Elected and Appointed Officials Educational Fund
National League of Cities
International City/County Management Association
International Association of Clerks, Recorders, Election Officials and Treasurers
National Association of County Recorders, Election Officials and Clerks

Civil Rights Organizations

Alliance for Retired Americans
American Association of People with Disabilities
American Civil Liberties Union
American Federation of Labor—Congress of Industrial Organizations
Americans for Democratic Action
Asian American Legal Defense and Education Fund
Asian Law Alliance
Asian Law Caucus
Asian Pacific American Legal Center
Association of Community Organizations for Reform Now
Brennan Center for Justice at NYU School of Law
California Council for the Blind
Center for Governmental Studies
Center for Voting and Democracy
Common Cause
Demos: A Network for Ideas & Action
Disability Rights Education and Defense Fund
Leadership Conference on Civil Rights
League of Women Voters of the United States
Mexican American Legal Defense and Educational Fund
National Alliance of Postal and Federal Employees
National Asian Pacific American Legal Consortium
National Association for the Advancement of Colored People
National Association of Protection and Advocacy Systems
National Council of Churches
National Council of La Raza
Neighbor to Neighbor Action Fund
Organization of Chinese Americans
People For the American Way
Project Vote
Public Citizen
The Arc of the United States
United Auto Workers
United Cerebral Palsy
U.S. Action Education Fund
U.S. Public Interest Research Group

Mr. DODD. Again, my colleagues from Kentucky and Missouri and I would prefer to have some other way we could do this, but if we don't get it done now, it is going to be very difficult for us to meet these obligations at all. This additional amount in fiscal year 2004 will get us back on track and allow us to complete this process and to see the election cycle work in a way that all of us would be proud to see.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I rise today finding myself in a very unusual situation. As an ardent supporter of the budget resolution and enforcing the axiom of ''live within your means,'' I am very much opposed to blowing the budget caps, except under the rarest of circumstances. This is just such a circumstance.

At a time in which the United States is the key to developing a democracy in Iraq, this amendment ensures our democracy at home. While the United States is leading the repair of a country mired in corruption and suppression, this amendment provides the support to ensure the franchise of all Americans, and to combat the dissolution of that franchise.

As all my colleagues heard me say many a time, everyone who is eligible to vote, should vote and have their vote count, but they should do so only once. This amendment provides an additional $1 billion to implement the Help America Vote Act of 2002. The Transportation-Treasury appropriations bill as drafted sets aside $500 million for election improvement grants. This amount, when added to the fiscal year 2003 appropriation, falls $1 billion short of our commitment. This amendment fills that gap.

In enacting election reform last year, we all knew it would come at a significant financial cost and we all have heard repeatedly from State and local officials about the importance of full funding. The additional funds provided in this amendment will be used by States and localities to meet requirements which have a 2004 implementation date and continue their work on those with a 2006 date.

As a refresher to all my colleagues, the election reform legislation we passed last year protects the sanctity and security of the votes of all Americans in the following ways: Provisional ballots for all voters which are later verified for eligibility so no one is turned away from the polls; statewide databases to include information from registrants to ensure accurate and up to date lists of legally registered and eligible voters; mail-in voter registration procedures to include positive identification of not only the eligibility of the registrant, but the existence of that registrant; update and improvement of voting systems to achieve ease, access and security; and increased poll worker training, voter information and overall modernization of the entire voting process.

One year ago next Wednesday marks the 1-year anniversary of the enactment of election reform legislation. Since that date, States and localities have been working tirelessly to meet the standards the Federal Government placed upon them. With the 2004 elections right around the corner, it is important we provide the necessary resources for full implementation of these important standards.

Once again, I commend both the Budget chairman and the Appropriations chairman who have been outstanding throughout the year, and I have been a stalwart supporter of their efforts. This, however, is that very rare instance which I believe warrants providing funding above that provided in the budget.

Win or lose on this amendment, we must honor our commitment to financially partner with the States to improve our elections process.

As I said, I find myself in an extremely awkward position. I support the chairman of the Budget Committee. I support the budget resolution. I support the great work that he has done in holding us to the budget resolution as we move along. And I wouldn't be in favor of waiving the budget but for an extraordinary circumstance.

The cold hard reality is this: When we passed the election reform bill a year ago this month, we promised the American people that in the fall of 2004, we would have the mechanisms in place to dramatically improve the election system, including having the antifraud provisions that the Senator from Missouri, Mr. BOND, and I fought so diligently for, that guarantees that every American has a right to vote but, as Senator BOND frequently put it, votes only once.

None of those provisions will go into place unless the amendment Senator DODD is offering is approved. I can tell you that everybody seems to be in favor of this, but nobody has been able to figure a way to get it done. I spent the afternoon talking to people in the administration who want to see it done, talking to the people in the House of Representatives right at the top who want to see it done, people on that side of the aisle who want to see it done, and people on this side of the aisle, but nobody is showing a clear path to how you get it done.

I think I am safe to say, on behalf of the Senator from Connecticut and the Senator from Missouri, we are here to offer this amendment to demonstrate, we hope, that a significant percentage of the Senate wants to see, at the end of the appropriations process, this money found to guarantee that we dramatically improve our election process, not sometime in the far distant future but next November.

I ask unanimous consent that Senator BOND, Senator HATCH, Senator ROBERTS, and Senator BURNS be added as cosponsors to the Dodd-McConnell amendment.

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

Mr. MCCONNELL. I know Senator BOND would like to speak as well. We are anxious to move ahead, and I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, the Senator from Connecticut has introduced a very important amendment that deserves the support of this body.

Events of the 2000 election in my home State and elsewhere pointed out that there are serious flaws in our election system that invite mischief and confusion. But last year, in a near unanimous vote, this body passed important legislation that will make it easier for Americans to vote and harder for those who would do such a thing, to cheat. The legislation offers a tremendous opportunity to modernize our election system, improve election technology and help State and local officials manage elections better. Once this legislation is in full effect, we will see a dramatic improvement in the reliability and integrity of elections. But funding is essential to move forward on the key aspects of this bill. With the funding, we can take large steps forward before the upcoming election.

So far, we have funded a significant downpayment on implementation of this law. The chairman has included a generous sum in this bill, and I thank him for his attention to the issue. We are here today to ensure that we are on target with the funding level and funds are flowing in advance of the 2004 election; we can have an impact on this election, move rapidly towards complete implementation and put the problems we experienced behind us for future elections.

I will take a minute to remind my colleagues of some of the more important components of this bill. First, this funding will go toward ensuring that every State has a modern, computerized statewide voter registration system. This is perhaps one of the most important aspects of this bill and one provision that cannot be implemented without funding.

Surprisingly, much of voter registration has missed out on the rapid advances in technology. In many States and jurisdictions they are still paper records. Compounded by Motor Voter's overly broad restrictions on removing names from lists, too many voting lists around the country have become clogged with fake names or names that should simply no longer be there. The result is inaccurate, unreliable, and unmanageable voter registration lists. As my colleagues and I learned while working on this bill, voter registration lists are the most basic element of any well-run election, and their accuracy is essential if elections are to be honest and voters are to have confidence in the outcome.

How bad are these lists? When we looked into this issue while working on this bill, West Virginia's Mingo and Lincoln Counties both had more registered voters than living people. Allegheny County, PA, had 18 municipalities with more registered voters than voting-age adults. The State of Alaska had 502,968 on the voter rolls, though census figures show only 437,000 Alaskans of voting age.

In Missouri we have found individuals who are registered at three, four, and even five different locations across the State—not to mention those that are registered twice in the same jurisdiction. At one point in the city of St.

Louis, we had 240,000 registered voters but only 200,000 people of voting age.

These are the problems that are a serious threat to the confidence people have that their vote will be counted and that the outcome of the election will be honest.

This bill also includes a requirement that voters using the ''by mail'' registration offered in Motor Voter will now have to identify themselves before casting a vote. How did all those names get on the lists? As some may remember from our discussions last fall, we even discovered the odd circumstances of voter rolls including the names of canines. How did this happen—because mail registration was available and could be used to anonymously put names on voter lists. Those same States that were required to accept registrations through the mail were also prohibited from authenticating those registrations. The election reform bill corrects that problem by requiring those who exercise their right to register by mail to provide some identification prior to voting. As previously stated, this contributed greatly to the troubled shape of voter rolls and the administration of elections. This bill fixes this, and we need to step up and ensure it is fully implemented.

This bill addresses a number of important issues, including dealing with judicial orders affecting polling place hours, providing provisional voting for those who have their names removed from voting rolls because of administrative error and ensuring that voting equipment have advanced audit trails to prevent manipulation of votes at the polling places. States will also be issuing identification numbers to registered voters to track voters and will be collecting information to ensure that voters are citizens and of proper eligibility status.

To summarize, the bill contains significant advances that will greatly enhance integrity and administration. It is important that these and all the provisions in this bill are fully implemented—the sooner the better. So thanks again to Senators DODD and MCCONNELL for their work and help pushing this bill and its funding forward. I urge my colleagues to support this amendment.

As has been stated by the Senator from Connecticut and the Senator from Kentucky, we had a very long and difficult process over better than 18 months to try to pull together a truly significant piece of legislation that would, in fact, make it easier to vote and tougher to cheat. A lot of people had lots of questions about the 2000 election. I happened to think that from my own personal experience, the fraudulent parts of that election were of extreme concern. And it is my view and understanding that in order for us to ensure, No. 1, that we have the voting equipment available for the 2004 Presidential election, and that we have the antifraud provisions in effect for the 2004 election, we need to appropriate this money.

We made the commitment. It is a question of ''pay me now or pay me later.'' Frankly, I urge my colleagues on this side of the aisle to say: Let's pay now rather than pay later. You can ask questions about how quickly the money is spent but, frankly, in order to trigger the antifraud provisions, we have to get the money now.

In many States around the country, Motor Voter has led to an amazing electoral turnout. People send in a postcard and say ''register me,'' or register whatever name is signed. There is no authentication required. States were even prevented from authenticating it. When you look at the list, West Virginia's Mingo and Lincoln Counties had more registered voters than living people, adults and children. Allegheny County, PA, had 18 municipalities with more registered voters than voting age adults. The State of Alaska had 503,000 on the voter rolls, though the census figures only show 437,000 Alaskans. In Missouri, we found some truly amazing things—three, four, even five different voter registrations by the same individual, some two or more times in the same jurisdiction; at one point the city of St. Louis, 240,000 registered voters but only 200,000 people of voting age. That is a heck of a trick. We found out when, fortunately, a very aggressive media went out and checked on it. We found vacant lots with people registered. We found 10, 15, 20 people registered from one location. In a subsequent election, a very popular alderman from the city of St. Louis re-registered to vote on the 10th anniversary of his death. That is a wonderful statement of theological implications, but it does not do much for political science.

Of course, many on this Senate floor were tired of seeing the picture of my favorite St. Louis voter, Ritzy Mekler, the 13-year-old cocker spaniel who was registered.

We have to stop that. The way we do it is to make all of the provisions of this bill effective for the very important 2004 elections.

I thank Senators DODD and MCCONNELL. I urge my colleagues to support the Dodd amendment.

Mrs. MURRAY. Mr. President, the events of the last Presidential election highlighted the importance of election reform and the need to replace antiquated and faulty voting machines. The Help America Vote Act, HAVA, was enacted last year to address these issues and to establish new minimum requirements that all States must meet in the conduct of Federal elections. My home State of Washington is struggling with implementing and paying for the requirements of HAVA due to our heavy reliance on vote-by-mail ballots.

Last year, the bill included $1.5 billion for election reform, but that funding was not part of the subcommittee's initial allocation. The full committee provided this funding in addition to our subcommittee allocation.

I am in agreement that the $1.5 billion is necessary and should be provided for election reform. But we do not have the available funding for that purpose in our bill, so it will be necessary to waive the Budget Act. During consideration of the budget resolution, I was not able to vote for election reform funding due to the competing needs of the agencies under the jurisdiction of this subcommittee. So I am comfortable with the amendment offered by Senator DODD, which waives the Budget Act for this important purpose.

Mr. HATCH. Mr. President, I truly wish that I did not have to address this body on this topic. Last February, I stood before this body and urged my colleagues to ensure the Help America Vote Act of 2002, HAVA, contained adequate funding, assuring the States that they will have the necessary resources to comply with the mandates contained in the new law.

In fact, the Senate adopted a Sense of the Senate amendment to reinforce our commitment to fund this act fully so that States and localities would not be hurt by yet another unfunded mandate. Our vote today should reflect that commitment.

As this body debated HAVA in February of 2002. I asked this pointed question: ''What if a future Congress fails to provide adequate funding for this legislation?'' Well, here we are just one Congress later and our States and localities—who were then experiencing budget shortfalls in early 2002 and are now facing budget crises—are now forced to make extremely difficult choices. We in Congress have fallen woefully short in delivering on our promise to fully fund the mandated portions of the bill.

Mr. President, I cannot tell you how many individuals in Utah have come up to me and expressed their great displeasure at the lack of funding for the HAVA law. The Congressional Budget Office has estimated the cost of HAVA at $3 billion. That is billion with a ''B.''

Let us look at the hard realities. Is it ethical for us, at a time when the majority of our States are facing serious financial difficulties, when some, such as my home State of Utah are cutting off health care benefits to children and closing prisons, to even suggest they foot the entire bill for these new mandates? I think not.

In this case, I'm sorry to have been correct. But, it is one Congress later and we are exactly where I warned that we would be. For the good of the States and the voters, we need to make available the resources necessary to fully implement HAVA.

I urge my colleagues to remember your commitment to your State and vote in favor of this amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first I congratulate Senator SHELBY for his management of this bill. This is an appropriations bill. The budget authority

of this bill is actually less than last year's level. And the outlays under this bill, as far as the outlays that are controlled, grew by 3.6 percent. So it is within the budget. It is within the budget that we have passed, and it is also within the budget agreement that the chairman of the Appropriations Committee made with the President.

This amendment is not. This amendment does bust the budget. This amendment does have a budget point of order that lies against it. But it also is not necessary. I heard my colleague say it is necessary. Let me state a different opinion than that.

In last year's appropriations bill, we appropriated $1.5 billion for election assistance. There is $833 million of that that has not been used. As a matter of fact, there is an election assistance commission that was formed under that legislation. The commissioners haven't even been appointed or confirmed. I understand they are going to be soon. I heard my colleague from Missouri say: We can't take the enforcement provisions unless we get this money. That is not correct. They need the commission. The commission hasn't been confirmed. I am not sure; maybe that is because the names weren't submitted. Maybe they were not confirmed because of a little disagreement between Democrats and Republicans. We have had trouble confirming some people this year. But I understand they are going to. I think that is good.

The facts are, there is $833 million of 2003 money that has not been spent. In the 2004 appropriations bill, there is $500 million that is in the bill. That is a total of $1.3 billion for this purpose that is available to be spent as soon as the appropriations bill is passed.

How much did the administration request? The administration requested $500 million. They requested $500 million which is in the bill. So by the time we pass this bill, there will be $1.3 billion to be spent. I would venture to say the States couldn't spend another billion if we tried. I wouldn't be surprised if they can't spend $1.3 billion in the next 12 months. They have only been able to spend less than $800 million this year. So now we want to increase that and make it $2.3 billion that they are going to spend in the next 12 months. I don't think they can do it. Certainly, it would be busting the budget.

Sometimes we have things we would like to do, but we can't do because we have fiscal constraints.

We have very large deficits and they are going to get larger if we come up and say, I am sorry, but, yes, there is a good cause here; and even though elections have always been basically administered and paid for by the States, we would love to have the Federal Government assume all the costs and throw out billions of dollars in the process. We have been very generous with $1.5 billion last year, $500 million this year, and $831 million yet to be spent. I think we have ample money and every reason to sustain the budget point of order that will soon be raised by the chairman of the Appropriations Committee.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SUNUNU. Mr. President, I join my colleague from Oklahoma in opposing this amendment. No one wants to see fraud or abuse in the democratic process. The Senator from Missouri talked about some pretty egregious examples, and it is not necessarily an easy amendment to oppose. But there is a lot of funding in the pipeline that is equally important, maybe more important.

This busts the budget, and this is subject to a point of order. I think we have to exercise restraint, discipline, and focus when we are dealing with budget issues. If the funds are a priority, we should find a way to provide the support and funding within the constraints of the budget resolution. But we cannot come to the floor with amendments for initiatives that sound very worthwhile but violate the budget resolution and take us over the budget limits and caps, which will continue to increase the deficit.

So I think we need to stay focused on that resolution and exercise some fiscal discipline. I appreciate the concerns in a place such as St. Louis, where cocker spaniels are voting, but I think we can address that with funding already in the pipeline. I hope the States are taking real action to address those kinds of situations of fraud and abuse. I will support my colleague from Oklahoma in opposing this amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I appreciate the comments of my colleague. Let me just say that this amendment is providing for the number of demands being made on the States. The Senator from Missouri points out what has to be done by the next calendar year, and, just a few weeks from now, on January 13, the Federal primary season, and State and locals are up against the requirements. We are going to get the nominees to the Election Assistance Commission confirmed, but this keeps us on track with the funding. We won't need to come back to this again for another year, but this has to be done now.

We authorized over $3.8 billion for this bill over three fiscal years. This will get us on track for FY03 and FY04 so the States can complete the job. As the Senators have said, this is not our preferred method for providing full funding. Everybody agrees we have to get it done. Contrary to what my friend from Oklahoma says, if we don't get it done now, it will make it that much more difficult to accomplish these goals and it will create huge problems. I will not go through the litany, but I hope my colleagues, when the point of order is made—and I will offer a waiver of that point of order—will support the States on this. I don't want to take much more time. The chairman has other obligations.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, I have a couple of points. The chairman of the Budget Committee, Senator NICKLES, is certainly doing his job, and I understand his concern. But I have just a couple of observations.

The Commissioners of the new Election Administration Commission have their hearing next Tuesday. They will be confirmed before we leave this fall. This money can and will be spent. It all goes out by formula, all across America—directly out by formula. It doesn't require them to use some discretion on it. It goes out directly by formula, and it will be spent because this is a Federal mandate. We are mandating that this money be spent for the reasons specified in the bill.

If you are interested in having, to the maximum extent, an honest election next year, then we need to provide adequate funding early in the year because the election is 13 months away, so that these mandates can be carried out in time to guarantee that we have next fall, to the maximum number extent possible, an honest election.

It is because of these extraordinary circumstances I find myself in a position I would not normally be in, which is supporting waiving the Budget Act.

I yield the floor.

Mr. STEVENS. Mr. President, I am tempted to remark about my friend from Missouri saying there are only 477,000 Alaskans, but I will let that go.

Mr. BOND. If the Senator will yield, I offer my sincere apologies. Would he accept it if I said ''of voting age'' and correct that statement?

Mr. STEVENS. It comes closer. I thank the Senator.

Mr. President, up my way there is a saying: The promise made is the debt unpaid.

This year, when I went to the President to increase the moneys allowed for education and a series of other items in this total budget, after a serious discussion, he agreed. I told him if he would make those changes, I would promise him I would see to it that there would be no funds appropriated in the regular process in excess of the amounts he requested. He has not requested this additional amount.

Therefore, the pending amendment No. 1928 offered by the Senator from Connecticut, Mr. DODD, increases the spending by $1 billion. This additional spending would cause the underlying bill to exceed the subcommittee section 302(b) allocation. Therefore, I raise a point of order against the amendment pursuant to section 302(f) of the Budget Act.

Parenthetically, I also say that, before we recess this year, we will have to provide this money and the Appropriations Committee will find some way to find it within the budget.

Mr. DODD. Mr. President, pursuant to section 904 of the Congressional

Budget Act of 1974, I move to waive the applicable sections of that act for the purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID (after having voted in the affirmative). Mr. President, I have a pair with the Senator from Nevada, Mr. ENSIGN. If he were present and voting, the Senator from Nevada, Mr. ENSIGN, would vote ''nay.'' If I were permitted to vote, I would vote ''yea.'' I, therefore, withhold my vote.

Mr. MCCONNELL. I announce that the Senator from Nevada (Mr. ENSIGN) is necessarily absent.

I further announce that if present and voting the Senator from Nevada (Mr. ENSIGN) would vote ''nay.''

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from North Carolina (Mr. EDWARDS), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. BOXER) and the Senator from Massachusetts (Mr. KERRY) would each vote ''aye.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 63, nays 31, as follows:

[Rollcall Vote No. 409 Leg.]

YEAS—63

Akaka	Daschle	Leahy
Allen	Dayton	Levin
Baucus	DeWine	Lieberman
Bayh	Dodd	Lincoln
Bennett	Dole	Lugar
Biden	Dorgan	McConnell
Bingaman	Durbin	Mikulski
Bond	Feingold	Miller
Breaux	Feinstein	Murray
Bunning	Graham (FL)	Nelson (FL)
Burns	Graham (SC)	Nelson (NE)
Byrd	Grassley	Pryor
Cantwell	Harkin	Reed
Carper	Hatch	Roberts
Chafee	Inouye	Rockefeller
Clinton	Jeffords	Sarbanes
Coleman	Johnson	Schumer
Collins	Kennedy	Smith
Conrad	Kohl	Stabenow
Cornyn	Landrieu	Talent
Corzine	Lautenberg	Wyden

NAYS—31

Alexander	Frist	Sessions
Allard	Gregg	Shelby
Brownback	Hagel	Snowe
Campbell	Hutchison	Specter
Chambliss	Inhofe	Stevens
Cochran	Kyl	Sununu
Craig	Lott	Thomas
Crapo	McCain	Voinovich
Domenici	Murkowski	Warner
Enzi	Nickles	
Fitzgerald	Santorum	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED

Reid, for

NOT VOTING—5

Boxer	Ensign	Kerry
Edwards	Hollings	

The PRESIDING OFFICER. On this vote, the yeas are 63, the nays are 31. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1928) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I ask unanimous consent that Senators DURBIN, SCHUMER, LIEBERMAN, and EDWARDS be added as cosponsors.

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

Mr. DODD. Mr. President, let me thank all Members. Let me particularly thank my colleague from Kentucky and my colleague from Missouri, as well as the chairman of the Appropriations Committee, Senator STEVENS, who graciously said we would try to work this out.

I appreciate my colleagues doing what they did, and I appreciate those who didn't even vote with us. It is a very important moment. I am very grateful to everyone who gave us consideration. I am particularly grateful to the Members who cast their votes with us. I know it was a difficult vote, but it will do a lot for the States.

PROCUREMENT OF TANKER AIRCRAFT

Mr. REID. Mr. President, two Members who are on the Armed Services Committee have been waiting all day to give statements.

I ask unanimous consent that the chairman and ranking member of the committee be recognized for 6 minutes each to speak as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, does the Senator from Washington wish to join?

Mrs. MURRAY. Mr. President, if I could have an additional minute.

Mr. WARNER. I think we should reserve it for the other Senator from Washington, too.

Mrs. MURRAY. That is correct.

Mr. REID. Mr. President, I modify my request: 5 minutes to the Senator from Virginia, 5 minutes to the Senator from Michigan, 2 minutes to the Senator from Washington, and 2 minutes to Senator CANTWELL, if she wishes to speak.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WARNER. Mr. President, I thank our distinguished minority leader for that.

I have a draft in the form of an amendment which I hope to introduce into the Armed Services conference for purposes of incorporation in that bill. I ask unanimous consent that it be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. WARNER. Mr. President, I rise to describe this proposal concerning the administration's request to proceed with the lease of 100 aircraft.

Mr. MCCAIN. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will come to order.

The Senator from Virginia.

Mr. WARNER. Mr. President, for the past 2 years, this issue has had a rather contentious but serious debate—

Mr. MCCAIN. Mr. President, I apologize, but the Senate is still not in order.

The PRESIDING OFFICER. The Senate will please come to order.

The Senator from Virginia.

Mr. WARNER. Mr. President, for the past few years there has been a sort of contentious but serious and conscientious debate within the administration and the Congress as to how to resolve the problem for the Department of the Air Force.

What I regard as a compromise to the pending understanding would be the following: First, according to my sources, in many ways this has been corroborated by the various Departments which worked with us. It would provide up to perhaps $4 billion in savings. It would give prompt delivery of 100 new tanker aircraft. It would put this program back into the traditional procurement process, put this program back into the traditional budget process, put this program back into the traditional authorization process, and provide the Air Force with title—underline ''title''—ownership of at least 80 of the aircraft under this contract.

Pursuant to section 133 of the National Defense Authorization Act for fiscal year 2003, which established guidelines for the congressional review of any tanker lease, the Air Force, on July 10, submitted to the Congressional Defense Committees a new start notification of at least 100 aircraft.

Under section 133 of the Defense Authorization Act of 2003, all four committees must act favorably on this notification for the lease to proceed. Our Senate Armed Services Committee has yet to act. We conducted extensive oversight of this tanker lease program, holding a hearing on September 4.

During this hearing, I first put out my thoughts for public comment on the idea of leasing at that time up to 25 aircraft and purchasing the remainder. I have now modified that to 20 and 80.

Subsequent to this hearing, the committee explored numerous options and requested additional studies from the Congressional Budget Office, the General Accounting Office and the Air Force.

I commend the members of my committee for their careful review of this matter and coming up with this proposal despite the enormous pressure from many sectors to simply adopt the new start reprogramming request.

The proposal amendment to be included in the National Defense Authorization Act for fiscal year 2004 would provide for the approval of a lease for 20 aircraft and authorize a multiyear procurement program for the remaining 80 aircraft. Thus, the Air Force would still obtain 100 tankers, in keeping with the goal of the Administration's tanker lease proposal.

This approach allows the tanker program to get started with no lease payments required until fiscal year 2006 and no purchase payments required until fiscal year 2008, while still permitting the same schedule of deliveries as in the currently negotiated lease contract.

This proposal would also authorize the use of incremental funding for the 80 aircraft purchase. Incremental funding is an approach that should not be taken lightly by Congress, but it is one that has been used for other weapon systems acquisitions where there was a critical need.

I plan to continue to consult with all interested parties and work to get an agreement to include this proposal in the national defense authorization conference report. That action would provide the Air Force the option to immediately execute the program and being production of these 100 aircraft.

I urge the support of my colleagues.

EXHIBIT I

SEC. . PROCUREMENT OF TANKER AIRCRAFT.

(a) LEASED AIRCRAFT.—The Secretary of the Air Force may lease up to a total of 20 aircraft under the multiyear aircraft lease pilot program referred to in subsection (d).

(b) MULTIYEAR PROCUREMENT AUTHORITY.—(1) Beginning with the fiscal year 2004 program year, the Secretary of the Air Force may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract for the purchase of aircraft necessary to meet the requirements of the Air Force for which leasing of aircraft is provided for under the multiyear aircraft lease pilot program but for which the number of aircraft leased under the authority of subsection (a) is insufficient.

(2) The total number of aircraft purchased through a multiyear contract under this subsection may not exceed 80.

(3) Notwithstanding subsection (k) of section 2306b of title 10, United States Code, a contract under this section may be for any period not in excess of 10 program years.

(4) A multiyear contract under this subsection may be initiated or continued for any fiscal year for which sufficient funds are available to pay the costs of such contract for that fiscal year, without regard to whether funds are available to pay the costs of such contract for any subsequent fiscal year. Such contract shall provide, however, that performance under the contract during the subsequent year or years of the contract is contingent upon the appropriation of funds and shall also provide for a cancellation payment to be made to the contractor if such appropriations are not made.

(c) STUDY OF LONG-TERM AIRCRAFT MAINTENANCE AND TRAINING REQUIREMENTS.—(1) The Secretary of Defense shall carry out a study to identify alternative means for meeting the long-term requirements of the Air Force for—

(A) the maintenance of aircraft leased under the multiyear aircraft lease pilot program or purchased under subsection (b); and

(B) training in the operation of aircraft leased under the multiyear aircraft lease pilot program or purchased under subsection (b).

(2) Not later than April 1, 2004, the Secretary shall submit a report on the results of the study to the congressional defense committees.

(d) MULTIYEAR AIRCRAFT LEASE PILOT PROGRAM DEFINED.—In this section, the term ''multiyear aircraft lease pilot program'' means the program authorized under section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 101–117; 115 Stat. 2284).

Mr. WARNER. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, I thank the chairman of the Armed Services Committee for his extraordinary effort in putting together a proposal which I am pleased to support. For the reasons he gave, it is a much more honest approach to the acquisition of these tankers. There is no use pretending this is a lease when, in fact, it is intended to be a sale. It has been the intent of the Air Force they purchase it. It has been wrapped in the clothing of a lease but, in fact, the clear intention here and the only commonsense outcome is that it be a purchase, not a lease, because under the lease agreement, 80 percent of the cost of these planes would be laid out by the Air Force while only 20 percent of their useful life would have been actually used by the time the lease was over. It is obvious the intention and the commonsense approach was this is intended to be a purchase and it ought to be called what it is.

The proposal I am pleased to join in sponsoring is much more honest in terms of the intention. It also complies much more closely to what the normal budgeting procedures are around here. We do not want this to be a precedent for leasing. That distorts the entire budget process because it looks like it is free, in essence, for a couple years. These are not free. There is a huge cost. If we can reduce the real cost, as this proposal does, by acknowledging that it is really a purchase, by authorizing a multiyear acquisition, which is what we do after the leasing of the first 20, it seems to me we will save taxpayer dollars, we will commit to actually acquiring these tankers, but we will force the Air Force to be straightforward in the use of this country's resources. They are not going to be able to have something which looks free for a couple years because there is a small lease payment and then have this huge obligation in the outyears.

At the same time presumably they will want to buy more and more tankers. We address the long-term need to acquire tankers. We do it in a more straightforward way. We save money for the taxpayers.

I commend the two Senators from Washington, Senators MURRAY and CANTWELL, for being so persistent in moving this program forward. This outcome would not have happened without them. I also acknowledge Senator MCCAIN's role. He has insisted from the beginning this be reviewed in an honest way by the General Accounting Office, by the Congressional Budget Office, and by the Armed Services Committee. It has been his insistence we deal with this honestly. That has led to this proposal. I have not had a chance to speak with Senator MCCAIN personally or directly so I don't know what his reaction is. I hope it meets his expectations and his needs. I do acknowledge the fact that Senator MCCAIN is always playing it straight, looks at things straight, and wants an honest addressing of an issue. That is what we are now doing.

To the two Senators from Washington and the Senator from Arizona, I express my thanks, and particularly the chairman of the committee, who put together a proposal which I am pleased to join.

The members of the committee have spent considerable effort in reviewing the basic Air Force proposal to sign a long-term lease for 100 KC–767 tanker aircraft. Based on my review of the issues surrounding this proposal, I support Senator WARNER's intention to offer the proposal he outlined in the conference on the National Defense Authorization Act for fiscal year 2004.

Let me also recognize the strong and positive role that the two Senators from Washington, Senator PATTY MURRAY and Senator MARIA CANTWELL, have played in moving the leasing program forward. I know personally that they have spent many hours understanding the current Air Force tanker situation, and in working with other members of the Senate in moving this program forward.

The proposal to go forward with a lease of 20 aircraft now and providing, up-front, multiyear procurement authority for the Air Force to buy the remaining 80 tankers should help address several concerns.

First, it will help address our long-term need to replace the Air Force's existing fleet of tanker aircraft. We have spent many hours trying to understand the severity of the corrosion problem within the KC–135 tanker fleet. While the Air Force has not made a convincing case that there is an imminent risk to the fleet, the Air Force does have a long-term requirement for tankers that will ultimately require the fielding of replacement aircraft. For this reason, I believe that it is prudent to move forward now with an orderly replacement program.

Second, our approach would give the Air Force multiyear contracting authority now. This will reduce the acquisition cost for aircraft, significantly reducing the price to be paid by the

taxpayers. I believe that providing such multiyear contracting authority is a responsible step to take in the case of a program like this, which involves very little new development and very little program risk.

Third, the proposal that Senator WARNER and I are putting forward would address very real concerns with the lease proposal presented by the Air Force. I believe that what the Congressional Budget Office said is correct: this is not a real lease, but a purchase. The Air Force, not Boeing, will control the special purpose entity that borrows funds for this program. There is no doubt in anyone's mind that the Air Force intends to buy these aircraft at the end of the lease. We simply cannot afford to pay 90 percent of the value of the aircraft for less than 20 percent of the useful life.

Finally, our proposal would take a far more responsible approach to federal budget issues than the proposal put forward by the Air Force. The Air Force proposal would have pushed the cost of the tanker aircraft off until the next decade, creating a huge funding program for the next generation of Air Force leaders. Our approach would move the costs forward, requiring the Department of Defense to provide almost $5 billion more in current Future Years Defense Program. The Air Force case that it is urgent to replace these tanker aircraft will be a lot more convincing, if the Department of Defense is willing to put money up for the problem earlier, rather than taking a free ride on the back of future taxpayers and defense needs.

I hope that we will get agreement from the House conferees on the defense authorization on including this provision in the final authorization act. I believe that it will help address a significant problem identified by the Air Force, while acting more responsibly in preventing postponing too much funding to later years.

I thank Chairman WARNER for his leadership on this issue.

Mr. WARNER. I commend my colleague from Michigan. We have been working together some 25 years on this committee now. Last night we studied the final language I crafted with the help of others and my colleague decided to join us.

Senator MCCAIN wishes to follow the two distinguished colleagues from Washington. Again, I commend the Senator. We met last night on the floor. We talked about it. We worked into the evening with our staff. I very much appreciate the expressions the Senator is about to make.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, more than 2 years ago the Senate began a journey to help improve our military readiness by replacing the outdated Air Force asset with 100 new Boeing 767 air refueling tankers. In spite of the best efforts of the Air Force to maintain that tanker fleet, those planes are outdated and cost billions of dollar to maintain.

In the 2 years that have passed since we first began discussing replacing our Nation's tanker fleet, the KC–135s have grown older, more corroded, and less safe. It is a testament to the resourcefulness of the flying men and women of our Air Force that these planes are still flying as well as they are.

Over the past several days, Senator CANTWELL and I have engaged in a very productive series of meetings and discussions with Chairman STEVENS and Chairman WARNER, ranking Members Levin and Inouye. We were here late last night, as Senator WARNER indicated, and all day long working with our colleagues on a way to move this forward. I am really pleased we have worked our way through some very big issues. The leaders of our Senate Armed Services Committee agree we do need to provide the Air Force a way to begin to recapitalize its aging tanker fleet with new Boeing 767s. I am proud Senator WARNER and Senator LEVIN agree Boeing airframes will help our air men and women protect our Nation and advance our security around the world.

I had the honor of meeting with a number of people who fly these planes. I am proud we are finally working our way to bring some new planes to these brave young men and women.

These planes are critical. They are the backbone of America's air power capability. The importance of replacing them cannot be overstated. The Warner-Levin proposal is a great step in the right direction. It is finally going to allow Boeing to begin producing state-of-the-art KC–767 aircraft right away with delivery of the first four tankers in 2005.

There are outstanding issues remaining, but it is clear to me today that we have a commitment finally to move forward and the Air Force is going to get the tankers it so desperately needs.

I commend Senator WARNER, Senator STEVENS, Senator LEVIN, Senator INOUYE, and especially my colleague in Washington, Senator CANTWELL, who spent a tremendous amount of time trying to work this issue through with all of the details. I am proud to serve with her in the Senate. She is a testament to the people who are going to be building these planes and her advocacy for them, particularly over the last several days.

I yield to my colleague from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 2 minutes.

Ms. CANTWELL. Mr. President, I am sure there is no way I can convey in these minutes all of the important information that needs to be conveyed about this issue. I will highlight a few things.

This debate started in 2001 and still goes strong today. The testament of the many Members who were here on the floor is that we are trying to move ahead and move ahead with what is a very needed product.

I thank my colleague from Washington and my colleague from Illinois, Senator DURBIN, who is also interested in this issue.

The bottom line is we all know if we could buy these planes now and have the resources, we would do that. We all know buying the planes sooner makes them cheaper. The issue we have been struggling with is, where are the resources and how do we make this come together in a timely fashion to meet the need.

Senator MCCAIN has made all of us stop and think about this issue in ways we might not have thought. I don't think any Member wanted to or should have excluded the authorizing committee from playing its normal role and capacity of reviewing these projects. The fact of the matter is we now are 2 years into this process and we have to figure out a way to move forward. The Armed Services Committee is trying to do just that, trying to say 100 planes should be made through either a lease or procurement process as part of a contract and that we need to move forward soon on the start of that lease contract.

We are still a few days away from finally getting a product. I thank Senators WARNER and LEVIN for taking this step in the process outlined in 2001 of the authorizing committee giving its feedback on this original proposal by Congress to have a pilot lease program.

Mr. WARNER. How much time does this Senator have remaining?

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Virginia has 1 minute 42 seconds.

Mr. WARNER. Mr. President, first, I commend my two colleagues from Washington. While we only have 2 or 3 minutes to speak about this matter, I would hate to know the number of hours that each of them have expended.

Mr. President, I ask unanimous consent that we have 5 minutes allocated to the Senator from——

Mr. STEVENS. I object. We have to get back to the appropriations sometime.

Mr. WARNER. All right. Mr. President, I ask unanimous consent 3 minutes be given to the Senator from Arizona.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

The Senator from Arizona has 3 minutes.

Mr. MCCAIN. Mr. President, I yield 1 of my 3 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 1 minute.

Mr. NICKLES. Mr. President, I thank my friend and colleague from Arizona for his generosity.

I compliment Senator WARNER and Senator MCCAIN and Senator LEVIN and others. I think a purchase is so much more fiscally responsible, and it is such

more honest with the budget. We are going to save billions of dollars by doing the purchase. The lease, in my opinion, is, frankly, not the right way to do it if we are going to be honest with the taxpayers and honest in saving money for the system.

We need the airplanes. I am all in favor of moving forward with the airplanes. And certainly this is a much more logical deal.

I thank my colleague from Arizona.

The CBO, Congressional Budget Office, certainly concurs that a purchase is a much more fiscally responsible method of purchasing the airplanes.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 2 minutes.

Mr. MCCAIN. Mr. President, I thank my two leaders in the Armed Services Committee, Senator WARNER and Senator LEVIN, who have worked so hard on this issue. I appreciate everything they have done.

I also thank both Senators from Washington. I know this has been a very difficult process for them.

Mr. President, there are a number of lessons to be learned from this exercise. One of the lessons is—and I see the chairman of the Appropriations Committee here on the floor—we should not start this kind of process with a line on an appropriations bill. It should have gone through the authorizing committee. There should have been hearings and ventilation of a $20 to $30 billion acquisition. None of this problems would have arisen if we had gone through the proper authorizing committee rather than the Appropriations Committee assuming responsibilities which are not theirs.

I appreciate very much my two colleagues for asserting the authority of the authorizing committee where it belongs. I believe this is a good compromise. I would like to see better.

Obviously, I thank my colleagues again, especially the Senators from Washington, as well as the chairman and ranking member of the authorizing committee, for their hard work on this effort.

I yield the remainder of my time to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I simply conclude, we are here today because of the efforts of Senator MCCAIN to bring this matter to our attention, and I salute him for that purpose. And I thank all.

I yield back my time so the distinguished chairman can move ahead with the bill.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, since I have been mentioned personally, let me just say I will be happy to see the day when the Armed Services Committee brings the bill to the floor, goes through the normal process, and passes a bill and provides the budget authority and the outlays to do it. That has been the problem. This is air we are talking about now—air.

Does the Senator from Hawaii want time to speak on his amendment to this bill? How much time does the Senator want?

Two minutes? I yield the Senator up to 5 minutes. We are waiting for the balance of the papers.

I say to the Senator, we have tried to clear his amendment. We have not been able to clear his amendment because of a problem with jurisdiction on the House side. But I believe he would like to explain his amendment. We were willing to take it to conference, but we are told that it would not survive conference because of the jurisdictional problem on the House side.

I ask Senator AKAKA, does he wish to speak at this time?

I thank the Senator.

Does the Senator from New Mexico wish time?

Mr. BINGAMAN. Yes. I thank the Senator.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me take 2 minutes.

AMENDMENT NO. 1939

Mr. President, I have an amendment that I filed, No. 1939, which I understand is going to be acceptable to both the managers of the bill and will be included with other amendments that are approved in a few minutes.

I particularly compliment Senator SNOWE as the cosponsor of this legislation. She has been a long-time champion of commercial air service in rural areas, and I appreciate her leadership on the amendment.

The amendment is very simple. In fact, both the House and the Senate have passed the substance of this amendment previously in connection with the FAA reauthorization legislation.

The amendment that we are offering, that we appreciate people supporting, will preserve the Essential Air Service Program by preventing the Department of Transportation from implementing a new program that would require communities to pay in order to retain their commercial air service. I hope the Senate will again support it.

Congress established the Essential Air Service Program in 1978 to ensure that communities that had commercial air service before airline deregulation could continue to receive scheduled service. Without EAS, many rural communities would have no commercial air service at all.

All across America, small communities face ever-increasing hurdles to promoting their economic growth and development. Today, many rural areas lack access to interstate or even four-lane highways, railroads or broadband telecommunications. Business development in rural areas frequently hinges on the availability of scheduled air service. For small communities, commercial air service provides a critical link to the national and international transportation system.

The Essential Air Service Program currently ensures commercial air service to over 100 communities in 34 States. EAS supports an additional 33 communities in Alaska. Because of increasing costs and the current financial turndown in the aviation industry, particularly among commuter airlines, about 28 additional communities have been forced into the EAS program since the terrorist attacks in 2001.

In my State of New Mexico, five cities currently rely on EAS for their commercial air service. The communities are Clovis, Hobbs, Carlsbad, Alamogordo and my hometown of Silver City. In each case commercial service is provided to Albuquerque, the State's largest city and business center.

Back in June, during consideration of the FAA reauthorization bill, Senator INHOFE and I, with 13 bipartisan cosponsors, offered an amendment that struck out a provision in that bill that would for the first time require some communities to pay to retain their commercial air service. I believed that arbitrary proposal would have eliminated scheduled air service for many rural communities that participate in the Essential Air Service Program.

I was pleased the full Senate listened and adopted our amendment to the FAA reauthorization bill. In parallel, the full House of Representatives also voted to eliminate mandatory cost sharing language from the FAA reauthorization bill.

Most students of Government would tell you that when a majority of both Houses of Congress have voted against a particular measure, the conferees couldn't arbitrarily put it back in. Well they did. In another example of secret House-Senate back-room dealing, the Republican conferees excluded the minority members, flagrantly ignored the will of the majority in the House and the Senate, and restored the very cost-sharing language both Houses one month before had voted to reject.

I believe adding this extraneous and objectionable provision is an egregious violation of the conference process. A conference report on H.R. 2115 was filed 3 months ago and there has been no further action in either House of Congress. Clearly, this was flawed process and the result is an FAA conference report that can't pass either the House or the Senate.

It is not clear how the leaders will resolve the problems with the FAA conference report. Last month, 16 bipartisan Senators wrote to the House and Senate conferees opposing the mandatory cost sharing for EAS communities. Thirty-five bipartisan House Members signed a similar letter to conferees. I ask unanimous consent that both letters be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, September 29, 2003.

Hon. JOHN MCCAIN,
Chairman, Committee on Commerce Science and Transportation, Dirksen Office Building, Washington, DC.

Hon. ERNEST F. HOLLINGS,
Ranking Member, Committee on Commerce Science and Transportation, Dirksen Office Building, Washington, DC.

Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

Hon. JAMES OBERSTAR,
Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

GENTLEMEN: We write out of grave concern for a provision added to the Vision 100—Century of Aviation Reauthorization conference report regarding the adoption of a local cost share for certain Essential Air Service communities. This addition to the conference report not only goes against the will of both the House and the Senate, but may also have a disastrous effect on many of our small rural airports. Therefore, we urge the conference committee to remove this language before bringing the report to the respective floors for a vote.

The local cost share provision was removed from S. 824 by a bipartisan amendment offered by 15 senators, which passed on a voice vote. Likewise, a similar local cost share provision was removed from H.R. 2115 by an amendment offered by Representatives McHugh, Peterson (PA) and Shuster.

It is our understanding that negotiations are currently under way to remove language from the conference report regarding the privatization of air traffic controllers. This provides the conference committee an excellent opportunity to remove the EAS local match provision that was already stricken on both the House and Senate floors and not included in either bill brought to the conference committee.

Additionally, this provision will have untold effects on many small rural communities. It is unacceptable to force communities to pay up to $100,000 in a local cost share, in addition to the many costs they currently incur in running a small local airport.

We respectively request the removal of Section 408 from the Vision 100—Century of Aviation Reauthorization Act conference report before it is brought to the House and Senate floors for consideration, and we look forward to working with you in the future to ensure rural communities continue to receive essential air service.

Sincerely,

Jeff Bingaman; Hillary Rodham Clinton; Blanche L. Lincoln; Mark Pryor; Charles Schumer; Arlen Specter; Olympia Snowe; Patrick Leahy; Jim Jeffords; Tom Harkin; Tom Daschle; Benjamin Nelson; Susan M. Collins; Mark Dayton; Charles Grassley; Chuck Hagel.

CONGRESS OF THE UNITED STATES,
Washington, DC, September 24, 2003.

Hon. JOHN MCCAIN,
Chairman, Committee on Commerce, Science, and Transportation, Dirksen Office Building, Washington, DC.

Hon. FRITZ HOLLINGS,
Ranking Member, Committee on Commerce, Science, and Transportation, Dirksen Office Building, Washington, DC.

Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

Hon. JAMES OBERSTAR,
Ranking Member, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN YOUNG, CHAIRMAN MCCAIN, RANKING MEMBER OBERSTAR, RANKING MEMBER HOLLINGS: We write out of grave concern for a provision added to the Vision 100-Century of Aviation Reauthorization Conference Report regarding the adoption of a local cost share for certain Essential Air Service communities. This addition to the conference report not only goes against the will of both the House and the Senate, but may also have a disastrous effect on many of our small rural airports. Therefore, we urge the conference committee to remove this language before bringing the report to the respective floors for a vote.

As you know, the local cost share provision was removed in H.R. 2115 by an amendment offered by Representatives McHugh, Peterson (PA) and Shuster, which passed by a voice vote. Likewise, a similar local cost share provision was removed from S. 824 by an amendment offered by Senator Bingaman.

It is our understanding that negotiations are currently under way to remove language from the conference report regarding the privatization of air traffic controllers. This provides the conference committee an excellent opportunity to remove the EAS local match provision that was already stricken on both the House and Senate floors and not included in either bill brought to the conference committee.

Additionally, this provision will have untold affects on many small rural communities. It is unacceptable to force communities to pay up to $100,000 in a local cost share, in addition to the many costs they currently incur in running a small local airport.

We respectfully request the removal of Section 408 from the Vision 100-Century of Aviation Reauthorization Act Conference Report before it is brought to the House and Senate floors for consideration and we look forward to working with you in the future to ensure rural communities continue to receive essential air service.

Sincerely,

John E. Peterson; John McHugh; Bill Shuster; John Shimkus; Barbara Cubin; Ron Paul; Frank D. Lucas; Kenny C. Hulshof; Rob Bishop; Jim Gibbons; Allen Boyd; Jerry Moran.

Chris Cannon; Marion Berry; Charles F. Bass; John Tanner; Scott McInnis; Rick Renzi; Dennis A. Cardoza; Jim Matheson; Ed Case; Mike Ross; Lane Evans.

Bernie Sanders; Tom Latham; Ron Lewis; Doug Bereuter; Collin C. Peterson; Aníbal Acevedo-Vilá; Tom Udall; Timothy Johnson; John Boozman; Heather Wilson; Jo Ann Emerson; Bart Stupak.

Mr. BINGAMAN. Mr. President, I would also like to point out that the President has not issued a veto threat on this issue.

All Senators know that a conference report is not amendable. I would have preferred not to pursue an amendment on an appropriations bill, but the conferees ignored the majority in the House and Senate once before. Put simply, this amendment is our only opportunity to undo what the conferees have done.

Mr. President, the choice here is clear: If we do not preserve the Essential Air Service Program today, we could well see the end of all commercial air service in rural areas. The EAS program provides vital resources that help link rural communities to the national and global aviation system. Our amendment will help ensure affordable, reliable, and safe air service remains available in rural America. I hope all Senators will join us in opposing this attack on rural America.

Again, I appreciate the support of all Senators and the support of the two managers.

I yield the floor.

Mr. SUNUNU. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 1936

Mr. SHELBY. Mr. President, I have a number of amendments I will be sending to the desk individually. They have been cleared on both sides by the managers. First is an amendment proposed for Senator DURBIN. I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. DURBIN, proposes an amendment numbered 1936.

The amendment is as follows:

(Purpose: To insert a provision relating to notification information concerning pharmacy services)

On page 155, between lines 21 and 22, insert the following:

SEC. 6. MOTORIST INFORMATION CONCERNING PHARMACY SERVICES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall amend the Manual on Uniform Traffic Control Devices to include a provision requiring that information be provided to motorists to assist motorists in locating licensed 24-hour pharmacy services open to the public.

(b) LOGO PANEL.—The provision under subsection (a) shall require placement of a logo panel that displays information disclosing the names or logos of pharmacies described in subsection (a) that are located within 3 miles of an interchange on the Federal-aid system (as defined in section 101 of title 23, United States Code).

Mr. SHELBY. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1936) was agreed to.

AMENDMENT NO. 1937

Mr. SHELBY. Mr. President, I have an amendment on behalf of the Senator from Georgia, Mr. CHAMBLISS. I send it to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. CHAMBLISS, proposes an amendment numbered 1937.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . The Federal Aviation Administration shall give priority consideration to ''Paulding County, GA Airport Improvements'' for the Airport Improvement Program.

Mr. SHELBY. Mr. President, I urge adoption of amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1937) was agreed to.

AMENDMENT NO. 1938

Mr. SHELBY. Mr. President, I have an amendment on behalf of the Senator from California, Mrs. FEINSTEIN. It has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mrs. FEINSTEIN, proposes an amendment numbered 1938.

The amendment is as follows:

(Purpose: To modify section 130 to extend the prohibition under that section to the use of funds to provide maximum hours of service for certain drivers engaged for motion picture or television production)

On page 33, strike lines 5 through 10 and insert the following:

SEC. 130. No funds appropriated or otherwise made available by this Act may be used to implement or enforce any provisions of the Final Rule, issued on April 16, 2003 (Docket No. FMCSA–97–2350), with respect to either of the following:

(1) The operators of utility service vehicles, as that term is defined in section 395.2 of title 49, Code of Federal Regulations.

(2) Maximum daily hours of service for drivers engaged in the transportation of property or passengers to or from a motion picture or television production site located within a 100-air mile radius of the work reporting location of such drivers.

Mr. SHELBY. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1938) was agreed to.

AMENDMENT NO. 1939

Mr. SHELBY. Mr. President, I have another amendment that I send to the desk on behalf of Senator BINGAMAN and others.

It has been cleared on both sides by the managers.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. BINGAMAN, Ms. SNOWE, Mr. SPECTER, Mr. NELSON of Nebraska, Mr. SCHUMER, Mr. JEFFORDS, Mr. PRYOR, Mr. LEAHY, Mr. DASCHLE, Mr. BAUCUS, Ms. COLLINS, and Mr. GRASSLEY, proposes an amendment numbered 1939.

The amendment is as follows:

(Purpose: To prohibit the obligation of funds for the establishment or implementation of an EAS local participation pilot program)

On page 14, between lines 2 and 3, insert the following new section:

SEC. 105. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to establish or implement a pilot program under which not more than 10 designated essential air service communities located in proximity to hub airports are required to assume 10 percent of their essential air subsidy costs for a 4-year period, commonly referred to as the EAS local participation program.

Ms. SNOWE. Mr. President, I rise today in strong support of the Bingaman-Snowe amendment to protect the Essential Air Service, EAS, program.

Throughout my time in Congress, I have been a strong supporter of EAS, which provides subsidized air service to 125 small communities in the country, including four in Maine—Augusta, Rockland, Bar Harbor and Presque Isle—that would otherwise be cut off from the Nation's air transportation network. As approved in May by the Senate Commerce Committee, the Federal Aviation Administration, FAA, Reauthorization bill reauthorized and flat-funded the program for 3 years, and includes changes to the program, which are drastically scaled back from what the administration proposed earlier this year for EAS ''reform.'' The administration had called for EAS towns to provide up to 25 percent matching contributions to keep their air service.

The Commerce Committee bill creates a number of new programs to help EAS communities grow their ridership, including a marketing incentive program that would financially reward EAS towns for achieving ridership goals. With regard to local cost-sharing—the centerpiece of the Administration's EAS proposal—the Commerce bill would create a pilot program to allow for a 10 percent annual community match at no more than 10 airports within a 100 miles of a large airport.

While the cost-sharing provisions in the Committee bill are much less strict than the administration proposal, and could only be applied to a EAS community under certain specific conditions, I remain concerned about the concept of requiring EAS towns—some of which are cash strapped and economically depressed—from kicking in hundreds of thousands of dollars annually to keep their air service. For example, if Augusta or Rockland, ME were to be chosen for the cost-sharing pilot program, they would have to come up with more than $120,000 annually to retain their air service.

As such, during floor consideration of the FAA bill, I supported Senator BINGAMAN's amendment to strike the cost-sharing section from the bill, and was pleased when it was approved unanimously by the full Senate. The House adopted an identical amendment offered by Representative PETERSON. And I felt so strongly about this issue that in late July I circulated a letter to the FAA conferees signed by 15 other Senators expressing strong opposition to having mandatory EAS cost-sharing language in the final legislative package. As such, I was extremely disappointed when that same language found itself into the FAA conference report issued on July 25.

That is why the amendment we have offered today is necessary. While the FAA bill has not been yet signed into law, I agree with my colleague that we need to take out an ''insurance policy'' and ensure that EAS local cost-sharing never gets off the ground.

The EAS program is not perfect, and Congress certainly needs to do all we can to keep the costs and subsidy levels associated with the program as low as possible. I look forward to working with members of the Commerce Committee and the Senate on the issue, but I continue to believe that requiring cost sharing in today's economy and today's aviation environment is clearly a wrong-headed approach. I urge my colleagues to support the Bingaman-Snowe amendment.

Mr. ROCKEFELLER. Mr. President, I rise to support the Bingaman-Snowe amendment, which would bar the Department of Transportation from using any funds to implement cost-sharing requirement for communities that receive subsidized air service through the Essential Air Service Program—EAS.

As ranking Democrat on the Aviation Subcommittee, I work very hard to improve air service for small and rural communities. Most recently, I worked with Senator LOTT on legislation to address this important issue. We introduced the Small Community and Rural Air Service Revitalization Act of 2003 to address the growing air services needs of small communities. The legislation became the basis for the small community air service provisions in Senate FAA reauthorization bill and ultimately the FAA Conference Report. The FAA Conference Report establishes a series of pilot programs to help communities improve their existing air service. I strongly believe that communities need new resources and tools to improve their air service options. The new initiatives established in the FAA Conference Report will allow communities the ability to improve their air service choices, and give a community a greater stake in the EAS program.

The Federal Aviation Administration—FAA—Conference Report includes a provision that allows the DOT to select up to 10 communities within 100 miles of a hub airport to pay 10 percent of the their Essential Air Service subsidy, even though both the Senate and the House voted against imposing a cost-sharing requirement.

Small Community and Rural Air Service Revitalization Act of 2003 also

included a pilot program that would allow DOT to require a cost-share for up to 10 communities within 100 miles of a hub. As I expressed in my statement on the introduction of this bill, I have significant reservation about forcing communities to pay for a service the Federal Government promised them. I expressed my strong reservations throughout the development and Senate consideration of the FAA reauthorization bill in this matter.

During Senate consideration of the FAA bill, Senator BINGAMAN and Senator INHOFE offered an amendment to strip the cost-sharing provision. Senators MCCAIN and LOTT accepted the amendment without debate as it was clear that a large majority of Senators did not support this provision. The House bill as passed by their Transportation Committee had a local match provision. The House stripped their cost-sharing provision as well on the floor so neither bill had a cost-sharing provision. Clearly, the will of Congress was that the Federal Government should provide the entire subsidy. During the conference negotiations on the FAA bill in which I was invited to participate, I argued against reinstating cost-sharing provisions, but the majority conferees insisted on this provision.

The adoption of this provision will prohibit cost-sharing in the upcoming fiscal year. It is a short-term solution to a larger problem that I hope we can ultimately address by reopening the FAA conference report.

Mr. SHELBY. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1939) was agreed to.

AMENDMENT NO. 1940

Mr. SHELBY. Mr. President, I send to the desk an amendment on behalf of the Senator from Indiana, Mr. BAYH. It has been cleared on both sides by the managers.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. BAYH, proposes an amendment numbered 1940.

The amendment is as follows:

(Purpose: To expand aviation capacity and alleviate congestion in the greater Chicago metropolitan area)

On page 14, between lines 2 and 3, insert the following:

SEC. 105. The Administrator of the Federal Aviation Administration may, for purposes of chapter 471 of title 49, United States Code, give priority consideration to a letter of intent application for funding submitted by the City of Gary, Indiana, or the State of Indiana, for the extension of the main runway at the Gary/Chicago Airport. The letter of intent application shall be considered upon completion of the environmental impact statement and benefit cost analysis in accordance with Federal Aviation Administration requirements. The Administrator shall consider the letter of intent application not later than 90 days after receiving it from the applicant.

Mr. SHELBY. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1940) was agreed to.

AMENDMENT NO. 1941

Mr. SHELBY. Mr. President, I send to the desk another amendment on behalf of Mr. REID of Nevada. It has been cleared on both sides by the managers.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. REID, proposes an amendment numbered 1941.

The amendment is as follows:

AMENDMENT NO. 1941

(Purpose: To require notice of regulations relating to travel agent service fees)

On page 14, after line 2 insert the following:

SEC. ____. None of the funds in this Act may be used to adopt rules or regulations concerning travel agent service fees unless the Department of Transportation publishes in the Federal Register revisions to the proposed rule and provides a period for additional public comment on such proposed rule for a period not less than 60 days.

Mr. SHELBY. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1941) was agreed to.

AMENDMENT NO. 1942

Mr. SHELBY. Mr. President, I have another amendment I send to the desk on behalf of Senator HOLLINGS of South Carolina. It has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. HOLLINGS, proposes an amendment numbered 1942.

The amendment is as follows:

(Purpose: Modify federal share for specific project under 49 U.S.C. 5307)

SEC. . Funds apportioned to the Charleston Area Regional Transportation Authority to carry out 49 U.S.C. 5307 may be used to lease land, equipment, or facilities used in public transportation from another governmental authority in the same geographic area: *Provided*, That the non-Federal share under section 5307 may include revenues from the sale of advertising and concessions: *Provided further*, That this provision shall remain in effect until September 30, 2004, or until the Federal interest in the land, equipment, or facilities leased reached 80 percent of its fair market value at disposition, whichever occurs first.

Mr. SHELBY. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1942) was agreed to.

AMENDMENT NO. 1943

Mr. SHELBY. Mr. President, I have another amendment I send to the desk on behalf of the Senator from Washington, Mrs. MURRAY. It has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mrs. MURRAY, proposes an amendment numbered 1943.

The amendment is as follows:

(Purpose: To clarify the use of GSA funds)

Under the heading Federal Buildings Fund, Limitations on Availability of Revenue:

Page 93, Line 21 and 22: Delete the word ''(design)''

Page 95, Line 15, after the words ''increases in prospectus projects'', delete ';'' and then insert,

'':*Provided further*, That the funds available herein for repairs to the Bellingham, Washington, Federal Building, shall be available for transfer to the city of Bellingham, Washington, subject to disposal of the building to the city,''

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1943) was agreed to.

AMENDMENT NO. 1944

Mr. SHELBY. Mr. President, I send to the desk another amendment on behalf of Senator REED of Rhode Island. It has been cleared by the managers.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. REED, proposes an amendment numbered 1944.

The amendment is as follows:

(Purpose: To provide that no funds may be used to remove any area within a locality pay area established under section 5304 of title 5, United States Code, from coverage under that locality pay area)

On page 155, between lines 21 and 22, insert the following:

SEC. 643. (a) None of the funds appropriated or otherwise made available by this Act may be used to remove any area within a locality pay area established under section 5304 of title 5, United States Code, from coverage under that locality pay area.

(b) Subsection (a) shall not apply to the Rest of U. S. locality pay area.

Mr. SHELBY. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1944) was agreed to.

AMENDMENT NO. 1945

Mr. SHELBY. Mr. President, I send an amendment to the desk on behalf of the Senator from Michigan, Mr. LEVIN. It has been cleared by both managers.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. LEVIN, proposes an amendment numbered 1945.

The amendment is as follows:

(Purpose: Technical modifications to previous transportation acts)

SEC. . Section 1108 of the Intermodal Surface Transportation Efficiency Act of 1991, item number 8, is amended by striking ''To relocate'' and all that follows through ''Street'' and inserting the following, ''For road improvements and non-motorized enhancements in the Detroit East Riverfront, Detroit, Michigan.''

SEC. . The funds provided under the Heading ''Transportation and Community and

System Preservation Program'' in Conference Report 106–940 for the Lodge Freeway pedestrian overpass, Detroit, Michigan, shall be transferred to, and made available for, enhancements in the East Riverfront, Detroit, Michigan.

SEC. . The funds provided under the Heading ''Transportation and Community and System Preservation Program'' in Conference Report 107–308 for the Eastern Market pedestrian overpass park, shall be transferred, to, and made available for, enhancements in the East Riverfront, Detroit, Michigan.

Mr. SHELBY. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1945) was agreed to.

AMENDMENT NO. 1946

Mr. SHELBY. Mr. President, I have another amendment I send to the desk on behalf of the Senator from Hawaii, Mr. AKAKA. It has been cleared by the managers.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. AKAKA, proposes an amendment numbered 1946.

The amendment is as follows:

(Purpose: To prohibit the use of funds for the Debt Indicator program)

On page 73, between lines 9 and 10, insert the following:

SEC. 218. None of the funds appropriated or otherwise made available by this Act may be used for the Debt Indicator program announced in Internal Revenue Service Notice 99–58.

Mr. AKAKA. Mr. President, certain tax preparers are lining their pockets with money that should be going toward the everyday needs of lower income families. These preparers are taking advantage of those that have sought assistance in claiming the Earned Income Tax Credit, EITC, by successfully marketing to them to obtain refunds through exorbitantly priced refund anticipation loans, RALs.

An estimated $1.75 billion intended to assist low-income families went to commercial tax preparers and affiliated national banks for tax assistance, electronic filing of returns, and high-cost refund loans in 1999, according to a report published by the Brookings Institution. In 2001, 40.7 percent of taxpayers who earned the EITC received their refund through RALs. The States that had the highest percentage of EITC returns with RALs included Mississippi, 61.5, South Carolina, 58.9, Georgia, 57.6, North Carolina, 57.5, and Louisiana, 56.8.

The Internal Revenue Service, IRS, reduces the risk that lenders take on RALs by providing them a Debt Indicator, DI, on all IRS e-file acknowledgements. The DI informs the lender whether or not an applicant owes Federal or State taxes, child support, student loans, or other government obligations, and this assists the tax preparer in ascertaining the applicant's ability to obtain their full refund so that the RAL is repaid. The vast majority of refunds are remitted to the preparer as prepared. Thus, interest rates for RALs that vary from 97 percent to more than 2000 percent are not justifiable when the IRS lowers the risk of the loans by providing the DI service.

In 1995, the use of the DI was suspended because of massive fraud in e-filed returns with RALs. After the program was discontinued, RAL participation declined. The use of the DI was reinstated in 1999, according to H&R Block, to ''assist with screening for electronic filing fraud and is also expected to substantially reduce refund anticipation loan pricing.'' Although RAL prices were expected to go down as a result of the reinstatement of the DI, this has not occurred. The Debt Indicator should be stopped.

The Akaka amendment would prohibit the use of funds in H.R. 2989, the Fiscal Year 2004 Transportation, Treasury, and Independent Agencies Appropriations Act, for the Debt Indicator program.

The Akaka amendment has been endorsed by the Consumer Federation of America and the National Consumer Law Center.

The DI is helping tax preparers make excessive profits of low- and moderate-income taxpayers who utilize the service. If the Debt Indicator is removed, then the loans become riskier and the tax preparers may not aggressively market them among EITC filers. The IRS should not be aiding efforts that take the earned benefits away from low-income families and allow unscrupulous preparers to take advantage of low-income taxpayers.

RALS are extremely short-term loans that unnecessarily diminish the EITC. There are alternatives to speeding up refunds such as filing electronically or having the refund directly deposited into a bank or credit union account. Using these methods, taxpayers can receive their returns in about 7 to 10 days without paying the high fees associated with RALs.

Mr. President, I ask unanimous consent that a letter and chart from the National Consumer Law Center be printed in the RECORD.

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

NATIONAL CONSUMER LAW CENTER, INC.,
Boston, MA, September 26, 2003.

Hon. DANIEL K. AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: The National Consumer Law Center (on behalf of its low-income clients) and the Consumer Federation of America write to support your amendment to H.R. 2989, which would prohibit the Treasury Department from using its appropriation for the Internal Revenue Service's Debt Indicator program. As you know, the Debt Indicator program mostly benefits refund anticipation loan (RAL) programs by letting tax preparers and RAL lenders know when a tax refund offset exists. Thus, IRS is abetting the making of RALs through the Debt Indicator. We believe that the IRS should not use tax dollars to increase the bottom line of RAL lenders and major tax preparation chains, especially when RALs are draining nearly 2 billion dollars from the pockets of taxpayers, including EITC refunds paid out of the U.S. Treasury.

Thus, we support your amendment to prohibit the use of Treasury appropriations for the Debt Indicator program. Thank you for your support.

Sincerely,

JEAN ANN FOX,
Consumer Federation of America.
CHI CHI WU,
National Consumer Law Center.

State	Total returns	Returns with EITC	Percentage of returns with EITC (in percent)	EITC amount	EITC returns with RAL	Percentage of EITC returns with RAL (in percent)	Estimated amount spent on RALs [1]
MS	1,133,337	340,750	30.1	679,173,550	209,703	61.5	23,067,330
SC	1,744,255	374,946	21.5	667,379,853	220,800	58.9	24,288,001
GA	3,490,461	698,572	20.0	1,286,447,525	402,635	57.6	44,289,879
NC	3,445,671	629,610	18.3	1,093,206,529	361,765	57.5	39,794,136
LA	1,826,048	476,771	26.1	950,671,006	270,713	56.8	29,778,430
AL	1,828,781	432,850	23.7	828,377,878	243,878	56.3	26,826,622
TN	2,481,776	476,925	19.2	815,853,086	253,982	53.3	27,938,067
AR	1,082,709	245,283	22.7	445,930,973	129,663	52.9	14,262,959
TX	8,753,021	1,819,895	20.8	3,395,348,844	931,042	51.2	102,414,624
DC	268,826	48,674	18.1	80,730,037	24,571	50.5	2,702,810
DE	372,408	48,262	13.0	80,153,733	22,996	47.6	2,529,560
VA	3,264,028	420,098	12.9	691,687,320	198.037	47.1	21,784,043
IN	2,761,978	362,912	13.1	586,977,962	169.177	46.6	18,609,451
KY	1,712,016	296,287	17.3	486,814,970	132,745	44.8	14,601,929
OK	1,413,476	264,972	18.7	456,176,187	118,179	44.6	12,999,663
OH	5,352,924	668,993	12.5	1,090,740,478	297,147	44.4	32,686,183
NV	922,925	128,334	13.9	205,250,510	56,230	43.8	6,185,315
IL	5,560,236	737,269	13.3	1,234,565,348	320,046	43.4	35,205,022
FL	7,277,069	1,301,554	17.9	2,229,476,116	527,553	40.5	58,030,873
MD	2,503,253	301,455	12.0	487,028,288	121,342	40.3	13,347,566
MO	2,493,440	371,513	14.9	615,491,828	149,165	40.2	16,408,104
WV	742,821	131,768	17.7	211,166,719	52,512	39.9	5,776,320
MI	4,429,446	545,878	12.3	898,838,168	216,780	39.7	23,845,825
AZ	2,090,660	320,323	15.3	548,919,742	120,484	37.6	13,253,194
NJ	3,928,676	430,933	11.0	703,663,754	158,094	36.7	17,390,340
PA	5,680,698	671,093	11.8	1,054,110,400	243,127	36.2	25,744,025

State	Total returns	Returns with EITC	Percentage of returns with EITC (in percent)	EITC amount	EITC returns with RAL	Percentage of EITC returns with RAL (in percent)	Estimated amount spent on RALs [1]
RI	485,337	56,755	11.7	89,592,629	20,252	35.7	2,227,720
SD	348,936	46,868	13.4	73,494,901	15,923	34.0	1,751,530
KS	1,185,320	141,878	12.0	226,103,432	47,563	33.5	5,231,928
CT	1,616,341	141,892	8.8	216,802,671	47,387	33.4	5,212,570
NM	751,161	167,993	22.4	288,708,541	53,725	32.0	5,909,764
WA	2,701,201	296,317	11.0	462,643,179	94,051	31.7	10,345,591
CO	1,995,152	214,500	10.8	327,073,673	65,428	30.5	7,197,047
WY	234,857	29,540	12.6	46,132,862	8,959	30.3	985,490
NE	769,173	89,976	11.7	142,314,214	26,896	29.9	2,958,508
WI	2,542,632	243,829	9.6	374,475,943	71,356	29.3	7,849,165
NH	617,876	50.743	8.2	73,956,472	14,542	28.7	1,599,620
MT	414,636	63,090	15.2	99,707,920	17,951	28.5	1,974,610
NY	8,324,967	1,293,346	15.5	2,203,061,849	354,015	27.4	38,941,700
ID	549,785	82,072	14.9	134,423,144	21,393	26.1	2,353,230
ME	601,852	74,560	12.4	113,883,846	19,396	26.0	2,133,560
UT	929,225	107,776	11.6	173,583,013	27,980	26.0	3,077,758
CA	14,207,549	2,139,205	15.1	3,654,040,481	550,722	25.7	60,579,468
IA	1,312,239	143,757	11.0	217,451,268	36,538	25.4	4,019,180
HI	547,225	65,567	12.0	94,672,158	16,460	25.1	1,810,555
ND	288,949	33,741	11.7	51,495,960	7,918	23.5	870,980
OR	1,516,321	191,404	12.6	300,227,699	43,328	22.6	4,766,088
AK	323,125	30,042	9.3	41,327,189	6,750	22.5	742,500
MA	2,976,492	257,069	8.6	381,021,580	57,258	22.3	6,298,429
MN	2,322,004	209,558	9.0	311,354,319	45,252	21.6	4,977,724
VT	297,379	32,269	10.9	46,336,387	5,718	17.7	628,980
Total	124,420,670	18,749,666	15.1%	31,968,066,136	7,629,127	40.7%	839,203,965

[1] Based on information from National Consumer Law Center, the price for a RAL on an average EITC return is $110 at one of the major commercial preparers.

NOTE.—That these estimates do not account for potential state-by-state differences in RAL prices.

Source: Brookings Institution Center on Urban and Metropolitan Policy calculations of IRS tax year 2001 data.

Mr. SHELBY. Mr. President, I ask unanimous consent to set that amendment aside.

The PRESIDING OFFICER. Without objection, the amendment is set aside.

AMENDMENT NO. 1947

Mr. SHELBY. Mr. President, I send to the desk an amendment on behalf of the Senator from Pennsylvania, Mr. SPECTER. It has been cleared.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. SPECTER, proposes an amendment numbered 1947.

The amendment is as follows:

(Purpose: To clarify that allocated funds may be used for the Corridor One Light Rail Project)

At the appropriate place in the bill, insert: ''SEC. ____. Notwithstanding any other provision of law, funds designated to the Pennsylvania Cumberland/Dauphin County Corridor I project in committee reports accompanying this Act may be available to the recipient for any project activities authorized under 49 U.S.C. 5307 and 5309.

Mr. SHELBY. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1947) was agreed to.

AMENDMENT NO. 1948

Mr. SHELBY. Mr. President, I send to the desk an amendment on behalf of the Senator from Delaware, Mr. CARPER.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama (Mr. SHELBY), for Mr. CARPER, proposes an amendment numbered 1948.

The amendment is as follows:

(Purpose: To express the sense of the Senate that the Secretary of Transportation must consider the impact on northern Delaware of aircraft noise related to the Philadelphia International Airport Capacity Enhancement Program)

At the appropriate place, insert the following:

SEC. ____. It is the sense of the Senate that the Secretary of Transportation must, in connection with the Philadelphia International Airport Capacity Enhancement Program, consider the impact of aircraft noise on northern Delaware—

(1) within the scope of the environmental impact statement prepared in connection with the Program; and

(2) as part of any study of aircraft noise required under the National Environmental Protection Act of 1969 and conducted pursuant to part 150 of title 14, Code of Federal Regulations, or any successor regulations.

AMENDMENT NO. 1946, WITHDRAWN

Mr. SHELBY. Mr. President, I ask unanimous consent to withdraw amendment No. 1946 that was previously set aside on behalf of the Senator from Hawaii, Mr. AKAKA.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

AMENDMENT NO. 1948

The PRESIDING OFFICER. Does the Senator urge adoption of the previous amendment?

Mr. SHELBY. I do.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1948) was agreed to.

AMENDMENT NO. 1949

Mr. SHELBY. Mr. President, I send to the desk an amendment on behalf of Senator GRASSLEY.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. GRASSLEY, proposes an amendment numbered 1949.

The amendment is as follows:

(Purpose: To provide that none of the funds appropriated or made available under this Act may be used to implement proposed regulations relating to the detail of executive branch employees to the legislative branch, and for other purposes)

At the appropriate place, insert the following:

SEC. ____. None of the funds appropriated or made available under this Act or any other appropriations Act may be used to implement the proposed regulations of the Office of Personnel Management to add sections 300.311 through 300.316 to part 300 of title 5 of the Code of Federal Regulations, published in the Federal Register, volume 68, number 174, on September 9, 2003 (relating to the detail of executive branch employees to the legislative branch). If such proposed regulations are final regulations on the date of enactment of this Act, none of the funds appropriated or made available under this Act may be used to implement, administer, or enforce such final regulations.

Mr. GRASSLEY. Mr. President, I rise to speak on the amendment Senator DOMENICI and I offered to address a regulation recently proposed by the Office of Personnel Management; a regulation that is wrong-headed.

Congress and the executive agencies have long enjoyed a mutually beneficial relationship where executive branch employees are detailed to congressional offices. These details typically exist for 1 to 2 years.

As a result, the executive branch has an opportunity to have its employees learn about the legislative process and oversight activities. Likewise, the legislative branch has an opportunity to utilize the expertise of executive branch employees. Everyone benefits.

The regulation proposed by the Office of Personnel Management will inevitably ruin the benefits of this long-term practice.

The regulation proposed by the Office of Personnel Management for example, seeks to reduce to 6 months the time that a detailee can spend in Congress. This is too short a time for even the most industrious of detailees to understand the intricacies of the legislative process and contribute to that process.

Moreover, this regulation attempts to limit the activities in which executive branch employees can engage while under the direct supervision of a Congressional office in an effort to micro-manage from afar. This is unacceptable.

Senator DOMENICI and I have offered an amendment to prohibit the use of any funds for the implementation of

this regulation that will severely reduce the number, availability and benefit of executive branch detailees to the legislative branch to the detriment of all.

I urge my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1949) was agreed to.

AMENDMENTS NOS. 1950 THROUGH 1962, EN BLOC

Mr. SHELBY. Mr. President, I now offer a package of amendments that have been cleared on both sides, and I ask unanimous consent that they be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes amendments numbered 1950 through 1962, en bloc.

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

The amendments were agreed to as follows:

AMENDMENT NO. 1950

At the appropriate place in the bill add the following new section:

''SEC.____. Notwithstanding 31 U.S.C. 1346 and section 610 of this Act, the head of each executive department and agency shall transfer to or reimburse the Federal Aviation Administration, with the approval of the Director of the Office of Management and Budget, funds made available by this or any other Act for the purposes described below, and shall submit budget requests for such purposes. These funds shall be administered by the Federal Aviation Administration as approved by the Director of the Office of Management and Budget, in consultation with the appropriate interagency groups designated by the Director to ensure the operation of the Midway Atoll Airfield by the Federal Aviation Administration pursuant to an operational agreement with the Department of the Interior. The total funds transferred or reimbursed shall not exceed $6,000,000 and shall not be available for activities other than the operation of the airfield. The Director of the Office of Management and Budget shall notify the Committees on Appropriations of such transfers or reimbursements within 15 days of this Act. Such transfers or reimbursements shall begin within 30 days of enactment of this Act.''

AMENDMENT NO. 1951

(Purpose: To set aside an amount for air traffic control facilities, John C. Stennis International Airport, Hancock County, Mississippi.)

On page 14, between lines 2 and 3, insert the following:

SEC. 105. Of the total amount appropriated under this title for the Federal Aviation Administration under the heading ''FACILITIES AND EQUIPMENT'', $2,000,000 shall be available for air traffic control facilities, John C. Stennis International Airport, Hancock County, Mississippi.

AMENDMENT NO. 1952

(Purpose: To provide that unexpended funds made available for improvements to Council Grove Lake, Kansas, may be used to make improvements to Richey Cove, Santa Fe Recreation Area, Canning Creek Recreation Area, and other areas in the State of Kansas)

At the appropriate place, add the following:

SEC. ___. KANSAS RECREATION AREAS.

Any unexpended balances of the amounts made available by the Consolidated Appropriations Resolution, 2003 (Public Law 108–7) from the Federal-aid highway account for improvements to Council Grove Lake, Kansas, shall be available to make improvements to Richey Cove, Santa Fe Recreation Area, Canning Creek Recreation Area, and other areas in the State of Kansas.

AMENDMENT NO. 1953

(Purpose: To require the Internal Revenue Service to conduct a study on the earned income tax credit pre-certification program)

On page 70, between lines 17 and 18, insert the following:

SEC. 205. STUDY ON EARNED INCOME TAX CREDIT CERTIFICATION PROGRAM.

(a) STUDY.—The Internal Revenue Service shall conduct a study, as a part of any program that requires certification (including pre-certification) in order to claim the earned income tax credit under section 32 of the Internal Revenue Code of 1986, on the following matters:

(1) The costs (in time and money) incurred by the participants in the program.

(2) The administrative costs incurred by the Internal Revenue Service in operating the program.

(3) The percentage of individuals included in the program who were not certified for the credit, including the percentage of individuals who were not certified due to—

(A) ineligibility for the credit; and

(B) failure to complete the requirements for certification.

(4) The percentage of individuals to whom paragraph (3)(B) applies who were—

(A) otherwise eligible for the credit; and

(B) otherwise ineligible for the credit.

(5) The percentage of individuals to whom paragraph (3)(B) applies who—

(A) did not respond to the request for certification; and

(B) responded to such request but otherwise failed to complete the requirements for certification.

(6) The reasons—

(A) for which individuals described in paragraph (5)(A) did not respond to requests for certification; and

(B) for which individuals described in paragraph (5)(B) had difficulty in completing the requirements for certification.

(7) The characteristics of those individuals who were denied the credit due to—

(A) failure to complete the requirements for certification; and

(B) ineligibility for the credit.

(8) The impact of the program on non-English speaking participants.

(9) The impact of the program on homeless and other highly transient individuals.

(b) REPORT.—

(1) PRELIMINARY REPORT.—Not later than July 30, 2004, the Commissioner of the Internal Revenue Service shall submit to Congress a preliminary report on the study conducted under subsection (a).

(2) FINAL REPORT.—Not later than June 30, 2005, the Commissioner of the Internal Revenue Service shall submit to Congress a final report detailing the findings of the study conducted under subsection (a).

AMENDMENT NO. 1954

(Purpose: To set aside funds made available for Texas Statewide ITS Deployment and Integration for the deployment and integration of Intelligent Transportation Systems at Port of Galveston, Texas, and City of Lubbock, Texas)

On page 31, between lines 13 and 14, insert the following:

SEC. 115. Of the amounts made available under this title under the heading ''FEDERAL-AID HIGHWAYS'' for Texas Statewide ITS Deployment and Integration—

(1) $500,000 shall be made available for the deployment and implementation of an Intelligent Transportation System project at Port of Galveston, Texas; and

(1) $500,000 shall be made available for the deployment and implementation of an Intelligent Transportation System project at City of Lubbock, Texas.

AMENDMENT NO. 1955

(Purpose: To provide clarifying language that instructs the Federal Highway Administration to extend through February 29, 2004, existing research contracts funded under the TEA–21)

At the appropriate place, insert the following:

SEC.___. EXTENSION OF RESEARCH PROJECTS

(a) For Fiscal Year 2004 only, the Federal Highway Administration is instructed to extend and fund current research projects under Title V of TEA–21 through February 29, 2004.

AMENDMENT NO. 1956

(Purpose: To provide for the acquisition of an ASR–11 radar for the Jackson Hole, Wyoming Airport)

At the appropriate place, insert the following:

SEC.___. JACKSON HOLE, WYOMING RADAR UNIT.

(a) Priority consideration shall be given to the Jackson Hole, Wyoming, Airport for an ASR–11 radar unit or provisions shall be made for the acquisition or transfer of a comparable radar unit.

AMENDMENT NO. 1957

(Purpose: To provide funds for the FAA Technical Center)

At the appropriate place, insert the following:

SEC.____. Within the funds provided for the Federal Aviation Administration's Facilities and Equipment account, no less than $14,000,000 shall be available for the Technical Center Facilities in New Jersey.

AMENDMENT NO. 1958

At the appropriate place, insert the following:

SEC. ____. To the extent that funds provided by the Congress for the Memphis Medical Center light rail extension project through the Section 5309 ''new fixed guideway systems'' program remain available upon the closeout of the project, FTA is directed to permit the Memphis Area Transit Authority to use all of those funds for planning, engineering, design, construction or acquisition projects pertaining to the Memphis Regional Rail Plan. Such funds shall remain available until expended.

AMENDMENT NO. 1959

(Purpose: To make available from amounts available for the Federal Highway Administration for the Transportation and Community and System Pilot Preservation Program, $850,000 for interior air quality demonstration activities at the Bristol, Virginia, control facility to evaluate standard industrial fuel system performance and efficiency with drive-by-wire engine management and emissions systems)

Insert after section 114 the following:

SEC. 115. Of the amount appropriated or otherwise made available for Transportation, Planning, and Research, $850,000 shall be available for interior air quality demonstration activities at the Bristol, Virginia, control facility to evaluate standard industrial fuel system performance and efficiency with drive-by-wire engine management and emissions systems and $1,000,000 shall be available for the Market Street enhancement project in Burlington, VT.

AMENDMENT NO. 1960

(Purpose: To provide funding for Intelligent Transportation System Research)

On page 17, strike line 12 and insert the following:

GMU ITS, Virginia, $1,000,000

George Washington University, Virginia Campus, $1,000,000

AMENDMENT NO. 1961

At the appropriate place in the bill, insert:

SEC. . Of the funds made available or limited in this Act, $3,000,000 shall be available for improvements to Bowman Road and Johnnie Dodds Boulevard, Highway 17, Mt. Pleasant, SC; $1,000,000 shall be for the Arlewright Connector and no funds shall be available for the Northwest Bypass project.

AMENDMENT NO. 1962

At the appropriate place insert:

SEC. 361. Section 30303(d)(3) of the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended by inserting at the end:

''(D) Memphis-Shelby International Airport intermodal facility.''

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, while we are working through the last couple of amendments, let me say that I appreciate the work of Senator SHELBY, all of the staff on the majority and minority side who really have done tremendous work in putting this bill together. I thank all of them for the hard work they have done, as well as my colleague, Senator SHELBY, who has really done a good job today of moving this bill through. I thank him for that.

AMENDMENT NO. 1963

Mr. SHELBY. Mr. President, I have another amendment I send to the desk on behalf of the Senator from Georgia, Mr. CHAMBLISS. It has been cleared.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], on behalf of Mr. CHAMBLISS, proposes an amendment numbered 1963.

The amendment is as follows:

(Purpose: To provide from amounts available for Lee Gilmer Memorial Airport, Gainesville, Georgia)

At the appropriate place in the bill, insert: ''G.P. ____. Within available funds provided for ''Facilities and equipment,'' $1,500,000 shall be provided for a precision instrument approach landing system (ILS) at Lee Gilmer Memorial Airport, Gainesville, Georgia.''.

Mr. SHELBY. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1963) was agreed to.

Mrs. MURRAY. Mr. President, I move to reconsider the votes by which the previous amendments were agreed to.

Mr. SHELBY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1946

Mr. AKAKA. Mr. President, I rise today to speak on an issue of great importance. I offered an amendment, but I was advised that it would have been an obstruction to the bill. In the interest of not holding up the bill, I agreed to withdraw my amendment, but I intend to address this issue on another vehicle.

I thank Senators BINGAMAN, EDWARDS, and FITZGERALD for agreeing to be cosponsors of this amendment. My amendment is supported by the Consumer Federation of America and the National Consumer Law Center.

Mr. President, certain tax preparers are lining their pockets with money that should be going toward the everyday needs of lower-income families. These preparers are taking advantage of those who have sought assistance in claiming the Earned Income Tax Credit, EITC, by successfully marketing to them exorbitantly priced refund anticipation loans, RALs. Although these firms work to guide families through the sometimes complicated tax filing process, I am concerned about their aggressive marketing of RALs in low-income neighborhoods where EITC recipients often live. These loans take money away from the day-to-day, kitchen-table needs of lower-income families.

What is the extent of this problem? An estimated $839 million intended to assist low-income families went to commercial tax preparers and affiliated national banks for tax assistance, electronic filing of returns, and high-cost refund loans in 2001, according to a report published by the Brookings Institution. As you can see on the chart behind me, a total of 18.7 million returns were filed with EITC claims. Of these, 7.6 million or 41 percent of EITC taxpayers received their refund through RALs. I will ask to print in the RECORD a document compiled by Alan Berube from the Brookings Institution on usage of RALs among EITC recipients by State. If I may pick out some of the States where RALs are most prevalent. I would like to note that Mississippi tops the list, with 61.5 percent of EITC returns with RALs. South Carolina, Georgia, North Carolina, Louisiana, Alabama, Tennessee, Arkansas, Texas, and the District of Columbia round out the top 10, with slightly more than half of DC's EITC returns filed with RALs. Again, the point here is that RALs unfairly diminish the value of the EITC and take money away from working families, which is not justified by the service provided.

Mr. President, the EITC was created to support work and reduce poverty. According to the Center on Budget and Policy Priorities, the Federal credit lifts more children out of poverty than any other Government program. However, the EITC will not continue to boast this rate of success if it continues to be eroded by the artificially high cost of highly-marketed RALs. Rather than going to pay for household essentials like food, housing, clothing, and transportation, families are being convinced to spend this money unnecessarily on RALs, rather than waiting a few more days for a tax refund deposited at no cost to them.

Let me talk for a moment about the mechanics of how RALs work. A taxpayer approaches a company for tax preparation services, applies for the EITC, and is convinced to use the RAL, which provides families cash from their calculated refund within 1 to 2 days. In the RAL application process, the Internal Revenue Service, IRS, reduces the risk that lenders.

Take on RALs by providing them with a Debt Indicator, DI, on all IRS e-file acknowledgments. The DI informs the lender whether or not an applicant owes Federal or State taxes, child support, student loans, or other government obligations, and this assists the tax preparer in ascertaining the applicant's ability to obtain their full refund so that the RAL is repaid. The vast majority of refunds are remitted to the preparer as prepared. Thus, interest rates for RALs that vary from 97 percent to more than 2,000 percent are not justifiable when the IRS lowers the risk of the loans by providing the DI service. My amendment terminates the use of the Debt Indicator service. For anyone who is wondering whether ending RALs pose a hardship on the very families I am working to help, there are alternatives to speeding up refunds, such as filing electronically or having the refund directly deposited into a bank or credit union account. Using these methods, taxpayers can receive their returns in about 7 to 10 days without paying the high fees associated with RALs. With economic and financial literacy awareness—which I am also pursuing for all age levels—we can help people have better access to sound money management skills and practices that can help them to plan in advance for the minimal delay of a few days for their refund. However, at this point, we must work to encourage the use of no-cost alternatives and eliminate the abusive practice of RALs.

Once again, my amendment would terminate the Debt Indicator program. If we look at the history of this program, the path taken in my amendment is a fix that must be reinstated. In 1995, the use of the Debt Indicator was suspended because of massive fraud in e-filed returns with RALs. After the program was discontinued, RAL participation declined. The use of the Debt Indicator was reinstated in 1999. Remarks from H & R Block Chief Executive Officer Frank L. Salizzoni upon the reinstatement of the program state that the Debt Indicator:

. . .is good news for many of our clients who opt to receive the amount of their refund through Refund Anticipation Loans. The IRS program will likely result in substantially lower fees for this service.

However, according to a study conducted by the Consumer Federation of America and the National Consumer Law Center, that has not been the case for at least one of the major tax preparers. H & R Block and Household Bank's fees dropped for a year after the DI was reinstated. However, the trend reversed itself and the fees rose significantly from 2000 to 2001, which increased H & R Block's revenue from RALs by 49 percent. Per RAL revenue rose by 44 percent while RAL sales volume increased by only 2.7 percent. Therefore, the expected outcome that RAL prices would go down as a result of the reinstatement of the indicator has not occurred. Rather, it has gone in the opposite direction as the profit motive has presented itself.

It is important at this point to recall the ideal of actions by government agencies to ''do no harm.'' However, the Debt Indicator conveniently provides information about an individual's credit history that is in many cases only known by the Federal Government and is helping tax preparers make excessive profits of low- and moderate-income taxpayers who utilize the service. If the Debt Indicator is removed, then the loans become riskier and the tax preparers may not aggressively market them among EITC filers. The IRS should not be aiding efforts that take the earned benefits away from low-income families and allow unscrupulous preparers to take advantage of low-income taxpayers.

Again, I agree to withdraw my amendment at this time, but I encourage all of my colleagues to support my efforts to address this issue in order to protect low-income working families from the predatory practice of RALs and eliminate the ability of the IRS to facilitate the processing of RALs by ending the DI.

SPEED RAIL STUDY

Mr. KOHL. Mr. President, I would like to engage in a colloquy with the ranking member of the subcommittee, the Senator from Washington, PATTY MURRAY. I would like to refer to the Midwest Regional Rail Initiative which appears in the ''Next Generation High-Speed Rail Program'' at $250,000. This project is a collaborative effort of nine States in the Mid-West, AMTRAK and Federal Railroad Administration. This is a 3,000 mile system plan and I am concerned that $250,000 will not enable us to fully address the environmental and engineering associated with such a large regional system. Due to the extreme budget constraints facing this subcommittee I understand that it may be difficult to find additional resources for this study. However, I have been told that it would be helpful to the Mid-West Rail Coalition if prior contributions made by member States for planning activities prior to January 1, 2001 can be counted as the required State-match under this account. I am hopeful that you will support this effort as we move to conference on this appropriations bill.

Mrs. MURRAY. The Senator from Wisconsin has highlighted an important nine-State effort regarding high-speed rail and I will do all I can in Conference to accommodate the Senator's concerns.

EASTSIDE LIGHT RAIL TRANSIT

Mrs. FEINSTEIN. Mr. President, I rise to discuss the Eastside Light Rail Transit, LRT project in Los Angeles, which would receive $5,000,000 in New Starts funds contained in this appropriations bill. This six-mile, dual track light rail system will originate at Union Station in downtown Los Angeles, where it connects with the newly opened Pasadena Gold Line, and will travel east to Atlantic Boulevard. It will bridge State Route 101 Freeway and traverse the existing 1st Street Bridge over the Los Angeles River, then under the communities of East LA and Boyle Heights and return to the surface near the intersection of 1st and Lorena Streets.

The Eastside LRT project is the top fiscal year 2004 appropriations priority of the Los Angeles County MTA.

I understand that the administration's fiscal year 2004 budget includes $55,000,000 for the Eastside LRT project and it also states that the project is pending receipt of a Full Funding Grant Agreement, FFGA.

Mrs. MURRAY. That is correct.

Mrs. BOXER. The Eastside LRT project will provide vital transit service for tens of thousands of people, many of whom do not have access to an automobile. Almost 20,000 people are expected to ride the line once it has opened, providing a much needed transportation alternative and congestion relief in one of the lowest income areas of Los Angeles.

I understand that the Eastside LRT project is expected to receive its FFGA in the coming months, which will enable construction to move ahead rapidly.

Senator FEINSTEIN and I urge you to give every consideration to fund this project according to the levels that will be recommended in its forthcoming FFGA.

Mrs. MURRAY. My distinguished colleagues from California have told me of the importance of this project to their constituents in East Los Angeles, as well as to the LACMTA's expanding rail transit system. I will work with Chairman Shelby to help the committee meet this project's funding needs.

The PRESIDING OFFICER. Is there further debate on the bill? If not, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

Mr. SHELBY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Nevada (Mr. ENSIGN) is necessarily absent.

I further announce that if present and voting the Senator from Nevada (Mr. ENSIGN) would vote ''yea.''

Mr. REID. I announce that the Senator from California (Ms. BOXER), the Senator from North Carolina (Mr. EDWARDS), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Arkansas (Mrs. LINCOLN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 3, as follows:

[Rollcall Vote No. 410 Leg.]

YEAS—91

Akaka	Dodd	Lugar
Alexander	Dole	McConnell
Allen	Domenici	Mikulski
Baucus	Dorgan	Miller
Bayh	Durbin	Murkowski
Bennett	Enzi	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Bond	Fitzgerald	Pryor
Breaux	Frist	Reed
Brownback	Graham (FL)	Reid
Bunning	Graham (SC)	Roberts
Burns	Grassley	Rockefeller
Byrd	Gregg	Santorum
Campbell	Hagel	Sarbanes
Cantwell	Harkin	Schumer
Carper	Hatch	Sessions
Chafee	Hutchison	Shelby
Chambliss	Inhofe	Smith
Clinton	Inouye	Snowe
Cochran	Jeffords	Specter
Coleman	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kohl	Sununu
Cornyn	Kyl	Talent
Corzine	Landrieu	Thomas
Craig	Lautenberg	Voinovich
Crapo	Leahy	Warner
Daschle	Levin	Wyden
Dayton	Lieberman	
DeWine	Lott	

NAYS—3

Allard	McCain	Nickles

NOT VOTING—6

Boxer	Ensign	Kerry
Edwards	Hollings	Lincoln

So the bill (H.R. 2989), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I ask unanimous consent that the Senate insist on its amendments, request a conference with the House, and the Chair be authorized to appoint conferees at a ratio of 9 to 8, which is the subcommittee plus STEVENS and INOUYE.

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

The Presiding Officer (Mr. CHAMBLISS) appointed Mr. SHELBY, Mr. SPECTER, Mr. BOND, Mr. BENNETT, Mr. CAMPBELL, Mrs. HUTCHISON, Mr. DEWINE, Mr. BROWNBACK, Mr. STEVENS, Mrs. MURRAY, Mr. BYRD, Ms. MIKULSKI, Mr. REID, Mr. KOHL, Mr. DURBIN, Mr. DORGAN, Mr. INOUYE conferees on the part of the Senate.

VOTE EXPLANATIONS

Ms. MURKOWSKI. Mr. President, I announce that on vote No. 406, the Feingold amendment, amendment No. 1904, which occurred earlier today, I was necessarily absent from the Senate on business. Had I been present to vote, I would have voted ''nay'' on the tabling motion for that amendment.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mrs. BOXER. Mr. President, today, I have a long-standing commitment to a remarkable project in the ongoing downtown Los Angeles redevelopment effort. Therefore, I am unable to be present for the votes today in the Senate.

However, if I had been present, I would have voted ''no'' on the motion to table the Dorgan amendment.

I would have voted ''yes'' on the motion to table the Feingold amendment.

I would have voted ''yes'' on both the Thomas and Mikulski amendments.

I would have also voted ''yes'' on the motion to waive the Budget Act with regard to the Dodd-McConnell amendment.

Finally, I would have voted ''yes'' on final passage of the Transportation appropriations bill.•

AMENDMENT NO. 1964

Mr. MCCONNELL. Mr. President, I ask unanimous consent that notwithstanding passage of H.R. 2989, the Transportation appropriations bill, the amendment at the desk by Senator COLLINS be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 1964) was agreed to, as follows:

AMENDMENT NO. 1964

(Purpose: To limit the use of funds for converting to contractor performance of executive agency activities and functions)

At the appropriate place, insert the following:

SEC. . (a) None of the funds appropriated by this Act may be used for converting to contractor performance an activity or function of an executive agency that, on or after the date of the enactment of this Act, is performed by executive agency employees unless the conversion is based on the results of a public-private competition process that requires a determination regarding whether, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the executive agency by an amount that equals or exceeds the lesser of (A) 10 percent of the cost of performing the activity with government personnel or, if a most efficient organization has been developed, 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees, or (B) $10,000,000. With respect to the use of any funds appropriated by this Act for the Department of Defense—

(1) Subsections (a), (b), and (c) of section 2461 of title 10, United States Code) do not apply with respect to the performance of a commercial or industrial type activity or function that—

(A) is on the procurement list established under section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47); or

(B) is planned to be converted to performance by—

(i) a qualified nonprofit agency for the blind or a qualified nonprofit agency for other severely handicapped (as such terms are defined in section 5 of such Act (41 U.S.C. 48b); or

(ii) a commercial business at least 51 percent of which is owned by an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))) or a Native Hawaiian Organization (as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15))).

(2) Nothing in this section shall effect depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code.

(3) The conversion of any activity or function of an executive agency in accordance with this section shall be credited toward any competitive or outsourcing goal, target or measurement that may be established by statute, regulation or policy and shall be deemed to be awarded under the authority of and in compliance with section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) or section 2304 of title 10, United States Code, as the case may be, for the competition or outsourcing of commercial activities.

(b) In this section, the term ''executive agency'' has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(c) Nothing in this section shall be construed to effect, amend or repeal Section 8014 of the Defense Appropriations Act, 2004 (Public Law 108–87).

UNANIMOUS CONSENT AGREEMENT—S. 1753

Mr. MCCONNELL. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, after consultation with the minority leader, but not before Monday October 27, the Senate proceed to consideration of Calendar No. 312, S. 1753, the National Consumer Credit Reporting System Improvement Act of 2003.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

NASA GLENN AWARDS

Mr. DEWINE. Mr. President, I honor the scientists, engineers, and other innovators working with the NASA Glenn Research Center in Cleveland. They are working tirelessly to develop technologies and products that improve the lives of Americans—both in missions to space and in everyday applications here on Earth. Through commercialization initiatives, these products are brought from the laboratory into the marketplace, driving the creation of new jobs and economic growth nationwide.

NASA Glenn recently received six of Research & Design Magazine's ''R&D 100'' awards, which are awarded annually to the 100 most technologically significant products introduced into the marketplace. This is a tremendous accomplishment for the Glenn Research Center, its employees, and the numerous organizations and individuals who work in partnership with the Center. I recognize each of the award recipients and thank them for the their outstanding work:

NASA Glenn's Structures and Acoustics division, in collaboration with the University of Toledo and the Army Office, developed new high-load bearings capable of operating at over 1,000 degrees Fahrenheit. This new bearings technology has opened the door to two new patent applications, and is the result of the hard work and dedication of Gerald Montague, Andrew Provenza, Albert Kascak, Mark Jansen, Ralph Jansen, Ben Ebihara, and Dr. Alan Palazzolo.

A combined airport data and radar device developed by NASA Glenn in collaboration with ViGYAN, Inc., will provide new opportunities for pilots to access weather information while in the sky via a portable device called the ''Pilot Weather Advisor''. It was made possible by NASA Glenn's Engineering Design and Analysis Center, as well as the personal assistance of Glenn Lindamood.

Thanks to a system developed through a partnership between Zin Technologies and NASA Glenn, real time data plots from the International Space Station are now available to end users through a system known as the ''Microgravity Analysis Software System,'' MASS. NASA staff, including Kevin McPherson, Ted Wright, Ken Hrovat, Eric Kelly, Gene Lieberman, and Nissim Lugasy, teamed up with Zin Technologies' Tim Reckart to make the MASS project possible.

Drawing on NASA Glenn's renowned expertise with icing research, a New York-based company has recently brought the first new FAA approved deicing technology to market in 40 years. This new system will provide protection to sensitive aircraft materials, while also combining two long-recognized deicing techniques. NASA Glenn's Dean Miller and Andy Reehorst, as well as representatives from Cox & Company, developed this important innovation.

Advances in thermal protection technologies known as ''DMBZ–15,'' jointly developed by NASA Glenn and an Ohio firm, will improve the temperatures and wear resistance of aircraft engines and other propulsion systems, extending flight capabilities and

component life spans. Dr. Kathy Chuang of NASA Glenn joined representatives from the Maverick Corporation to accomplish this feat of engineering.

Last, but certainly not least, versatile new lubricant products pioneered by NASA Glenn are now being used to improve commercial steam valves and furnace conveyors. Dr. Christopher Dellacorte and Brian Edmonds, both NASA Glenn researchers, made these lubricants possible.

I extend my most sincere congratulations to everyone involved with each of NASA Glenn's award-winning projects and also thank NASA Glenn's Aero-Space Frontiers newsletter for bringing these wonderful accomplishments to my attention.

CAN–SPAM ACT

Mr. FEINGOLD. Mr. President, I want to add my congratulations to the authors of the CAN–SPAM Act. This is an important topic, and I am pleased that the Senate passed this bill.

The Internet is a medium that in under a decade has completely changed the way we live in this country. And it still has enormous untapped potential to enrich our lives and improve and expand communications and commerce for all of our citizens. E-mail has been called the ''killer application'' of the Internet, and it is truly ubiquitous in our daily lives in a way that no one could have predicted only a few short years ago. But over the past few years, the spam problem has come to threaten the utility of e-mail in very serious way. By passing this bill, the Senate has begun to address some of the worst abuses false and misleading headers and subject lines, fraudulent and pornographic solicitations, the harvesting of addresses and the hijacking of addresses to send unsolicited e-mail.

I am pleased also that the bill will allow legitimate commercial e-mail to continue to be sent as long as the sender provides a way for the recipients to indicate that they do not want to receive such e-mail in the future. Not all unsolicited commercial e-mail is bad. E-mail is an inexpensive way for businesses to advertise their products and we should not try to stamp out all such communications.

At the same time, some people don't want to receive such e-mails at all and they should be able to make that fact known and have their wishes respected. In addition to requiring that unsolicited commercial e-mail give consumers the ability to opt out of future such communications, I am pleased that portions of Senator SCHUMER's bill, which I have cosponsored, will be incorporated into this bill because I believe a Do-Not-Email List, modeled on the very popular Do-Not-Call List recently activated by the FTC, is something that should be created. Senator SCHUMER's proposal is a sensible and measured approach that I think will help get a Do-Not-Email List off the ground promptly.

It is time to stop spam from bogging down the great promise of the Internet and e-mail. I am pleased to have voted for this important bill, and I appreciate all the efforts of the Senators who have brought us to this point.

FRANCE, THE EU, AND ANTI-SEMITISM

Mr. BIDEN. Mr. President, yesterday in my opening statement at a hearing of the Committee on Foreign Relations on anti-Semitism in Europe, I criticized the European Union for not having included in its Brussels summit's so-called ''Presidency Conclusions'' a denunciation of the Malaysian Prime Minister's vile anti-Semitic remarks.

I also recognized that French President Chirac wrote a personal letter to the Malaysian Prime Minister, but I said that I doubted that many Muslims would have access to his criticisms.

This morning, however, I was informed by my friend the French Ambassador that President Chirac's letter had, in fact, been made public.

I am happy to learn this, and I applaud President Chirac for his personal condemnation of the Malaysian Prime Minister's disgusting speech.

This does not, however, change my opinion that the European Union should have included a condemnation in the catalog of external issues delineated in its ''Presidency Conclusions.''

Most importantly, as yesterday's hearing pointed out, it is imperative that both the European Union and the United States resolutely and publicly oppose the cancer of anti-Semitism wherever in the world it raises its ugly head.

HEALTHY FORESTS RESTORATION ACT

Mr. KYL. Mr. President, 73 million acres of national forests are at unnaturally high risk of catastrophic wildfires because of unhealthy forest conditions. Efforts by the Forest Service to restore forest health and prevent catastrophic wildfires have been frustrated by requirements for detailed documentation, administrative appeals of proposed forest treatment projects, lawsuits and injunctions.

The U.S. Forest Service recognizes that it must be able to move more quickly to achieve results on the ground. One of its reports, ''The Process Predicament—How Statutory, Regulatory, and Administrative Factors Affect National Forest Management, dated, June, 2002, cited a study conducted by the National Academy of Public Administration where it was estimated that planning and assessment consume 40 percent of total direct work at the national forest level, representing an expenditure of more than $250 million per year.

We cannot continue to shuffle paper while our forests burn. Federal land management must address dangerous fuel loads and declining forest health before we can ever hope to stem the wildfires that have plagued Arizona and other parts of our country. H.R. 1904 allows the Federal land management agencies to take action in protecting forest health.

It would streamline the administrative process by allowing the Federal land management agencies, in their preparation of environmental assessments or environmental impact statements, to describe a proposed action, an alternative of no action, and one additional action alternative if the additional alternative is proposed during scoping or the collaborative process and meets the purpose and need of the project.

The legislation would direct the Secretary of Agriculture to issue interim final regulations which will serve as the sole means by which administrative review may be sought for authorized hazardous fuel reduction projects. It further directs that authorized hazardous fuel reduction projects be subject to judicial review only in U.S. District Court where the Federal land to be treated is located. It would encourage the court to expedite proceedings with the goal of rendering a decision as soon as practicable. It would further direct the court—in its consideration of injunctive relief—to balance the short and long-term effects to the ecosystem of undertaking the project versus the short and long-term effects to the ecosystem of not undertaking the project.

H.R. 1904 would authorize hazardous fuel reduction projects to protect wildland-urban interface areas, municipal watersheds or water supply systems, and areas where windthrow, blowdown, ice storm damage, or the existence of insects or disease poses a significant threat to ecosystems or forests or rangeland resources on Federal land or adjacent non-Federal land, or contain threatened and endangered species habitat.

It outlines a path to unlock the gridlock that has precluded our Federal land managers from moving forward to protect our forest health.

Unfortunately, it appears that even at this date, after the bill has been reported favorably from the Senate Committee on Agriculture, Nutrition, and Forestry, and following lengthy bipartisan discussions, some Members of this Senate remain unwilling to move this vital legislation forward. If we fail to act, our communities and our forests will continue to be at risk from insect damage and fire that threatens our citizens and their homes and property.

Mr. CHAMBLISS. Mr. President, I rise today to express my support for H.R. 1904, the Healthy Forests Restoration Act. I commend the chairman of the Senate Agriculture Committee, THAD COCHRAN, and his staff who have worked tirelessly since this legislation was reported out of Committee to reach a compromise with members on both sides of the aisle who have concerns about this legislation.

In the South forest fires pale in comparison to forest fires of the West. In

my home State of Georgia, we don't have a significant threat from fire in our forests because we receive adequate moisture throughout the year. According to the Georgia Forestry Commission, my State experiences approximately 8 thousand fires each year damaging or destroying approximately 38,000 acres of forestland.

However with 24.6 million acres of forestland in the State of Georgia, which is nearly two-thirds of my home State, major outbreaks of disease caused by pathogens and insects such as the southern pine beetle pose a significant threat to forests in the South. In 2002 alone, damage caused by the southern pine beetle totaled over $150 million.

The forest community has waited long enough for comprehensive forest management legislation. It is time for the Senate to pass this legislation so that Americans have the tools to manage our Nation's forests—by putting out fires and by reducing disease and insect pressure. This act will help our Nation's forest to flourish for generations to come.

GIVE US A VOTE, PART II

Mr. CRAIG. Mr. President, as a Senator frustrated by this situation, I rise today to respond to comments made by my colleague from New Mexico, Mr. BINGAMAN, regarding the Healthy Forest Restoration Act, H.R. 1904. As he chose to address the entire Senate, I too am following his lead in addressing the entire Senate. I appreciate Mr. BINGAMAN's attention to this issue and look forward to future discussions with him on this issue.

However, I am perplexed and troubled by some of my colleague's statements and feel it is important to include some additional information for the RECORD.

First, on June 26, the Agriculture Committee held a hearing on H.R. 1904 and many of our colleagues, including myself, took the time to attend the hearing, listen to the testimony, and participate in the discussions. Mr. BINGAMAN could have done the same, but chose not to.

In the Energy and Natural Resources Committee, we then held a hearing on July 22. The purpose of this hearing was to examine the impacts of fires, insects and disease on forest lands. And we looked at processes for implementing hazardous fuels reduction projects more expeditiously.

The committee also considered S. 1314, the Collaborative Forest Health Act, Mr. BINGAMAN's bill; H.R. 1904 the Healthy Forest Restoration Act; as well as other related legislation that addresses these issues.

During that hearing, Senator BINGAMAN hardly even mentioned his bill and had very few questions about H.R. 1904.

In Mr. BINGAMAN's statement to the Senate, he brought up having concerns about many of the issues covered at the hearing. If he had so many questions, I have to wonder why he waited until now to ask them?

Two Senators who did engage at the hearing, Senator WYDEN and Senator FEINSTEIN, asked probing questions that helped the bipartisan group, hosted by Mr. COCHRAN, find a commonsense solution.

Second, Mr. BINGAMAN's staff was invited to the table, at the point discussions of the major issues began in earnest and were never excluded from being a part of the discussions that developed the compromise amendment. In fact, his staff attended several of the negotiations sessions, but chose to stop being a part of the discussions.

At that time in the discussions, all the major issues related to Title I—old growth, judicial review, large tree retention—were still in flux and any contributions they would have made could have been a fruitful part of the discussion. But, again, they chose not to participate.

In addition, his staff attended the all-staff briefing once the compromise amendment was agreed to by the bipartisan group of Senators participating in the discussions and Mr. BINGAMAN's staff was very active in that briefing. And it is my understanding that they asked many of the questions and received answers for the issues Mr. BINGAMAN now is questioning.

It is one thing to disagree about the approach we have taken and offer amendments to modify that approach and another to foster needless delay.

If any of my colleagues would like a personal briefing on the compromise amendment, and the process in which it was developed, I am certain that the cosponsors of this amendment would join me in sitting down with anyone who would like to be a part of this discussion.

While Senator BINGAMAN has supported active management and wants to be a part of the solution, it would appear that he is taking a play out of the environmentalist's handbook and is delaying the process through stalling, such as asking for a hearing on the amendment.

I believe the Senate should not get into the habit of holding hearings on amendments because a Senator chose not to participate in the process.

Again, this is a move the radical environmental community uses time and time again to prevent hazardous fuel reduction projects from going forward. In the vernacular of forest appeals, Mr. BINGAMAN has stayed involved just enough to meet the standing requirements, he has held his water till the appeal period is just about over and now he is launching his appeal.

The question now is, what now? The environmental community usually files a lawsuit when they don't see the results they wanted. Will Senator BINGAMAN try to filibuster this important legislation? Or will he step forward to offer amendments to make the modifications he believes need to be made.

There have been two unanimous consent requests offered that included the opportunity to offer amendments on the very issues that the Senator brought up today. Yet he has objected both times. A third unanimous consent request that is even more broad was offered this morning.

It is time to move on and proceed to a debate on the floor of the Senate. This is important legislation that needs to be signed into law so that we can start to address the hazardous fuels problems that are threatening our communities.

This legislation will result in a more public, expedited, process for moving hazardous fuels projects through the NEPA process.

It provides for the development of a new and improved predecisional protest process for projects authorized under this bill. The new process will replace the highly contentious, time consuming, appeals process that currently delays many forest health projects.

It directs that all preliminary injunctions be reviewed every 60 days, with the opportunity for the parties to update the judges on changes in conditions so the court may respond to those changes if needed, something that Senators WYDEN and FEINSTEIN desired.

Finally, it reminds the courts that when weighing the equities that they should balance the impact to the ecosystem of the short and long-term effects of undertaking the project against the short and long-term effects of not undertaking the project. I am sure there are communities in New Mexico that would welcome this balancing of the harms.

It is time for the Senate to take action on this issue. I ask my colleagues to join me in bringing this legislation up for consideration.

Mr. HARKIN. Mr. President, I am pleased to congratulate Catherine Bertini, former Executive Director of the United Nations World Food Program, for her selection as recipient of the 2003 World Food Prize, presented in a ceremony in Des Moines, IA on October 16.

Ms. Bertini has worked long and hard and with innovation and creativity to rid the world of the scourge of hunger. For her efforts this recognition is richly deserved. As the leader of the World Food Program between 1992 and 2002, Ms. Bertini directed programs responsible for addressing hunger around the world, providing assistance to an estimated 700 million people during that period. Because of her dedication and leadership, millions are alive today whose need for assistance would otherwise have been ignored.

Catherine Bertini is the twenty-first recipient of the World Food Prize, and the second civil servant so honored. During her tenure at the World Food Program, or WFP, Ms. Bertini reorganized the agency and improved its logistical capacity, while focusing attention on delivering food aid through women in the developing world, and thereby nourishing women and girls

both in nutrition and education. As she wrote in the Des Moines Register, ''The key to ending hunger may lie in a little girl's hands. In her left, she holds a bowl of rice; in her right, her school books.'' I strongly support these goals, and share Ms. Bertini's desire to fund fully for fiscal 2004 the McGovern-Dole Food for Education and Child Nutrition Program, which we included in the 2002 farm bill.

Even as we celebrate her achievements, Catherine Bertini is focused on the challenges that lie ahead. She may have left her position at the WFP, but her long-time work to defeat global hunger and poverty continues. Only a few months after her departure from the WFP, she was asked by UN Secretary General Kofi Annan to work for him in New York, as Under Secretary General for Management. Prior to her selection as WFP Executive Director, Ms. Bertini served as Assistant Secretary of Agriculture for Food and Consumer Services in the first Bush Administration.

Ms. Bertini exemplifies the best ideals of public service and reminds us that our fundamental work is not to leave the world as we found it, but as we know it should be—free of deprivation, devoid of want and with equal opportunity for all regardless of who they are or where they are. For her efforts, I salute Ms. Bertini and her dedication to the cause of helping the needy around the world.

The World Food Prize was established in 1986 to provide international recognition for individuals who have made vital contributions to ''improving the quality, quantity, or availability of food throughout the world.'' The World Food Prize embodies the vision of Dr. Norman E. Borlaug, an Iowa native who received the 1970 Nobel Peace Prize for his development of dwarf wheat. Through the adoption of dwarf wheat varieties in the 1960's, developing countries doubled their wheat yields in what became known as the Green Revolution. Dr. Borlaug's achievements and devotion to eliminating world hunger exemplify the ideals honored by the World Food Prize.

Within a few years after the World Food Prize was created, it lost critical sponsorship and its future was in serious doubt. In short, the Prize badly needed a committed benefactor. Iowa businessman and philanthropist John Ruan stepped forward to provide critical funding and to establish a headquarters for the World Food Prize in Des Moines, IA. Under Mr. Ruan's stewardship, and with the leadership of its president, Ambassador Kenneth M. Quinn, the Prize now rests on a solid foundation. The annual awarding of the Prize serves as the anchor to a two-day international symposium and many other activities in support of defeating world famine and hunger.

It is a sobering reality that the world is still plagued with staggering levels of hunger and poverty. The World Food Prize heightens awareness of that reality, but it also inspires hope by recognizing that progress has been made and that much more can be done. Dr. Borlaug and Ms. Bertini, along with previous World Food Prize laureates, serve as examples to inspire and motivate us all to commit ourselves wholeheartedly to ending global hunger and poverty as rapidly as possible.

PARTIAL BIRTH ABORTION BAN ACT OF 2003

Mr. SANTORUM. Mr. President, I ask unanimous consent that these documents related to the Partial Birth Abortion Ban Act of 2003 be made a part of the permanent RECORD for October 21, 2003.

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

MARCH 12, 2003.

Senator RICK SANTORUM,
U.S. Senate Office Building,
Washington, DC.

DEAR SENATOR SANTORUM: I have read the letter from Dr. Philip Darney addressed to Senator Feinstein regarding the intact D&E (often referred to as ''intact D&X'' in medical terminology) procedure (partial-birth abortion) and its use in his experience.

As a board certified practicing Obstetrician/Gynecologist and Maternal-Fetal Medicine sub-specialist I have had much opportunity to deal with patients in similar situations to the patients in the anecdotes he has supplied.

In neither of the type of cases described by Dr. Darney, nor in any other that I can imagine, would an intact D&X procedure be medically necessary, nor is there any medical evidence that I am aware of to demonstrate, or even suggest, that an intact D&X is ever a safer mode of delivery for the mother than other available options.

In the first case discussed by Dr. Darney a standard D&E could have been performed without resorting to the techniques encompassed by the intact D&X procedure.

In the second case referred to it should be made clear that there is no evidence that terminating a pregnancy with placenta previa and suspected placenta accreta at 22 weeks of gestation will necessarily result in less significant blood loss or less risk to the mother than her carrying later in the pregnancy and delivering by cesarean section. There is a significant risk of maternal need for a blood transfusion, or even a hysterectomy, with either management. The good outcome described by Dr. Darney can be accomplished at a near term delivery in this kind of patient, and I have had similar cases that ended happily with a healthy mother and baby. Further a standard D&E procedure could have been performed in the manner described if termination of the pregnancy at 22 weeks was desired.

I again reiterate, and reinforce the statement made by the American Medical Association at an earlier date, that an intact D&X procedure is never medically necessary, that there always is another procedure available, and there is no data that an intact D&X provides any safety advantage whatsoever to the mother.

Sincerely,
NATHAN HOELDTKE, MD, FACOG,
Med. Dir., Maternal-Fetal Medicine,
Tripler Medical Center, Honolulu, HI.

REDMOND, WA,
March 12, 2003.

Hon. RICK SANTORUM,
U.S. Senate Office Building,
Washington, DC.

DEAR SENATOR SANTORUM: The purpose of this letter is to counter the letter of Dr. Philip Darney, M.D. to Senator Diane Feinstein and to refute claims of a need for an exemption based on the health of the mother in the bill to restrict ''partial birth abortion.''

I am board certified in Maternal-Fetal Medicine as well as Obstetrics and Gynecology and have over 20 years of experience, 17 of which have been in maternal-fetal medicine. Those of us in maternal-fetal medicine are asked to provide care for complicated, high-risk pregnancies and often take care of women with medical complications and/or fetal abnormalities.

The procedure under discussion (D&X, or intact dilation and extraction) is similar to a destructive vaginal delivery. Historically such were performed due to the risk of caesarean delivery (also called hysterotomy) prior to the availability of safe anesthetic, antiseptic and antibiotic measures and frequently on a presumably dead baby. Modern medicine has progressed and now provides better medical and surgical options for the obstetrical patient.

The presence of placenta previa (placenta covering the opening of the cervix) in the two cases cited by Dr. Darney placed those mothers at extremely high risk for catastrophic life-threatening hemorrhage with any attempt at vaginal delivery. Bleeding from placenta previa is primarily maternal, not fetal. The physicians are lucky that their interventions in both these cases resulted in living healthy women. I do not agree that D&X was a necessary option. In fact, a bad outcome would have been indefensible in court. A hysterotomy (cesarean delivery) under controlled non-emergent circumstances with modern anesthesia care would be more certain to avoid disaster when placenta previa occurs in the latter second trimester.

Lastly, but most importantly, there is no excuse for performing the D&X procedure on living fetal patients. Given the time that these physicians spent preparing for their procedures, there is no reason not to have performed a lethal fetal injection which is quickly and easily performed under ultrasound guidance, similar to amniocentesis, and carries minimal maternal risk.

I understand the desire of physicians to keep all therapeutic surgical options open, particularly in life-threatening emergencies. We prefer to discuss the alternatives with our patients and jointly with them develop a plan of care, individualizing techniques, and referring them as necessary to those who will serve the patient with the most skill. Nonetheless I know of no circumstance in my experience and know of no colleague who will state that it is necessary to perform a destructive procedure on a living second trimester fetus when the alternative of intrauterine feticide by injection is available.

Obviously none of this is pleasant. Senator Santorum, I encourage you strongly to work for passage of the bill limiting this barbaric medical procedure, performance of D&X on living fetuses.

Sincerely,
SUSAN E. RUTHERFORD, M.D.,
Fellow, American College of Obstetricians and Gynecologists.

UNIVERSITY OF SOUTHERN CALIFORNIA, DEPARTMENT OF OBSTETRICS AND GYNECOLOGY,
Los Angeles, CA, March 12, 2003.

Hon. RICK SANTORUM,
U.S. Senate Office Building,
Washington, DC.

DEAR SENATOR SANTORUM: I am writing in support of the proposed restrictions on the procedure referred to as ''partial birth abortion,'' which the Senate is now considering.

I am chief of the Division of Maternal-Fetal Medicine in the Department of Obstetrics and Gynecology at the University of Southern California in Los Angeles. I have published more than 100 scientific papers and book chapters regarding complications of pregnancy. I direct the obstetrics service at Los Angeles County Women's and Children's Hospital, the major referral center for complicated obstetric cases among indigent and under-served women in Los Angeles.

I have had occasion to review the cases described by Dr. Philip Darney, offered in support of the position that partial birth abortion, or intact D&E, was the best care for the patient in those situations. Mindful of Dr. Darney's broad experience with surgical abortion, I nevertheless disagree strongly that the approach he describes for these two cases was best under the circumstances. Such cases are infrequent, and there is not single standard for management. However, it would certainly be considered atypical, in my experience, to wait 12 hours to dilate the cervix with laminaria while the patient was actively hemorrhaging, as was described in his first case. Similarly, the approach to presumed placenta acreta, described in the second case, is highly unusual. Although the mother survived with significant morbidity, it is not clear that the novel approach to management of these difficult cases is the safest approach. It is my opinion that the vast majority of physicians confronting either of these cases would opt for careful hysterotomy as the safest means to evacuate the uterus.

Although I do not perform abortions, I have been involved in counseling many women who have considered abortion because of a medical complication of pregnancy. I have not encountered a case in which what has been described as partial birth abortion is the only choice, or even the better choice among alternatives, for managing a given complication of pregnancy.

Thank you for your consideration of this opinion.

Sincerely,

T. MURPHY GOODWIN, M.D.,
Chief, Div. of Maternal-Fetal Medicine.

MARCH 13, 2003.

Hon. RICK SANTORUM,
U.S. Senate Office Building,
Washington, DC.

DEAR SENATOR SANTORUM: I have reviewed the letter from Dr. Darney describing two examples of what he believes are high risk pregnancy cases that show the need for an additional ''medical exemption'' for partial birth abortion (also referred to as intact D&E). I am a specialist in maternal-fetal medicine with 23 years of experience in obstetrics. I teach and do research at the University of Minnesota. I am also co-chair of the Program in Human Rights in Medicine at the University. My opinion in this matter is my own.

In the rare circumstances when continuation of pregnancy is life-threatening to a mother I will end the pregnancy. If the fetus is viable (greater than 23 weeks) I will recommend a delivery method that will maximize the chance for survival of the infant, explaining all of the maternal implications of such a course. If an emergent life-threatening situation requires emptying the uterus before fetal viability then I will utilize a medically appropriate method of delivery, including intact D&E.

Though they are certainly complicated, the two cases described by Dr. Darney describe situations that were not initially emergent. This is demonstrated by the use of measures such as dilation of the cervix that required a significant period of time. In addition, the attempt to dilate the cervix with placenta previa and placenta accreta is itself risky and can lead to life-threatening hemorrhage. There may be extenuating circumstances in Dr. Darney's patients but most obstetrical physicians would not attempt dilation of the cervix in the presence of these complications. It is my understanding that the proposed partial birth abortion ban already has an exemption for situations that are a threat to the life of the mother. This would certainly allow all measures to be taken if heavy bleeding, infection, or severe preeclampsia required evacuation of the uterus.

The argument for an additional medical exemption is redundant; furthermore, its inclusions in the legislation would make the ban virtually meaningless. Most physicians and citizens recognize that in rare life-threatening situations this gruesome procedure might be necessary. But it is certainly not a procedure that should be used to accomplish abortion in any other situation.

Passage of a ban on partial birth abortion with an exemption only for life-threatening situations is reasonable and just. It is in keeping with long-standing codes of medical ethics and it is also in keeping with the provision of excellent medical care to pregnant women and their unborn children.

Sincerely,

STEVE CALVIN, MD.

SYNERGY MEDICAL EDUCATION ALLIANCE, DEPARTMENT OF MATERNAL-FETAL MEDICINE,
Saginaw, MI, March 13, 2003.

Hon. RICK SANTORUM,
U.S. Senate Office Building,
Washington, DC.

DEAR SENATOR SANTORUM: I am writing in response to the letter from Dr. Phillip Darney which was introduced by Senator Feinstein.

I have cared for pregnant patient patients for almost 29 years, and have worked exclusively in the field of Maternal-Fetal Medicine (high risk pregnancy) for over 15 years. I am board certified in Obstetrics & Gynecology, and also in the subspecialty of Maternal-Fetal Medicine. I am an assistant professor in Obstetrics & Gynecology for the Michigan State College of Human Medicine, and co-director of Maternal-Fetal Medicine in Saginaw Michigan.

I have never seen a situation in which a partial birth abortion was needed to save a mother's life. I have never had a maternal death, not ever.

I am familiar with Dr. Darney's letter describing two of his cases. My comments are not meant as a criticism of Dr. Darney as a person or as a physician. I have great respect for anyone in our field of medicine, which is a very rewarding specialty but which requires difficult decisions on a daily basis. We are all working to help mothers and their children make it through difficult pregnancies. Still, I do disagree with his stand that the legal freedom to do partial birth abortions is necessary for us to take good care of our patients. For example, in the second case he describes, I believe that patient could have carried the pregnancy much further, and eventually delivered a healthy child by repeat cesarean section followed by hysterectomy. Hemorrhage is always a concern with such patients, but we have many effective ways to handle this problem, which Dr. Darney knows as well as I. Blood vessels can be tied off at surgery, blood vessels can be occluded using small vascular catheters, cell-savers can be used to return the patients own blood to them, blood may be given from donors, pelvic pressure packs can be used for bleeding following hysterectomy, and other blood products (platelets, fresh frozen plasma, etc) can be given to treat coagulation abnormalities (DIC). His approach of placing laminaria to dilate the cervix in a patient with a placenta praevia is not without its own risk.

If Dr. Darney performed the partial birth abortion on this patient to keep from doing another c-section, or even to preserve her uterus, I'm hopeful he counseled the patient that if she becomes pregnant again, she will once again have a very high risk of having a placenta praevia and placenta accreta.

Lastly, I believe that for some abortionists, the real reason they wish to preserve their ''right'' to do partial birth abortions is that at the end of the procedure they have only a dead child to deal with. If they were to abort these women by either inducing their labor (when there is no placenta praevia present), or by doing a hysterotomy (c-section), they then need to deal with a small, living, struggling child—an uncomfortable situation for someone who's intent was to end the child's life.

Sincerely,

DANIEL J. WECHTER, M.D.,
Co-Director.

ROCKFORD HEALTH SYSTEM,
DIV. OF MATERNAL-FETAL MEDICINE,
Rockford, IL, March 12, 2003.

Hon. RICK SANTORUM,
U.S. Senate Office Building,
Washington, DC.

DEAR SENATOR SANTORUM: I am writing to contest the letter submitted to Senator Feinstein by Philip D. Darney, MD supporting the ''medical exemption'' to the proposed restriction of the partial birth abortion (or as abortionists call it ''intact D&E'').

I am a diplomate board certified by the American Board of Obstetrics and Gynecology in general Obstetrics and Gynecology and in the sub-specialty of Maternal-Fetal Medicine. I serve as a Visiting Clinical Professor in Obstetrics and Gynecology, University of Illinois at Chicago, Department of Obstetrics and Gynecology, College of Medicine at Rockford, Illinois; as an Adjunct Professor of Obstetrics and Gynecology at Midwestern University, Chicago College of Osteopathic Medicine, Department of Obstetrics and Gynecology; and as an Adjunct Associate Professor of Obstetrics and Gynecology, Uniformed Services University of Health Sciences, F. Edward Hebert School of Medicine, Washington, D.C. I have authored over 50 peer review articles in the obstetric and gynecologic literature, presented over 100 scientific papers, and have participated in over 40 research projects.

In my over 14 years as a Maternal-Fetal Medicine specialist I have never used or needed the partial birth abortion technique to care for any complicated or life threatening conditions that require the termination of a pregnancy. Babies may need to be delivered early and die from prematurity, but there is never a medical need to perform this heinous act.

I have reviewed both cases presented by Dr. Darney, and, quite frankly, do not understand why he was performing the abortions he indicates, yet alone the procedure he is using. If the young 25-year-old woman had a placenta previa with a clotting disorder, the safest thing to do would be to place her in

the hospital, transfuse her to a reasonable hematocrit, adjust he clotting parameters, watch her closely at bed rest, and deliver a live baby. If the patient had a placenta previa, pushing laminaria (sterile sea weed) up into her cervix, and, potentially through the previa, is contraindicated. It is no surprise to anyone that the patient went, from stable without bleeding, to heavy bleeding as they forcibly dilated her cervix to 3 centimeters with laminaria. The use of the dangerous procedure of blindly pushing scissors into the baby's skull (as part of the partial birth abortion) with significant bleeding from a previa just appears reckless and totally unnecessary.

Regarding the second case of the 38-year-old woman with three caesarean sections with a possible accreta and the risk of massive hemorrhage and hysterectomy due to a placenta previa, it seems puzzling why the physician would recommend doing an abortion with a possible accreta as the indication. Many times, a placenta previa at 22 weeks will move away from the cervix so that there is no placenta privia present and no risk for accreta as the placenta moves away from the old cesarean scar. (virtually 99.5% of time this is the case with early previas) Why the physicians did not simply take the women to term, do a repeat cesarean section with preparations as noted for a possible hysterectomy, remains a conundrum. Dr. Darney actually increased the woman's risk for bleeding, with a horrible outcome, by tearing through a placenta previa, pulling the baby down, blindly instrumenting the baby's skull, placing the lower uterine segment at risk, and then scraping a metal instrument over an area of placenta accreta. No one I know would do such a foolish procedure in the mistaken belief they would prevent an accreta with a D&E.

Therefore, neither of these cases presented convincing arguments that the partial birth abortion procedure has any legitimate role in the practice of maternal-fetal medicine or obstetrics and gynecology. Rather, they demonstrate how cavalierly abortion practices are used to treat women instead of sound medical practices that result in a live baby and an unharmed mother.

Sincerely,

BYRON C. CALHOUN, MD, FACOG, FACS.

[From the Washington Post, Sept. 17, 1996]

VIABILITY AND THE LAW

(By David Brown, M.D.)

The normal length of human gestation is 266 days, or 38 weeks. This is roughly 40 weeks from a woman's last menstrual period. Pregnancy is often divided into three parts, or ''trimesters.'' Both legally and medically, however, this division has little meaning. For one thing, there is little precise agreement about when one trimester ends and another begins. Some authorities describe the first trimester as going through the end of the 12th week of gestation. Others say the 13th week. Often the third trimester is defined as beginning after 24 weeks of fetal development.

Nevertheless, the trimester concept—and particularly the division between the second and third ones—commonly arises in discussion of late-stage abortion.

Contrary to a widely held public impression, third-trimester abortion is not outlawed in the United States. The landmark Supreme Court decisions *Roe* v. *Wade* and *Doe* v. *Bolton*, decided together in 1973, permit abortion on demand up until the time of fetal ''viability.'' After that point, states can limit a woman's access to abortion. The court did not specify when viability begins.

In *Doe* v. *Bolton* the court ruled that abortion could be performed after fetal viability if the operating physician judged the procedure necessary to protect the life or health of the woman. ''Health'' was broadly defined.

''Medical judgment may be exercised in the light of all factors—physical, emotional, psychological, familial and the woman's age—relevant to the well-being of the patient,'' the court wrote. ''All these factors may relate to health. This allows the attending physician the room he needs to make his best medical judgment.''

Because of this definition, life-threatening conditions need not exist in order for a woman to get a third-trimester abortion.

For most of the century, however, viability was confined to the third trimester because neonatal intensive-care medicine was unable to keep fetuses younger than that alive. This is no longer the case.

In an article published in the journal Pediatrics in 1991, physicians reported the experience of 1,765 infants born with a very low birth weight at seven hospitals. About 20 percent of those babies were considered to be at 25 weeks' gestation or less. Of those that had completed 23 weeks' development, 23 percent survived. At 24 weeks, 34 percent survived. None of those infants was yet in the third trimester.

EUTHANASIA OF PARTLY BORN HUMAN BEINGS

The greatest number of partial-birth abortions are performed during the latter part of the second trimester, from 20 through 26 weeks—both before and after ''viability.'' (A 1991 NIH survey of selected neo-natal units found that 23% of infants born at 23 weeks now survive.) However, partial-birth abortions have also often been performed in the third trimester, in a wide variety of circumstances, as documented elsewhere.

In a minority of cases involving partial-birth abortions, the baby suffers from genetic or other disorders. (Dr. Haskell estimated that ''20%'' of his 20–24 week abortions were ''genetic'' cases.) It appears that most of these involve non-lethal disabilities, such as Down Syndrome. (Down Syndrome was the most frequent ''fetal indication' on Dr. McMahon's table.)

The sort of cases highlighted by President Clinton—third-trimester abortions of babies with disorders incompatible with sustained life outside the womb—surely account for a small fraction of all the partial-birth abortions. Confronted with identical cases, most specialists would never consider executing a breech extraction and puncturing the skull. Instead, most would deliver the baby alive, sometimes early, without jeopardy to the mother—usually vaginally—and make the baby as comfortable as possible for whatever time the child has allotted to her.

Dr. Pamela Smith, Director of Medical Education, Department of Obstetrics and Gynecology, Mt. Sinai Hospital, Chicago, testified, ''There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the life or health of the mother.'' [Senate hearing record, p. 82]

Dr. Harlan Giles, a professor of ''high-risk'' obstetrics and pereinatology at the Medical College of Pennsylvania, performs abortions by a variety of procedures up until ''viability.'' In sworn testimony in the U.S. Federal District Court for the Southern District of Ohio (Nov. 13, 1995), Prof. Giles said: ''[After 23 weeks] I do not think there are any maternal conditions that I'm aware of that mandate ending the pregnancy that also require that the fetus be dead or that the fetal life be terminated. In my experience for 20 years, one can deliver these fetuses either vaginally, or by Cesarean section for that matter, depending on the choice of the parents with informed consent . . . But there's no reason these fetuses cannot be delivered intact vaginally after a miniature labor, if you will, and be at least assessed at birth and given the benefit of the doubt.'' [transcript, page 240]

When American Medical News asked Dr. Haskell why he could not simply dilate the woman a little more and remove the baby without killing him, Dr. Haskell responded: ''The point here is you're attempting to do an abortion . . . not to see how do you manipulate the situation so that I get a live birth instead.''

President Clinton and others have tried to center their arguments on cases in which the baby suffers from advanced hydrocephaly (head enlargement) that would make delivery risky or impossible. (Cases of hydrocephaly accounted for less than 4% of Dr. McMahon's ''series'' of more than 2,000 late-term abortions.) But an eminent authority on such matters, Dr. Watson A. Bowes, Jr., professor of ob/gyn (maternal and fetal medicine) at the University of North Carolina, who is co-editor of the Obstetrical and Gyneocological Survey, wrote to Congressman Canady; ''Critics of your bill who say that this legislation will prevent doctors from performing certain procedures which are standard of care, such as cephalocentesis (removal of fluid from the enlarged head of a fetus with the most severe form of hydrocephalus) are mistaken. In such a procedure a needle is inserted with ultrasound guidance through the mother's abdomen into the uterus and then into the enlarged ventricle of the brain (the space containing cerobrospinal fluid). Fluid is then withdrawn which results in reduction of the size in the head so that delivery can occur. This procedure is not intended to kill the fetus, and, in fact, is usually associated with the birth of a live infant.''

President Clinton said that the five women who appeared with him had ''no choice,'' and two of the women suggested that their babies endangered their lives. However, Claudia Crown Ades and Mary-Dorothy Line have explained that the danger to their lives would have occurred if the baby had died in utero and not been removed. Prof. Watson Bowes says that if a baby dies in utero, it can sometimes cause problems for the mother—after about five weeks. Thus, there is plenty of time to deal with such a situation by removing the body if necessary. Such a procedure is not, legally, an abortion, has never been affected by any kind of abortion law, and raises no ethical questions.

Under closer examination, it becomes clear that in some cases, the primary reason for performing the procedure is not concern that the baby will die in utero, but rather, that he/she will be born alive with disorders incompatible with sustained life outside the womb, or with a non-lethal disability. (Again, in Dr. McMahon's table of ''fetal indications,'' the single largest category was for Down Syndrome.)

In a letter opposing HR 1833, one of Dr. McMahon's colleagues at Cedar-Sinai Medical Center, Dr. Jeffrey S. Greenspoon, wrote: ''As a volunteer speaker to the National Spina Bifida Association of America and the Canadian National Spina Bifida Organization, I am familiar with the burden of raising a significantly handicapped child. . . . The burden of raising one or two abnormal children is realistically unbearable.'' [Letter to Congressman Hyde, July 19, 1995]

Viki Wilson, whose daughter Abigail died at the hands of Dr. McMahon at 38 weeks, said: ''I knew that I could go ahead and carry the baby until full term, but knowing, you know, that this was futile, you know, that she was going to die . . . I felt like I need to be a little more in control in terms of her

life and my life, instead of just sort of leaving it up to nature, because look where nature had gotten me up to this point.'' [NAF video transcript, p. 4]

Tammy Watts, whose baby was aborted by Dr. McMahon in the 7th month, said: ''I had a choice. I could have carried this pregnancy to term, knowing everything that was wrong. [Testimony before Senate Judiciary Committee, Nov. 17, 1995]

''My husband and I were able to talk, and the best that we could, we put our emotions aside and said, 'We cannot let this go on; we cannot let this child suffer anymore than she has. We've got to put an end to this.'' [NAF video transcript, p. 4]

Claudia Crown Ades, who appeared with President Clinton at the April 10 veto, said: ''The purpose of this is so that my son would not be tortured anymore . . . knowing that my son was going to die, and was struggling and living a tortured life inside of me, I should have just waited for him to die—is this what you're saying?''

[material omitted]

''My procedure was elective. That is considered an elective procedure, as were the procedures of Coreen Costello and Tammy Watts and Mary Dorothy-Line and all the other women who were at the White House yesterday. All of our procedures were considered elective.'' [Quotes from transcript of taped appearance on WNTM radio, April 12, 1996]

QUOTE FROM ''ABORTING AMERICA'' BY BERNARD N. NATHANSON, M.D. WITH RICHARD N. OSTLING

How many deaths were we talking about when abortion was illegal? In N.A.R.A.L. we generally emphasized the drama of the individual case, not the mass statistics, but when we spoke of the latter it was always ''5,000 to 10,000 deaths a year.'' I confess that I knew the figures were totally false, and I suppose the others did too if they stopped to think of it. But in the ''morality'' of our revolution, it was a useful figure, widely accepted, so why go out of our way to correct it with honest statistics?

HONORING THE LIFE OF SENATOR MIKE MANSFIELD

Mr. BAUCUS. Mr. President, on October 15, we honored the late Senator Mike Mansfield with the unveiling of the new book, ''Senator Mansfield: The Extraordinary Life of a Great American Statesman and Diplomat,'' by author Don Oberdorfer.

To many, he was Senator Mansfield, Majority Leader Mansfield, or Ambassador Mansfield. To us in Montana, he was just Mike. He was our Mike. He was humble, self effacing, and didn't want people making a big fuss about him.

Although he wouldn't have wanted one, I'd like to thank the University of Montana and their alumni for hosting an event here in the Capitol to commemorate the life and times of Mike through this new book.

Mike had three great loves in his life: his wife Maureen, his State of Montana and serving in the United States Senate. Maureen was the love of his life. He always said that his successes were because of her. The last time I visited Mike in the hospital his face lit up when he talked about her. ''What a gal,'' he said. ''What a gal she was.''

Mike was a good friend and a great inspiration to many people, including myself. Mike encouraged me to get into public service, he was my mentor when I was first elected to Congress, and he provided me sage counsel until his death.

Mike would think that tonight's event was too much. That is just the kind of man he was. But it's our job to keep his memory alive and educate others on what a great impact he had on Montana, the Nation, and the world. It's our responsibility to ensure others can learn from his example of working together to do what's right.

The University of Montana Alumni Association, the Maureen and Mike Mansfield Library, the Maureen and Mike Mansfield Center, and the Maureen and Mike Mansfield Foundation here in Washington, D.C. all put forth a great effort to make this event possible. I greatly appreciate their hard work and dedication to the legacy of Maureen and Mike Mansfield.

And finally, I wish to recognize Don Oberdorfer for his persistence and dedication in writing about Mike's life. I thank Don for honoring a great man, our Mike. Montana's Mike Mansfield. He had the hands of a miner, the mind of a scholar, and the heart of a hero. We pay tribute to him and his beloved Maureen.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a horrific double homicide that occurred in 1996. Two lesbian women hiking in Shenandoah National Park were assaulted and gagged. Their assailant slashed each woman's throat, leaving them for dead in the forest. Although still awaiting trial, the man accused of killing the women stated that they deserved to die because they were homosexuals.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

INTERNATIONAL COFFEE CRISIS

Mr. LEAHY. Mr. President, I rise today to speak about the international coffee crisis. With much of the world focused on Iraq and the Middle East, it is perhaps not surprising that a crisis affecting tens of millions people, on virtually every corner of the Earth, has received little attention.

The worldwide price of coffee has plummeted almost 70 percent over the last several years. This has devastated the economies of poor countries in Asia, Africa, and Latin America; it has ruined the livelihoods of millions of people; and it has damaged our foreign aid and counter-narcotics efforts in these countries.

For example, over the last few years, the United States has provided almost $3 billion to Colombia for counter-narcotics assistance. This has made Colombia the top recipient of U.S. assistance outside of the Middle East.

Even though this is an extremely generous amount of aid, the goals and objectives are being undermined by the collapse of coffee prices. Last year, Colombia's President Alvaro Uribe wrote a letter to me, in which he stated:

[T]he impact of the international coffee crisis on Colombian coffee growers has been devastating. In Colombia, more than 800,000 people are directly employed on coffee farms and another three million are dependent on coffee for their livelihood. Colombian coffee farmers are struggling to cover their cost of production, and the problems of oversupply and a decline in coffee prices has brought poverty and uncertainty to Colombia's coffee-growing regions, which were previously free of violence and narcotrafficking activity. Additional support from the United States will help improve this dire situation in Colombia and other developing countries around the world which are also being impacted by oversupply and falling prices.

A range of humanitarian relief agencies, with operations around the world, further support President Uribe's views. For example, an Oxfam report on the topic found:

The coffee crisis is becoming a development disaster whose impact will be felt for a long time. Famlies dependent on money generated by coffee are pulling their children, particularly girls, out of school, can no longer afford basic medicines, and are cutting back on food. Beyond farming families, national economies are suffering. Coffee traders are going out of business, some banks are in trouble, and governments that rely on the export revenues that coffee generates are faced with dramatically declining budgets for education and health programs and little money for debt repayment.

The United States is, by far, the biggest importer of coffee. At the same time, we provide billions of dollars of foreign aid to nations impacted by the coffee crisis. It is common sense. The United States has a strong interest in finding a solution to this international problem.

A couple of years ago, several of us in Congress started asking questions about what the administration is doing to address this issue. It is safe to say that we were disappointed with the answers.

There are some good programs being run by different agencies within the Government. But, there are so many agencies involved—State, USAID, Agriculture, USTR, Treasury—and there are times when one hand does not seem to know what the other is doing. For example, USAID has programs in Latin America to help coffee farmers find alternative livelihoods, because of the

overproduction that exists in the global market. At the same time, we found another program that was encouraging Bolivian farmers to get into coffee production. In other words, two steps forward, one step back.

What is worse, the administration does not seem to have a comprehensive strategy across agencies to effectively address the international coffee crisis. Nothing to get everyone on the same page and working towards the same goal. Nothing that outlines a plan on how to deal with the crisis.

This is not just my opinion, this is the bipartisan, bicameral view in Congress.

To address these shortcomings, a number of us have come together across party lines and from different sides of the Capitol. We have pushed hard to move forward on this issue.

During the final days of the 107th Congress, I along with Senators SPECTER, DODD, and FEINSTEIN, successfully sponsored S. Res. 368, which called attention to the coffee crisis and urged the administration to formulate a comprehensive, multilateral strategy to address the problem. Although this measure passed the Senate, the administration has been slow to respond, and, as a result, we were forced to include a provision in the Fiscal Year 2004 Foreign Operations bill that requires the Secretary of State to report to Congress on any progress made in formulating this strategy.

To this day, the administration has not come forward with this strategy. While we should take care to make sure this strategy is done right, it has taken the administration too long. This is not a situation that will just go away. We have to act, and that makes coming forward with a strategy all that more important. I urge the administration to finish the job.

Here in the Senate we are doing what we can to respond to the crisis. We were successful in getting the Senate to serve fair trade coffee. And, I am also pleased to report that we helped USAID and Green Mountain Coffee enter into a public-private partnership to implement development projects to address the crisis. These were smaller, but important accomplishments.

Other accomplishments include working with the private sector, and encouraging major companies such as Procter and Gamble and Dunkin' Doughnuts to serve fair trade coffee.

Much of the recent debate on the coffee crisis surrounds U.S. membership in the International Coffee Organization (ICO). As Chairman of the Foreign Operations Subcommittee, I included $500,000 in the Fiscal Year 2003 Foreign Operations bill for a U.S. contribution to the ICO, if the United States rejoined by June 1, 2003. This move was hailed by a diverse range of groups, including the National Coffee Association, Oxfam International, several Latin American governments, the Speciality Coffee Association of America, and the Colombian Coffee Federation.

Unfortunately, this deadline has come and gone with no decision. However, it triggered a debate within the administration on the issue of ICO membership. That debate continues to this day.

This is not an indictment on those working on this issue in the administration. To the contrary, those in the State Department, USAID, and other agencies working with Principal Deputy Assistant Secretary of State, Shaun Donnelly, are talented individuals. They have been responsive to concerns raised by Congress, and I know they are working hard to resolve this issue and find a solution to the coffee crisis.

To ensure that these funds were not lost, the Commerce-State-Justice Subcommittee, under the leadership of Senators GREGG and HOLLINGS, honored my request to include another $500,000 for a contribution to the ICO in the Fiscal Year 2004 CJS Appropriations bill. I applaud their leadership on this issue. Along with relentless pressure from Representatives CASS BALLENGER and SAM FARR, the help of the Commerce-State-Justice Subcommittee sent a clear signal to the administration: Congress is not going to go away on this issue.

We were recently informed that the State Department supports the U.S. membership in the ICO. This is a positive step, but the administration as a whole has yet to endorse this view.

What is the hold-up? This process has been dragging on for months. It should end, and the U.S. should rejoin the ICO. This is something that U.S. industry, humanitarian NGOs, key friends and allies, and a bipartisan group in Congress supports.

Some may recall the way the ICO used to operate in the past, working as a cartel to stabilize coffee prices. But, nobody is talking about rejoining the ICO to establish a cartel over the coffee market. The ICO is a reformed organization and its chartering agreement has been substantially rewritten, specifically to get the ICO out of the business of price-fixing. The idea of a coffee cartel is an idea on the ash heap of history. I would not support it. I suspect no one in this Chamber would.

I support U.S. membership in the ICO, but recognize that is by no means a silver bullet. Membership alone is not enough to solve the international coffee crisis. Rather, it is one arrow in the quiver, and it can be an effective tool, when used as an integral part of a comprehensive strategy that includes funding for alternative assistance for coffee farmers, working with friends and allies, and the deep involvement of other international organizations such as the World Bank. This is the appropriate role for the ICO.

There are some compelling reasons for rejoining that have been put forward by experts who follow this issue closely. I want to briefly summarize a few of them:

U.S. participation in the ICO would help strengthen the implementation of resolution 407, which establishes quality guidelines on coffee exports. Although not perfect, ICO resolution 407 is a serious, multilateral attempt to help address the international coffee crisis that a number of economists believe could have a meaningful impact. According to some industry leaders, it also enhances competition in the coffee industry.

U.S. participation would help the ICO become more effective in addressing the coffee crisis. Many European nations have said they would be more willing to invest and commit additional resources to resolving this crisis through the ICO, if the U.S. were participating. The European Community (EC) recently called on the U.S. to rejoin. Because the U.S. and EC are not producing nations, this momentum would help the ICO pursue goals to more effectively address development issues associated with the coffee crisis, while helping the ICO continue to move away from discredited policies of the past.

U.S. membership in the ICO would focus more senior level attention, and inter-agency cooperation, on this important foreign policy issue within the administration. This would go a long way in overcoming some the problems stemming from a lack of coordination between agencies that I mentioned earlier.

The ICO engages in projects to help address the crisis: price risk management for Africa, disease control, and market development projects. Moreover, the ICO is also promoting diversification in cooperation with multilateral agencies such as the FAO, UNCTAD and the World Bank. These strategies could all be enhanced through U.S. membership in the ICO.

ICO membership would send an important signal to the rest of the world that the United States is committed to working collaboratively on every possible solution to this problem. This would be an important diplomatic step on an issue that many of our friends and allies in the developing world care deeply about.

Again, the ICO is not a perfect solution. But, if a $500,000 contribution can help begin to solve a crisis that is undermining billions of dollars in U.S. foreign assistance, devastating the livelihood of millions of people around the word, and causing severe economic damage to key developing countries, I say its well worth the investment.

ADDITIONAL STATEMENTS

IN RECOGNITION OF SCOTT OBENSHAIN, M.D.

• Mr. BINGAMAN. Mr. President, today I wish to recognize Dr. Scott Obenshain, of the University of New Mexico School of Medicine, for his commitment and services to the University and to the people of his State.

In his 32 years at the University of New Mexico School of Medicine, Dr. Obenshain has provided the leadership for many innovative educational programs that have contributed to the

school's reputation as a national and international leader in the field of medical education. His loyalty to generations of students, combined with his respect for them as adult learners, is truly commendable. In addition, Dr. Obenshain's commitment to education is evidenced in his pioneering work to improve learning by creating a curriculum that is student-centered and problem-based.

The leadership that Dr. Scott Obenshain has demonstrated at the University of New Mexico School of medicine has also had a wide impact on the quality of undergraduate medical education. Students are treated with the highest respect, and Dr. Obenshain has set a tone of excellence in the education of our students. His example has left a lasting impression on innumerable graduates of our medical school. The innovations he began at the University of New Mexico have served as models for other schools both in the United States and around the world, and many institutions have benefited from the leadership that Dr. Scott Obenshain has provided over the years.

Finally, Dr. Obenshain has demonstrated continuing dedication to meeting the needs of poor, rural, and underserved communities in New Mexico, and has steadfastly achieved this by including such populations in the primary care curriculum. For example, he implemented the rural clinical practice component for fourth year medical students in 1974, which became a requirement for all students soon thereafter.

Dr. Scott Obenshain is honored today in the Senate because he has served selflessly and widely, and because he has led with distinction.●

OREGON HEALTH CARE HERO

● Mr. SMITH. Mr. President, in every sense of the word, Dr. Allen Merritt is a true health care hero for the State of Oregon. Dr. Merritt is not only a caring and compassionate pediatrician, but also a tireless and dedicated volunteer. His work to serve the physical and mental health needs of children, as well as his work to help enact important state initiatives on behalf of children, serves as an inspiration to us all.

Dr. Merritt has practiced medicine at St. Charles Medical Center in Bend, OR, for the last 7 years. Although Dr. Merritt received his medical degree from the University of Kansas, his entry into the Oregon medical community began at Lewis and Clark University where he received a Certificate in Health Care Administration. Dr. Merritt later received a Masters of Public Administration in Health Care Administration at Portland State University.

In Bend, Dr. Merritt serves multiple organizations dedicated to the well-being of children in Deschutes County and throughout the State. Most notably, Dr. Merritt serves on the Oregon Commission for Children and Families and is a reviewer for the Oregon Board of Medical Examiners. Besides serving children as a pediatrician and respected state leader, Dr. Merritt has also dedicated his time and effort to numerous community charities including Project Stepping Stones, which promotes infant hearing screenings; The Boys and Girls Club; and, Deschutes County Children's Foundation.

As the 2003 recipient of the Oregon Medical Association's Doctor-Citizen of the Year Award, Dr. Merritt was recognized for his immeasurable contributions to health care in the state of Oregon. For dedicating his life's work to the improvement of health care I would like to again recognize Dr. Allen Merritt as an Oregon Health Care Hero.●

TRIBUTE TO STAFF OF THE DISABILITY DETERMINATION SERVICES

● Mr. BAUCUS. Mr. President, I rise today to highlight a small band of employees in my home State who deserve special recognition for the consistent high quality work they do. I am proud and pleased to honor Michelle Thibodeau, Chief of the Disability Determination Services office in Helena, MT, and her entire staff. Special recognition must also go to Cathy Surdock who works on youth claims and has been singled out for her excellence.

My constituents who face disabilities depend on those at the Disability Determination Services office to evaluate their claims and issue a fair and timely decision. Issuing these decisions quickly is of the utmost importance and makes a real difference to a lot of Montanans. The regional Social Security Administration Commissioner in Denver has recognized Montana's Disability Determination Services office for having the Nation's best processing time for claims. The Helena office averages 68 days processing time as compared to the national average of 110 days. This important honor is for work accomplished during Federal fiscal year 2002. This office won the same award for fiscal year 1999. Additionally, in 2001, they were awarded the Commissioner's Citation for Quality. Michelle's office reviews about 12,000 claims for benefits each year, 2000 of which involve children.

This award recognizes the staff ''for exemplary performance in accuracy, timeliness and productivity in providing exceptional service to Montana's citizens with disabilities.'' Montanans that find themselves physically and mentally challenged are grateful for the heroic steps that Michelle's staff has taken to address their needs in a timely fashion. The professionalism, compassion and technical expertise exhibited by the dedicated staff at the Disability Determination Services office is an example for us all.

In closing, I would like to offer my congratulations to Michelle, Cathy and the entire crew at Disability Determination Services and also my thanks for the good work you do daily. This is just another example of neighbor helping neighbor in the great State of Montana.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 11:31 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 3. An act to prohibit the procedure commonly known as partial-birth abortion.

S. 1591. An act to redesignate the facility of the United States Postal Service located at 48 South Broadway, Nyack, New York, as the ''Edward O'Grady, Waverly Brown, Peter Paige Post Office Building''.

The enrolled bills, previously signed by the Speaker of the House, were signed on today, October 23, 2003, by the President pro tempore (Mr. STEVENS).

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1781. A bill to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 23, 2003, she had presented to the President of the United States the following enrolled bill:

S. 1591. An act to redesignate the facility of the United States Postal Service located at 48 South Broadway, Nyack, New York, as the ''Edward O'Grady, Waverly Brown, Peter Paige Post Office Building''.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4882. A communication from the Regulatory Contact, Grain Inspection, Packers,

and Stockyards Administration, transmitting, pursuant to law, the report of a rule entitled ''Official Performance Requirements for Grain Inspection Equipment'' (RIN0580–AA57) received on October 23, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4883. A communication from the State Director, Forest Service, Department of Agriculture, and the Regional Forester, Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the environmental impact statement for the Santa Rosa and San Jacinto Mountains National Monument in Riverside, California; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4884. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report of a violation of the Anti Deficiency Act, case number 02–02; to the Committee on Armed Services.

EC–4885. A communication from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''31 CFR Part 575—Removal of Certain Provisions of the Iraqi Sanctions Regulations; Interpretive Guidance'' received on October 23, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–4886. A communication from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Reporting, Procedures and Penalties Regulations; Iraqi Sanctions Regulations; Foreign Terrorist Organizations Sanctions Regulations; Foreign Narcotics Kingpin Sanctions Regulations'' received on October 23, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–4887. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: [COTP Prince William Sound 03–002], [CGD09–03–270], [COTP Western Alaska 03-003]'' (RIN1625–AA00) received on October 23, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4888. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: [CGD05–02–108] Atlantic Intracoastal Waterway, South Branch of the Elizabeth River to the Albemarle and Chesapeake Canal, Chesapeake, VA'' (RIN1625–AA09) received on October 23, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4889. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: [CGD05–03–153] Cove Point Liquefied Gas Terminal, Chesapeake Bay, Maryland'' (RIN1625–AA00) received on October 23, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4890. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; [08–03–041] Lower Grand River (Alternate Route), Gross Tete, LA'' (RIN1625–AA09) received on October 23, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4891. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, the Commission's monthly status report on licensing activities and regulatory duties; to the Committee on Environment and Public Works.

EC–4892. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Modifications to the Attainment Plans for the Baltimore Area and Cecil County Portion of the Philadelphia Area to Revise the Mobile Budgets Using MOBILE6'' (FRL#7578–1) received on October 23, 2003; to the Committee on Environment and Public Works.

EC–4893. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Oregon; Grants Pass PM–10 Nonattainment Area Redesignation Area to Attainment and Designation of Areas for Air Quality Planning Purposes'' (FRL#7572–7) received on October 23, 2003; to the Committee on Environment and Public Works.

EC–4894. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Oregon; Klamath Falls PM–10 Nonattainment Area Redesignation to Attainment and Designation of Area for Air Quality Planning Purposes'' (FRL#7568–7) received on October 23, 2003; to the Committee on Environment and Public Works.

EC–4895. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ada County/Boise, Idaho Area'' (FRL#7568–9) received on October 23, 2003; to the Committee on Environment and Public Works.

EC–4896. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Prevention of Significant Deterioration (PSD) and Non-attainment New Source Review (NSR): Equipment Replacement Provision of the Routine Maintenance, Repair and Replacement Exclusion'' (FRL#7575–9) received on October 23, 2003; to the Committee on Environment and Public Works.

EC–4897. A communication from the Secretary to the Council of the District of Columbia, transmitting, a copy of Council Resolution 15–249 relative to budget autonomy; to the Committee on Governmental Affairs.

EC–4898. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation dated October 22, 2003; to the Committee on Governmental Affairs.

EC–4899. A communication from the Assistant Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, transmitting, pursuant to law, the report of a rule entitled ''Electronic Signatures; Electronic Submission of Forms (200R–458P)'' (RIN1513–AA61) received on October 23, 2003; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1400. A bill to develop a system that provides for ocean and coastal observations, to implement a research and development program to enhance security at United States ports, to implement a data and information system required by all components of an integrated ocean observing system and related research, and for other purposes (Rept. No. 108–171).

By Mr. INHOFE, from the Committee on Environment and Public Works, with amendments:

S. 269. A bill to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species (Rept. No. 108–172).

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 239. A resolution designating November 7, 2003, as ''National Native American Veterans Day'' to honor the service of Native Americans in the United States Armed Forces and the contribution of Native Americans to the defense of the United States.

S. Res. 240. A resolution designating November 2003 as ''National American Indian Heritage Month''.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1194. A bill to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1743. A bill to permit reviews of criminal records of applicants for private security officer employment.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

Army nomination of Maj. Gen. Robert T. Clark.

By Mr. SHELBY for the Committee on Banking, Housing, and Urban Affairs.

*Paul S. Atkins, of Virginia, to be a Member of the Securities and Exchange Commission for a term expiring June 5, 2008.

*Ben S. Bernanke, of New Jersey, to be a Member of the Board of Governors of the Federal Reserve System for a term of fourteen years from February 1, 2004.

*Roger Walton Ferguson, Jr., of Massachusetts, to be Vice Chairman of the Board of Governors of the Federal Reserve System for a term of four years.

By Mr. McCAIN for the Committee on Commerce, Science, and Transportation.

Karen K. Bhatia, of Maryland, to be an Assistant Secretary of Transportation.

*Gwendolyn Brown, of Virginia, to be Chief Financial Officer, National Aeronautics and Space Administration.

*Charles Darwin Snelling, of Pennsylvania, to be a Member of the Board of Directors of the Metropolitan Washington Airports Authority for the remainder of the term expiring May 30, 2006.

Coast Guard nomination of Capt. John C. Acton.

Coast Guard nominations beginning Capt. Arthur E. Brooks and ending Capt. Timothy S. Sullivan, which nominations were received by the Senate and appeared in the Congressional Record on September 29, 2003.

Mr. McCAIN. Mr. President, for the Committee on Commerce, Science, and Transportation, I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to

save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Coast Guard nominations beginning Christina M. Schultz and ending Kurt M. Van Hauter, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2003.

Coast Guard nominations beginning Daniel B. Abel and ending Paul E. Wiedenhoeft, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2003.

Coast Guard nominations beginning Michael A. Alfultis and ending Kurt A. Sebastian, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2003.

Coast Guard nominations beginning Delano G. Adams and ending Russell H. Zullick, which nominations were received by the Senate and appeared in the Congressional Record on October 16, 2003.

By Mr. HATCH for the Committee on the Judiciary.

Dale S. Fischer, of California, to be United States District Judge for the Central District of California.

Gary L. Sharpe, of New York, to be United States District Judge for the Northern District of New York.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CAMPBELL:

S. 1776. A bill to amend title 49, United States Code, relating to responsibility for intermodal equipment compliance with commercial motor vehicle safety requirements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. LANDRIEU:

S. 1777. A bill for the relief of Marcela Silva do Nascimento; to the Committee on the Judiciary.

By Ms. MURKOWSKI:

S. 1778. A bill to authorize a land conveyance between the United States and the City of Craig, Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN (for himself, Mr. INOUYE, Mr. DASCHLE, Mrs. MURRAY, Mr. DAYTON, Mr. JOHNSON, Ms. CANTWELL, and Ms. STABENOW):

S. 1779. A bill to amend title XVIII of the Social Security Act to provide for fairness in the provision of medicare services for Indians; to the Committee on Finance.

By Mr. BIDEN (for himself, Mr. HATCH, Mr. GRASSLEY, and Mr. HARKIN):

S. 1780. A bill to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors; to the Committee on the Judiciary.

By Mr. DORGAN (for himself, Ms. SNOWE, Ms. STABENOW, Mr. JOHNSON, Mr. PRYOR, Mr. DAYTON, Mr. LEAHY, Mr. LEVIN, Mr. FEINGOLD, Mr. MCCAIN, and Mr. JEFFORDS):

S. 1781. A bill to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes; read the first time.

By Mr. DASCHLE (for Mr. KERRY):

S. 1782. A bill to provide duty-free treatment for certain tuna; to the Committee on Finance.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. ALLEN):

S. 1783. A bill to provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. FEINSTEIN (for herself, Mr. GRASSLEY, Mr. KOHL, Mr. BIDEN, Mr. KYL, and Mr. HARKIN):

S. 1784. A bill to eliminate the safe-harbor exception for certain packaged pseudoephedrine products used in the manufacture of methamphetamine; to the Committee on the Judiciary.

By Mr. KYL:

S.J. Res. 20. A joint resolution expressing the sense of Congress that the number of years during which the death tax under subtitle B of the Internal Revenue Code of 1986 is repealed should be extended, pending the permanent repeal of the death tax; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. BROWNBACK (for himself, Ms. LANDRIEU, Mr. BIDEN, Mr. HATCH, and Mr. MCCAIN):

S. Res. 250. A resolution commending the people and Government of Romania, on the occasion of the visit of Romanian President Ion Iliescu to the United States, for the important progress they have made with respect to economic reform and democratic development, as well as for the strong relationship between Romania and the United States; to the Committee on Foreign Relations.

By Mr. BROWNBACK (for himself, Mr. LIEBERMAN, Mr. DORGAN, Mr. BAYH, Mrs. CLINTON, Mr. COLEMAN, Mr. CRAIG, Mr. CRAPO, Mr. DASCHLE, Mr. DURBIN, Mr. ENSIGN, Mrs. DOLE, Mr. ENZI, Mrs. FEINSTEIN, Mr. GRAHAM of South Carolina, Mr. HATCH, Mr. INHOFE, Mr. LAUTENBERG, Mr. LOTT, Mr. KOHL, Ms. MURKOWSKI, Mr. NELSON of Nebraska, Mr. NICKLES, Mr. SANTORUM, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Mr. SPECTER, and Mr. WYDEN):

S. Res. 251. A resolution designating October 27, 2003, as ''International Religious Freedom Day''; considered and agreed to.

By Mr. HOLLINGS:

S. Res. 252. A resolution designating the month of February 2004 as ''National Cancer Prevention Month''; considered and agreed to.

By Mr. DURBIN (for himself, Mr. CORNYN, Mr. BINGAMAN, Mr. BAYH, Mr. FEINGOLD, and Mr. INOUYE):

S. Con. Res. 75. A concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued to promote public awareness of Down syndrome; to the Committee on Governmental Affairs.

ADDITIONAL COSPONSORS

S. 533

At the request of Mr. SCHUMER, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from New Jersey (Mr. CORZINE), the Senator from Minnesota (Mr. DAYTON), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 533, a bill to provide for a medal of appropriate design to be awarded by the President to the next of kin or other representative of those individuals killed as a result of the terrorist attacks of September 11, 2001.

S. 595

At the request of Mr. HATCH, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 664

At the request of Mr. HATCH, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 664, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 736

At the request of Mr. ENSIGN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 756

At the request of Mr. THOMAS, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 756, a bill to amend the Internal Revenue Code of 1986 to modify the qualified small issue bond provisions.

S. 875

At the request of Mr. KERRY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 976

At the request of Mr. WARNER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 976, a bill to provide for

the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 1156

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 1156, a bill to amend title 38, United States Code, to improve and enhance the provision of long-term health care for veterans by the Department of Veterans Affairs, to enhance and improve authorities relating to the administration of personnel of the Department of Veterans Affairs, and for other purposes.

S. 1200

At the request of Ms. CANTWELL, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1200, a bill to provide lasting protection for inventoried roadless areas within the National Forest System.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1304

At the request of Ms. SNOWE, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1304, a bill to improve the health of women through the establishment of Offices of Women's Health within the Department of Health and Human Services.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1548

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1548, a bill to amend the Internal Revenue Code of 1986 to provide incentives for the production of renewable fuels and to simplify the administration of the Highway Trust Fund fuel excise taxes, and for other purposes.

S. 1567

At the request of Mr. FITZGERALD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1567, a bill to amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, and for other purposes.

S. 1664

At the request of Mr. HARKIN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1664, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to provide for the enhanced review of covered pesticide products, to authorize fees for certain pesticide products, and to extend and improve the collection of maintenance fees.

S. 1666

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1666, a bill to amend the Public Health Service Act to establish comprehensive State diabetes control and prevention programs, and for other purposes.

S. 1757

At the request of Mr. FRIST, his name was added as a cosponsor of S. 1757, a bill to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts.

S. RES. 239

At the request of Ms. MURKOWSKI, her name was added as a cosponsor of S. Res. 239, a resolution designating November 7, 2003, as ''National Native American Veterans Day'' to honor the service of Native Americans in the United States Armed Forces and the contribution of Native Americans to the defense of the United States.

At the request of Mr. CAMPBELL, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. Res. 239, supra.

S. RES. 240

At the request of Ms. MURKOWSKI, her name was added as a cosponsor of S. Res. 240, a resolution designating November 2003 as ''National American Indian Heritage Month''.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL:

S. 1776. A bill to amend title 49, United States Code, relating to responsibility for intermodal equipment compliance with commercial motor vehicle safety requirements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. CAMPBELL. Mr. President, today I am introducing the Intermodal Equipment Safety and Responsibility Act of 2003. This bill is a companion bill to language originally brought to the floor of the House of Representatives by my good friend from South Carolina, Representative HENRY BROWN.

Every day, literally hundreds of unsafe intermodal chassis carrying containers leave U.S. ports and travel on our public roads and highways, endangering not only the drivers of these vehicles but also the general public which shares the road with them. This bill will go a long way to ensure that only safe, roadworthy chassis are released for use and remove this often deadly threat to highway safety.

This legislation places responsibility for equipment safety and compliance with Federal and State regulations squarely where it belongs—with those who own or control the equipment. Under current law, the brunt of responsibility for equipment safety and compliance is placed on port drivers. The trucking companies and commerical drivers that service the ports do not own chassis, but are obligated by terminal operators to use the chassis provided to transport intermodal containers to and from the ports. This bill would require equipment controllers to inspect and repair intermodal equipment to meet all safety regulations prior to offering it for interchange, and to certify and document that such inspections have been performed. In addition, it gives the Federal Motor Carrier Safety Administration the authority to enter a port facility to review the inspection process and assure compliance.

This Act also requires that citations issued for violations related to the defective condition of an intermodal chassis that is not owned by that motor carrier or driver, will not affect the motor carrier's overall safety rating or the motor carrier's driving record.

The objective of this legislation is simple: to ensure that equipment controllers perform regular maintenance on intermodal equipment and give truckers safe and roadworthy equipment in compliance with current USDOT safety regulations. Professional truck drivers are not professional mechanics, nor should they be. Unfortunately, too many equipment controllers do not perform the required systematic inspection and maintenance, and truck drivers are expected to find not only visible defects, but also safety defects that are not visible.

I am joined by the Colorado Motor Carriers Association, the International Brotherhood of Teamsters, International Longshoreman's Association, the International Longshore and Warehouse Union, the American Trucking Association and the Truckload Carriers Association who all worked together diligently to reach a consensus of support for this legislation.

The traveling American public deserves to be confident that the roads they share with truckers are safe. I urge my colleagues to support this bill and ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 1776

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 ''Intermodal Equipment Safety and Responsibility Act of 2003''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Promoting safety on United States highways is a national priority. The Secretary of Transportation has promulgated

the Federal Motor Carrier Safety Regulations to further this purpose. The systematic maintenance, repair, and inspection of equipment traveling on public highways in interstate commerce are an integral part of this safety regime.

(2) Intermodal transportation plays a significant role in expanding the United States economy, which depends heavily upon the ability to transport goods by various modes of transportation.

(3) Although motor carriers and their drivers often receive trailers, chassis, containers, and other items of intermodal equipment to be transported in interstate commerce, they do not possess the requisite level of control or authority over this intermodal equipment to perform the systematic maintenance, repair, and inspection necessary to ensure compliance with the applicable Federal Motor Carrier Safety Regulations and to ensure the safety of United States highways.

(4) As a result of roadside inspections, motor carriers and their drivers are cited and fined for violations of the Federal Motor Carrier Safety Regulations attributable to intermodal equipment that they do not have the opportunity to systematically maintain. These violations negatively affect the safety records of motor carriers.

SEC. 3. PURPOSE.

The purpose of this Act is to ensure that only those parties that control intermodal equipment transported on public highways in the United States (and thus have the opportunity and authority to systematically maintain, repair, and inspect the intermodal equipment) have legal responsibility for the safety of that equipment as it travels in interstate commerce.

SEC. 4. DEFINITIONS.

Section 5901 of title 49, United States Code, is amended by adding at the end the following new paragraphs:

''(9) 'motor carrier' includes—

''(A) a motor private carrier, as defined in section 13102 of this title; and

''(B) an agent of a motor carrier.

''(10) 'intermodal equipment'—

''(A) means equipment that is commonly used in the intermodal transportation of freight over public highways as an instrumentality of foreign or interstate commerce; and

''(B) includes a trailer, chassis, container, and any device associated with a trailer, chassis, or container.

''(11) 'equipment interchange agreement', with respect to intermodal equipment, means a written document that—

''(A) is executed by a controller of the equipment, or its agent, and a motor carrier; and

''(B) establishes the responsibilities and liabilities of both parties as they relate to the interchange of the equipment.

''(12) 'controller', with respect to intermodal equipment, means any party that has any legal right, title, or interest in the equipment, except that a motor carrier—

''(A) is not a controller of the equipment solely because it provides or arranges for any part of the intermodal transportation of the equipment; and

''(B) may not be considered a controller of the equipment if authority for systematic maintenance and repairs of the equipment has not been delegated to the motor carrier.

''(13) 'interchange', with respect to intermodal equipment, means the act of providing the equipment to a motor carrier for the purpose of transporting the equipment for loading or unloading by any party or repositioning the equipment for the benefit of the equipment controller, except that such term does not mean the leasing of the equipment to a motor carrier for use in the motor carrier's over-the-road freight hauling operations.

''(14) 'applicable safety regulations' means the regulations applicable to controllers of intermodal equipment under section 5909 of this title.''.

SEC. 5. JURISDICTION OVER EQUIPMENT CONTROLLERS.

Chapter 59 of title 49, United States Code, is amended by adding at the end the following new section:

''§ 5909. Jurisdiction over equipment controller

''The authority of the Secretary of Transportation to prescribe regulations on commercial motor vehicle safety under section 31136 of this title shall apply to controllers of intermodal equipment that is interchanged or to be interchanged.''.

SEC. 6. EQUIPMENT CONTROLLER RESPONSIBILITY.

(a) IN GENERAL.—Chapter 59 of title 49, United States Code, as amended by section 5, is further amended by adding at the end the following new section:

''§ 5910. Equipment inspection, repair, and maintenance

''(a) IN GENERAL.—Notwithstanding any provision of an equipment interchange agreement, a controller of intermodal equipment that is interchanged or to be interchanged—

''(1) shall be responsible and held liable for the systematic inspection, maintenance, and repair of the equipment;

''(2) shall, each time prior to offering a motor carrier the equipment for interchange, inspect the equipment and provide such maintenance on, and make such repairs to, the equipment to ensure that such equipment complies with all applicable safety regulations at all times; and

''(3) shall not offer intermodal equipment to a motor carrier unless such equipment has been inspected and repaired as necessary to comply with such regulations.

''(b) REIMBURSEMENT.—

''(1) IN GENERAL.—In the event that a repair of interchanged intermodal equipment is necessary while in a motor carrier's possession in order to comply with applicable safety regulations, the controller of the equipment shall promptly reimburse the motor carrier for the actual expenses that are incurred by the motor carrier for the necessary repair, together with compensation for any loss incurred by the motor carrier by reason of delay in the transportation of the equipment necessitated by the need for the repair.

''(2) EXCEPTION.—The controller of intermodal equipment shall not be liable to provide reimbursement or compensation for a repair to a motor carrier under paragraph (1) if the motor carrier's negligence or willful misconduct caused the condition requiring the repair.

''(c) FINES.—The Secretary may prescribe fines against controllers of intermodal equipment for violations of this section.''.

SEC. 7. SAFETY COMPLIANCE.

(a) IN GENERAL.—Chapter 59 of title 49, United States Code, as amended by section 6, is further amended by adding at the end the following new section:

''§ 5911. Compliance with safety regulations

''(a) LIABILITY OF EQUIPMENT CONTROLLER.—Notwithstanding any provision of an equipment interchange agreement, the controller of intermodal equipment covered by such agreement shall be liable for each violation of applicable safety regulations that is attributable to such equipment and shall pay any fine, penalty, and damages resulting from such violation, except that the controller of such equipment shall not be liable for any such violations that is proximately caused by the negligence or willful misconduct of a motor carrier that is not the controller of such equipment.

''(b) LIMITATION ON LIABILITY OF MOTOR CARRIER.—A motor carrier who receives intermodal equipment through interchange may not be held liable for a violation of applicable safety regulations that is attributable to such equipment other than under the circumstances and to the extent provided in subsection (a).

''(c) LIMITATION ON EFFECT.—No record or report of a violation of applicable safety regulations attributable to interchanged intermodal equipment, whether issued by a Federal, State, or local law enforcement authority, shall have any effect on a motor carrier's overall safety rating or safety status measurement system score, as determined by the Federal Motor Carrier Safety Administration, or on a driving record of a driver for the motor carrier unless such violation was proximately caused by the negligence or willful misconduct of the motor carrier or driver, respectively.

''(d) PROCEDURE FOR RECORDS CORRECTIONS.—The Secretary of Transportation shall prescribe an expedited procedure to correct records or reports of violations that under subsection (c) should not have been adversely affected by a violation of applicable safety regulations.''.

(b) TIME FOR PRESCRIBING RECORDS CORRECTION PROCEDURES.—The Secretary shall issue final regulations setting forth the expedited procedures required by section 5910(d) of title 49, United States Code, not later than 180 days after the date of enactment of this Act.

SEC. 8. AUTHORITY TO INSPECT.

Chapter 59 of title 49, United States Code, as amended by section 7, is further amended by adding at the end the following new section:

''§ 5912. Authority to inspect

''(a) AUTHORITY.—The Secretary of Transportation is authorized to enter any facility of a controller of intermodal equipment interchanged for use on a public highway in order to inspect the equipment to determine whether the equipment complies with the applicable regulations.

''(b) INSPECTION PROGRAM.—The Secretary shall establish and implement with appropriate staffing an inspection and audit program at facilities of controllers of intermodal equipment in order to make determinations under subsection (a). Inspection of equipment and maintenance records for such equipment at such facility shall take place not less frequently than once every 3 months.

''(c) NON-COMPLYING EQUIPMENT.—Any intermodal equipment that is determined under this section as failing to comply with applicable safety regulations shall be placed out of service and may not be used on a public highway until the repairs necessary to bring such equipment into compliance have been completed. Repairs of equipment placed out of service shall be documented in the maintenance records for such equipment.''.

SEC. 9. PROHIBITION ON RETALIATION.

Chapter 59 of title 49, United States Code, as amended by section 8, is further amended by adding at the end the following new section:

''§ 5913. Penalties for retaliation

''(a) RETALIATION PROHIBITED.—A controller of intermodal equipment may not take any action to threaten, coerce, discipline, discriminate, or otherwise retaliate against a motor carrier in response to a request made by the motor carrier for maintenance or repair of equipment intended for interchange in order to comply with the applicable safety regulations.

''(b) FAILURE TO TIMELY PROVIDE SAFE EQUIPMENT DEEMED TO BE RETALIATION.—Upon receiving a motor carrier's request for maintenance or repair of intermodal equipment to be picked up by the motor carrier in an interchange of equipment, the controller of intermodal equipment shall be considered to have retaliated against the motor carrier for the purposes of this section if the controller of intermodal equipment fails to provide the motor carrier with the equipment in a condition compliant with the applicable safety regulations within 60 minutes after the motor carrier arrives to pick up the equipment at the place where the equipment is to be picked up.

''(c) PENALTY.—A controller of intermodal equipment that violates subsection (a) shall be liable to the United States Government for a civil penalty of up to $10,000 for each violation.''.

SEC. 10. DELEGATION OF MAINTENANCE RESPONSIBILITY.

Chapter 59 of title 49, United States Code, as amended by section 9, is further amended by adding at the end the following new section:

''§ 5914. Maintenance responsibility

''A controller of intermodal equipment may not delegate its responsibility to systematically maintain and repair equipment intended for interchange to a motor carrier or motor carrier agent in an equipment interchange agreement.''.

SEC. 11. COMPATIBILITY OF STATE LAWS.

(a) IN GENERAL.—Chapter 59 of title 49, United States Code, as amended by section 10, is further amended by adding at the end the following new section:

''§ 5915. Compatibility of State laws

''(a) PREEMPTION GENERALLY.—Except as provided in subsection (b) or as otherwise authorized by Federal law, a law, regulation, order, or other requirement of a State or political subdivision of a State, or of a tribal organization, is preempted if compliance with such law, regulation, order, or other requirement would preclude compliance with a requirement imposed under this chapter.

''(b) CERTAIN RULES NOT PREEMPTED.—A law, regulation, order, or other requirement of a State or political subdivision of a State, or of a tribal organization, shall not be preempted under subsection (a) if such law, regulation, order, or other requirement is more stringent than, but otherwise compatible with, a requirement under this chapter.

''(c) TRIBAL ORGANIZATION DEFINED.—In this section, the term 'tribal organization' has the meaning given such term in section (4)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(1)).''.

SEC. 12. REPEAL OF OBSOLETE PROVISION.

Section 5907 of title 49, United States Code, is repealed.

SEC. 13, CLERICAL AMENDMENTS.

The table of sections at the beginning of such chapter is amended—

(1) by striking the item relating to section 5907; and

(2) by adding at the end the following:

''5909. Jurisdiction over equipment controller.
''5910. Equipment inspection, repair, and maintenance.
''5911. Compliance with safety regulations.
''5912. Authority to inspect.
''5913. Penalties for retaliation.
''5914. Maintenance responsibility.
''5915. Compatibility of State laws.''.

SEC. 14. IMPLEMENTING REGULATIONS.

(a) REGULATIONS.—The Secretary of Transportation, after notice and opportunity for comment, shall issue regulations implementing the provisions of this Act. The regulations shall be issued as part of the Federal Motor Carrier Safety Regulations of the Department of Transportation. The implementing regulations shall include—

(1) a requirement to identify controllers of intermodal equipment that is interchanged or intended for interchange in intermodal transportation;

(2) a requirement to match such equipment readily to its controller through a unique identifying number;

(3) a requirement to ensure that each controller of intermodal equipment maintains a system of maintenance and repair records for such equipment;

(4) a requirement to evaluate the compliance of controllers of intermodal equipment with the applicable Federal Motor Carrier Safety Regulations;

(5) a provision that prohibits controllers of intermodal equipment that fail to attain satisfactory compliance with such regulations from authorizing the placement of equipment on public highways;

(6) a requirement for the Secretary to consider the effect that adequate maintenance facilities may have on safety condition of equipment;

(7) a process by which motor carriers and agents of motor carriers may anonymously petition the Federal Motor Carrier Safety Administration to undertake an investigation of a noncompliant controller of intermodal equipment;

(8) administrative procedures to resolve disputes arising under the regulations; and

(9) the inspection and audit program required under section 5912(b) of title 49, United States Code, as added by section 8.

(b) TIME FOR ISSUING REGULATIONS.—The regulations required under subsection (a) shall be developed pursuant to a rulemaking proceeding initiated not later than 120 days after the date of the enactment of this Act and shall be issued not later than one year after such date of enactment.

(c) DEFINITIONS.—For the purposes of this section, the definitions set forth in section 5901 of title 49, United States Code, as amended by section 4, shall apply.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Federal Motor Carrier Safety Administration such sums as may be necessary for the establishment and implementation of the inspection program required under section 5912 of title 49, United States Code, as added by section 8.

SEC. 16. EFFECTIVE DATE.

Sections 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of this Act and the amendments made by such sections shall take effect 30 days after the date of the enactment of this Act.

By Ms. MURKOWSKI:

S. 1778. A bill to authorize a land conveyance between the United State and the City of Craig, Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, today I introduce along with my colleague, Senator STEVENS, an important bill that will facilitate Forest Service land management on Prince of Wales Island and help community expansion and development. The City of Craig is the economic center of Prince of Wales Island, the third largest island in the country. The town contains the major retail shopping and service outlets on the island and island residents drive up to a hundred miles round trip to come to town for medical services and shopping. Craig also has the most active and largest commercial fishing harbor and fleet on the island.

Due to land selection conflicts between the Forest Service and the State of Alaska in the 1960's, the city of Craig received no municipal entitlement land. This legislation will help alleviate some of the loss to the city from the lack of an entitlement.

One of the Forest Service's main administrative facilities, the Craig Ranger District Station is located in Craig. The Craig Ranger has management authority over approximately one million acres on Prince of Wales Island. It is critical that the Forest Service has the tools it needs to provide good management for that part of the island. One of these tools is the presence of some Federal land near the Craig Ranger Station. Right now, there is not any Forest Service land near the Ranger Station. In an unusual situation for Alaska, the Ranger Station is an in holding among private, state, and City owned land.

This legislation would provide for a three way conveyance process which would result in three parcels of land now owned by the City being conveyed into the National Forest and an in holding owned by a private entity being acquired by the City.

To use the vernacular, this is one of those situations people like to describe as ''win-win.'' Providing a recreational opportunity in the Forest at Craig benefits the public and the city of Craig would obtain land vital to its future community development plan.

What our legislation does is authorize the Federal Government to accept conveyance of land from the City of Craig and authorize an appropriation for land acquisition. The funding would be used by the city of Craig to purchase the private land at Craig. In return the city would convey to the Federal Government up to 346 acres of land it now owns to the Tongass National Forest. This land is highly prized for local recreation and would provide the Craig Ranger District with a missing piece of its management scheme by providing a recreation site within short walking distance of the Ranger Station.

Right now, visitors to the Forest come to the Craig Ranger Station to orient themselves to the Forest. One of the things they look for is onsite recreation in the Forest from the Ranger Station. But there is none. Because of the land conveyance status directly around Craig, there is no Forest land in that area.

However, the city of Craig owns almost 350 acres of prime recreational land including a dedicated trail in the immediate vicinity from the Ranger Station. The Forest should own this land so that it can integrate the parcel into its land management plans.

The property to be acquired by the city of Craig is a cannery site dating from the early 1900's which has not been used since the early 1980's. It is prime land for the city to redevelop in

order to improve its community management plan and to provide economic stimulus in Craig. The parcel includes both uplands and tidelands and could be used by Craig to develop a good port and harbor and to provide first class land for retail merchants and other community services.

Senator STEVENS and I strongly support the needs of Craig in developing its local economy.

The entire island is in transition. In the early 1980's, the city and Prince of Wales Island were the center of a vibrant timber based economy that provided thousands of direct and indirect jobs to the Island. Much of that is now gone as a result of unfortunate Federal policies which have devastated the timber based economy on Prince of Wales Island and much of Southeastern Alaska.

According to unemployment data published by the Alaska Department of Labor, unemployment rates in Craig's census area regularly exceed 20 percent. Their annual rate of unemployment is typically more than twice the national average.

We must help Craig in its transition to another economy. The city leaders are dynamic and visionary people who have provided real leadership on the island. They have worked hard to help maintain the remaining timber plant at Klawock to provide year round employment to city and Island residents. They have organized along with their neighbors, the Prince of Wales Community Advisory Council, an association of municipalities and Native and non Native communities to work as a team on island wide projects.

Passage of this legislation is critical to the future of the city of Craig. It will provide a great management tool to the Forest Service and increase recreational opportunities for the local and visiting public.

I urge my colleagues to join me in moving forward on this legislation. All of the conveyances in the legislation will be subject to appraisals as required by the Federal Government. The Federal Government will receive equal value in land from the city. The passage of this Act is good for the public and for the residents of Craig.

By Mr. BINGAMAN (for himself, Mr. INOUYE, Mr. DASCHLE, Mrs. MURRAY, Mr. DAYTON, Mr. JOHNSON, Ms. CANTWELL, and Ms. STABENOW):

S. 1779. A bill to amend title XVIII of the Social Security Act to provide for fairness in the provision of medicare services for Indians; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I am introducing today the Medicare Indian Health Fairness Act of 2003 with Senators INOUYE, DASCHLE, MURRAY, DAYTON, JOHNSON, CANTWELL, and STABENOW. This legislation would take a number of steps to improve the delivery of health care to Native Amerians through Medicare and the Indian Health Service, IHS, system.

First and foremost, Indian Health Service and tribal hospitals and clinics, which provide health care to American Indians on or near reservations and to Alaska Natives, are currently unable to bill for all Medicare Part B services. In effect, the Indian Health Service is subsidizing the Medicare program because those services, which would otherwise be paid for by Medicare, are instead paid for by IHS, which is horribly underfunded.

In 2000, IHS hospitals and clinics were made eligible to bill Medicare for certain Part B services for the first time, including services delivered by physicians and certain other practitioners, but those services were limited and denied payment for Part B items and services, such as the following: Durable medical equipment—this includes such items as wheelchairs, as well as blood testing strips and blood monitors for diabetes patients, which is a severe problem among Native Americans; home and some institutional dialysis supplies and equipment—since the prevalence of diabetes in American Indians—Alaska Natives is three times the rate in the general U.S. population, Indian people experience a high rate of renal disease, including end state renal disease; cancer screening; pap smears; glaucoma screening; clinic or hospital-based ambulance services; prosthetic devices; covered vaccines, including hepatitis B, pneumococcal and influenza chemotherapy drugs; and clinical laboratory services.

This legislation would simply make these Indian health facilities and providers eligible for payment for all Part B Medicare-covered items and services to the same extent that any other provider would be eligible for payment.

Furthermore, the bill assures that Native Americans should have the same access to Medicare services as any other American. If IHS providers are unable to bill for such Medicare services, IHS budget shortfalls may result in rationing and delays in treatment. For some, it means going out of the IHS system to get prompt service, as other providers are able to bill the Medicare program. Native Americans and IHS providers should not be subject to such barriers to care and payment. Nor should they be subject to such complexity, as they are only prohibited from billing and receiving payment for certain Part B services.

There is absolutely no policy rationale for limiting the payment to IHS, tribal hospitals and clinics to only certain Medicare Part B services. I urge the Senate to end this unfortunate disparity.

Fortunately, identical language has been included in S. 1, the Medicare prescription drug bull that passed the Senate earlier this month. I offered an amendment with Senator DASCHLE, amendment No. 973, on the Senate floor and was pleased that it was accepted by Chairman GRASSLEY and Ranking Member BAUCUS accepted it as part of the manager's amendment prior to final passage of the bill.

In addition to that important provision, the ''Medicare Indian Health Fairness Act'' includes another provision that was adopted as part of S. 1 as a Bingaman amendment during the Finance Committee mark-up. This provision requires Medicare providers to charge no more than Medicare rates for inpatient hospital services provided to Indians who are eligible for contract health services from the Indian Health Service, tribally operated health programs, and urban Indian organizations.

This allows IHS to maximize its purchase of contract health services, just as is done by the Department of Veterans Affairs and the Department of Defense. Since the contract health services, CHS, account is chronically underfunded, IHS and the tribes seriously ration and often exhaust those funds before the end of the fiscal year. In fiscal year 2001 alone, the Indian Health Service had insufficient funding to provide services for over 100,000 cases that met its medical priority criteria and denied 22,000 other cases of medically necessary care which did not meet IHS medical priorities. Therefore, this section of the bill would enable IHS and tribes to achieve greater economy for the provision of contract health services.

The Department of Health and Human Services Office of Inspector General's Cost-Saver Handbook has annually made this recommendation. As per its 2003 Red Book or cost-saver handbook reads:

> As a federal purchaser of inpatient health care from the private sector, IHS should receive rates commensurate with those received by other federal agencies that engage in similar purchases [such as the VA and DOD].

The Inspector General adds:

> If the favorable Medicare rates were legislatively required, the dollars saved could be applied to the backlog of patient services that cannot be accommodated in the Contract Health Services program.

And last, the legislation includes a section intended to bring a measure of consistency, rationality and efficiency to the Medicare payment rate for all clinics in the Indian Health Service-supported health care system. This language creates a uniform payment methodology that would be available to all IHS and tribal clinics and corrects the current situation where payment rates differ widely—based not on the nature of the services a clinic provides, but on whether the facility is operated by the IHS or operated by a tribe, and whether the clinic is considered provider-based or free-standing. Since all clinics provide primary patient care and arrange for secondary, tertiary and specialty care on a referral basis, there is no rational reason for the wide disparity in the Medicare payment methodologies for these facilities.

The legislation would give all Indian clinics the ability to collect reimbursement from the same IHS–CMS all-inclusive rate. Application of the same

all-inclusive rate to all clinics would have the added value of being efficient and economical to use at the clinic level and would apply the same payment method in Medicare, by which IHS-funded clinics are reimbursed, as they receive in Medicaid.

This section of the bill was the only one not included in S. 1, but the rationale for it makes it an important component of this bill and something we hope to see passed into law as well.

Although these provisions address a diversity of problems IHS providers and clinics have with respect to the Medicare program, they are critical and we should pass all of these provisions either as part of a conference agreement on S. 1, as part of the ''Indian Health Care Improvement Act,'' or on their merits through passage of this freestanding bill.

I would like to thank Senators INOUYE, DASCHLE, MURRAY, DAYTON, JOHNSON, CANTWELL, and STABENOW for being original cosponsors of this important legislation. I ask for unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1779

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 ''Medicare Indian Health Fairness Act of 2003''.

SEC. 2. AUTHORIZATION OF REIMBURSEMENT FOR ALL MEDICARE PART B SERVICES FURNISHED BY CERTAIN INDIAN HOSPITALS AND CLINICS.

(a) IN GENERAL.—Section 1880(e) of the Social Security Act (42 U.S.C. 1395qq(e)) is amended—

(1) in paragraph (1)(A), by striking ''for services described in paragraph (2)'' and inserting ''for all items and services for which payment may be made under such part'';

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the first day of the sixth month beginning after the date of enactment of this Act.

SEC. 3. LIMITATION ON CHARGES FOR INPATIENT HOSPITAL CONTRACT HEALTH SERVICES PROVIDED TO INDIANS BY MEDICARE PARTICIPATING HOSPITALS.

(a) IN GENERAL.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) in subparagraph (R), by striking ''and'' at the end;

(2) in subparagraph (S), by striking the period and inserting '', and''; and

(3) by adding at the end the following new subparagraph:

''(T) in the case of hospitals which furnish inpatient hospital services for which payment may be made under this title, to be a participating provider of medical care—

''(i) under the contract health services program funded by the Indian Health Service and operated by the Indian Health Service, an Indian tribe, or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), with respect to items and services that are covered under such program and furnished to an individual eligible for such items and services under such program; and

''(ii) under a program funded by the Indian Health Service and operated by an urban Indian organization with respect to the purchase of items and services for an eligible urban Indian (as those terms are defined in such section 4), in accordance with regulations promulgated by the Secretary regarding admission practices, payment methodology, and rates of payment (including the acceptance of no more than such payment rate as payment in full for such items and services).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply as of a date specified by the Secretary of Health and Human Services (but in no case later than 6 months after the date of enactment of this Act) to medicare participation agreements in effect (or entered into) on or after such date.

SEC. 4. EQUAL PAYMENTS FOR CLINICS IN THE INDIAN HEALTH SERVICE SUPPORTED HEALTH CARE SYSTEM.

(a) IN GENERAL.—Section 1880 of the Social Security Act (42 U.S.C. 1395qq) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

''(f) Notwithstanding any other provision of law, for purposes of determining the rate of reimbursement for items and services under this title, any outpatient or ambulatory care clinic (whether freestanding or provider-based) operated by the Indian Health Service, an Indian tribe, a tribal organization, or an urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall, upon the election of such clinic, be reimbursed on the same basis as if such clinic were a hospital outpatient department of the Indian Health Service.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the first day of the sixth month beginning after the date of enactment of this Act.

By Mr. BIDEN (for himself, Mr. HATCH, Mr. GRASSLEY, and Mr. HARKIN):

S. 1780. A bill to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, I rise tonight to introduce, along with my good friend from Utah, Senator HATCH, the distinguished Chairman of the Judiciary Committee, the ''Anabolic Steroid Control Act of 2003.'' Over the last several weeks, we have read front-page articles on the dangerous mix of sports and steroids, including a new ''designer'' steroid tetrahydrogestrinone, known as ''THG.'' Several premier athletes have allegedly tested positive for THG, and there is a Federal grand jury investigation into the alleged manufacture and distribution of this new substance. Our bill would make THG, and several other similar substances, subject to the Controlled Substances Act. Thus, these products would no longer be available over the counter. Absent a prescription from your doctor, you will not be able to buy them legally.

First, a bit of background on how we got here. Thirteen years ago I held a number of hearings on the dangers associated with steroid use and introduced legislation to make steroids Schedule III substances. After my bill became law, a number of steroid users continued to buy and use steroids only now they were buying them through a developing illicit market. Others relied on new products being developed or rediscovered by scientists, products which may not violate the letter of the law, but certainly violate the spirit of the law.

These substances, called steroid precursors or pro-steroids, are one step removed from the substances scheduled in the law: when ingested, they metabolize into testosterone or other illicit steroids. These are products which the United States Anti-Doping Agency, the group in charge of testing Olympic athletes for performance enhancing drugs, has called ''the functional equivalent of steroids.''

In writing about the lack of testing for steroid precursor use in professional baseball, Barry Rozner of the Chicago Daily Herald described the close relationship between steroids and steroid precursors. He wrote:

> There's still no testing for andro (androstenedione) because technically it's not a steroid. It's a steroid precursor. Technically a cake mix isn't a cake but as soon as you pour it in a bowl and stick it in the oven, it's a cake. You put andro in the body, mix it with the body's chemicals and let it bake, and it turns into a powerful steroid. If it walks like a duck and talks like a duck, baseball calls it a sparrow.

The most well known of the steroid precursors is androstenedione often called ''andro.'' Most recently Hiram Cruz, a 2001 national judo champion, was suspended from competition for two years after testing positive for andro. And it is widely thought that some East German Olympic athletes used it in the 1970s and 1980s to improve their performance. But perhaps the substance gained the most notoriety when professional baseball player Mark McGuire admitted that he used it when he broke Roger Maris's single season record for home runs. After McGuire revealed that he had taken andro, sales of the product quadrupled.

Andro increases both testosterone and estrogen levels in the body. According to a study published in the Journal of the American Medical Association ''orally administered adrostenedione increases serum testosterone and estrogen levels in healthy men, particularly at higher doses.'' The study further notes that ''long-term administration could be hazardous, particularly in women or children.'' Another study showed that even a single 100 milligram dose of andro can yield unhealthy levels of testosterone in women and can increase estrogen levels by 80 percent. Andro has also been associated with a decrease in HDL the ''good'' cholesterol and elevated levels of estradiol which may increase women's risk of breast cancer.

As I will discuss in greater detail later, in addition to the grave health effects associated with using andro and other steroid precursors, the physical effects can also be quite serious: women can develop masculine sex characteristics including changing of the sexual organs; men can develop feminine sex characteristics including breast development; and adolescent users can stunt their growth.

The International Olympic Committee, the National Football League and the National Collegiate Athletics Association have banned andro and other steroid supplements. Other sports, particularly baseball, have been criticized for refusing to agree to test players for steroid precursors. I should note that Major League Baseball has endorsed the legislation I am introducing today. And at a hearing in the Senate Commerce Committee last year, Donald Fehr, the Executive Director of the Major League Baseball Players Association, said that ''it may well be time for the Federal Government to revisit whether steroid precursors should also be covered by Schedule III.'' I agree with him. Interestingly enough, so do the 79 percent of major league baseball players and nearly 86 percent of baseball fans who, according to surveys conducted by USA Today last year, support testing for steroids and performance-enhancing drugs.

The USA Today survey also revealed that 80 percent of fans believe that steroid use is behind some of the major league records that have been broken recently. It is understandable, therefore, that some players may support testing to preserve the integrity of their records. As Yankees' shortstop Derek Jeter has been quoted as saying:

> I don't have a problem with getting tested because I have nothing to hide. Steroids are a big issue. If anything like a home run or any injury happens, people say it's steroids. That's not fair.

In my view, it is time for Congress to act so that we can put an end to the charade that androstenedione and similar products are any different from the anabolic steroids that are controlled under current law.

To be honest I would be less concerned about what professional athletes are doing to their bodies if their actions did not have such a profound effect on kids. A study by the Kaiser Family Foundation revealed that nearly three-quarters of kids say that they look up to and want to emulate professional athletes. Sadly, more than half of those kids believe that their sports heroes use steroids and other performance enhancing drugs to win. That may be why adolescent anabolic steroid use is at its highest level in the past decade, with 1 million teens having used them.

As Dr. Bernard Greisemer, a pediatrician and sports medicine specialist, testified before the Senate last year, many of these products are marketed to kids who want to be like their favorite sports hero. Dr. Greisemer said:

> [P]rofessional athletes are major role models for our young athletes; in the clothes they wear, the cars they drive, the food they eat, and the drugs and dietary supplements they take. The millions of dollars that are spent by major corporations in linking their products to a particular athlete, team, or sporting event, counter any argument that professional athletes are not affecting the lifestyles of our young athletes. Use of and media exposure of the use of, anabolic steroids in professional athletes also directly affects the interest in, the perception of benefits of, and the use of these substances.

There are plenty of children and adults who believe that supplements will make them faster and stronger. That they'll have bigger muscles and be more like their favorite athlete. That they'll have a competitive advantage or have what it takes to win. In reality, they are jeopardizing their health. The ignorance of the consequences of using these substances is astounding. A study by Blue Cross/Blue Shield found that 70 percent of kids and half of parents surveyed were unable to identify even one negative side effect associated with performance-enhancing drugs. And 80 percent of kids reported that their parents have never talked to them about the dangers of steroid use. Clearly there is quite a bit of education to be done about these very dangerous substances.

Let me go through just a few of the side effects of steroid use. In both males and females it can lead to increased blood pressure, increased risk of heart attack and stroke, liver and cardiac dysfunction, increased libido, aggressiveness and appetite, and acne. For males, steroid use can lead to breast development, premature balding, testicular atrophy, decreased sperm count and prostate enlargement. Females can develop masculine sex characteristics including increased body hair, facial hair, deepening of the voice, male pattern baldness and changes to the sex organs. And among adolescent users, steroid precursor use can lead to stunted growth due to hardening of cartilage. Many of these side-effects are irreversible.

Quite troubling to me is that some people are taking these substances unwittingly. It is not unusual for manufacturers of creatine or other performance enhancing substances to put andro or another precursor into their product to give them a competitive edge over a competitor's products.

Clearly these substances are dangerous and they should not be widely available over the counter. That is why I am joining with Senator HATCH and Senator GRASSLEY today to introduce the Anabolic Steroid Control Act of 2003.

My bill does four things. First, it amends the Anabolic Steroid Control Act of 1990 by adding THG, androstenedione and their chemical cousins to the list of anabolic steroids controlled under the Controlled Substances Act and makes it easier for the DEA to add similar substances to that list in the future. This would prohibit people from obtaining these substances over the counter without a prescription in either their pure form or as an additive to another product.

Second, it directs the U.S. Sentencing Commission to review the Federal sentencing guidelines for crimes involving anabolic steroids and consider increasing them. Currently, the maximum sentence for offenses involving anabolic steroids is only 33–41 months for first time offenders. And to receive the maximum sentence an offender would have to have between 40,000 and 60,000 units, which is defined as a 10 cc vial or 50 tablets. That means that someone trafficking 300,000 doses faces a maximum of three and a half year behind bars. That does not seem to be enough of a deterrent and I hope the Sentencing Commission will consider raising the guidelines for steroid trafficking.

Third, the bill authorizes $15 million for the Secretary of Health and Human Services to award grants to public and non-profit entities to carry out science-based education programs in elementary and secondary schools to highlight the harmful effects of anabolic steroids. Preference will be given to programs based on the Athletes Training and Learning to Avoid Steroids program (ATLAS), the Athletes Targeting Healthy Exercise and Nutrition Alternatives (ATHENA) program, and other programs which the National Institute on Drug Abuse has determined to be effective. ATLAS, which is aimed at male student athletes, has been named as one of the Department of Education's Exemplary Programs and is one of the Substance Abuse and Mental Health Services Administration's Model Programs. ATHENA is ATLAS's companion program designed for female athletes.

Finally, the bill directs the Secretary of Health and Human Services to include questions about steroid use in the National Survey on Drug Use and Health, an annual survey to measure the extent of alcohol, drug and tobacco use in the United States. The bill authorizes $1 million for this purpose.

I'm proud to say that the bill has been endorsed by a wide range of medical, athletic and drug policy organizations including: American Academy of Family Physicians; American Academy of Pediatrics; American College of Obstetricians and Gynecologists; American College for Sports Medicine; American Council on Exercise; American Medical Association; Association of Tennis Professionals; Blue Cross Blue Shield Association; Boys and Girls Clubs; Community Anti-Drug Coalitions of America; Consumer Healthcare Products Association; Council for Responsible Nutrition; The Endocrine Society; The Hormone Foundation; Little League; Major League Baseball; National Athletic Trainers Association; The National Center on Addiction and Substance Abuse at Columbia University; National Collegiate Athletic Association; National Federation of State High Schools Association;

National Football League; National High School Athletic Coaches Association; National Junior College Athletic Association; National Nutritional Foods Association; Pharmacists Planning Services, Inc.; United States Anti-Doping Agency; U.S. Olympic Committee; U.S. Biathlon Association; U.S. Soccer Federation; USA Cycling; USA Luge; USA Swimming; USA Track and Field and Utah Natural Products Alliance.

I urge my colleagues to support this legislation and I hope that it will be enacted into law soon.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1780

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 ''Anabolic Steroid Control Act of 2003''.

SEC. 2. AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT.

(a) DEFINITIONS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (41)—

(A) by realigning the margin so as to align with paragraph (40);

(B) by striking subparagraph (A) and inserting the following:

''(A) The term 'anabolic steroid' means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone), and includes—

''(i) androstanediol—

''(I) 3β,17β-dihydroxy-5α-androstane; and

''(II) 3α,17β-dihydroxy-5α-androstane;

''(ii) androstanedione (5α-androstan-3,17-dione);

''(iii) androstenediol—

''(I) 1-androstenediol (3β,17β-dihydroxy-5α-androst-1-ene);

''(II) 1-androstenediol (3α,17β-dihydroxy-5α-androst-1-ene);

''(III) 4-androstenediol (3β,17β-dihydroxy-androst-4-ene); and

''(IV) 5-androstenediol (3b,17β-dihydroxy-androst-5-ene);

''(iv) androstenedione—

''(I) 1-androstenedione ([5α]-androst-1-en-3,17-dione);

''(II) 4-androstenedione (androst-4-en-3,17-dione); and

''(III) 5-androstenedione (androst-5-en-3,17-dione);

''(v) bolasterone (7α,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

''(vi) boldenone (17β-hydroxyandrost-1,4,-diene-3-one);

''(vii) calusterone (7β,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

''(viii) clostebol (4-chloro-17β-hydroxyandrost-4-en-3-one);

''(ix) dehydrochlormethyltestosterone (4-chloro-17β-hydroxy-17α-methyl-androst-1,4-dien-3-one);

''(x) 4-dihydrotestosterone (17β-hydroxy-androstan-3-one);

''(xi) drostanolone (17β-hydroxy-2α-methyl-5α-androstan-3-one);

''(xii) ethylestrenol (17α-ethyl-17β-hydroxyestr-4-ene);

''(xiii) fluoxymesterone (9-fluoro-17α-methyl-11β,17β-dihydroxyandrost-4-en-3-one);

''(xiv) formebolone (2-formyl-17α-methyl-11α,17β-dihydroxyandrost-1,4-dien-3-one);

''(xv) furazabol (17α-methyl-17β-hydroxyandrostano[2,3-c]-furazan);

''(xvi) 18α-homo-17β-hydroxyestr-4-en-3-one (13β-ethyl-17β-hydroxygon-4-en-3-one);

''(xvii) 4-hydroxytestosterone (4,17β-dihydroxy-androst-4-en-3-one);

''(xviii) 4-hydroxy-19-nortestosterone (4,17β-dihydroxy-estr-4-en-3-one);

''(xix) mestanolone (17α-methyl-17β-hydroxy-5α-androstan-3-one);

''(xx) mesterolone (1α-methyl-17β-hydroxy-[5α]-androstan-3-one);

''(xxi) methandienone (17α-methyl-17β-hydroxyandrost-1,4-dien-3-one);

''(xxii) methandriol (17α-methyl-3β,17β-dihydroxyandrost-5-ene);

''(xxiii) methenolone (1-methyl-17β-hydroxy-5α-androst-1-en-3-one);

''(xxiv) methyltestosterone (17α-methyl-17β-hydroxyandrost-4-en-3-one);

''(xxv) mibolerone (7α,17α-dimethyl-17β-hydroxyestr-4-en-3-one);

''(xxvi) nandrolone (17β-hydroxyestr-4-en-3-one);

''(xxvii) norandrostenediol—

''(I) 19-nor-4-androstenediol (3β, 17β-dihydroxyestr-4-ene);

''(II) 19-nor-4-androstenediol (3α, 17β-dihydroxyestr-4-ene);

''(III) 19-nor-5-androstenediol (3β, 17β-dihydroxyestr-5-ene); and

''(IV) 19-nor-5-androstenediol (3α, 17β-dihydroxyestr-5-ene);

''(xxviii) norandrostenedione—

''(I) 19-nor-4-androstenedione (estr-4-en-3,17-dione); and

''(II) 19-nor-5-androstenedione (estr-5-en-3,17-dione;

''(xxix) norbolethone (18α-homo-17β-hydroxypregna-4-en-3-one);

''(xxx) norclostebol (4-chloro-17β-hydroxyestr-4-en-3-one);

''(xxxi) norethandrolone (17α-ethyl-17β-hydroxyestr-4-en-3-one);

''(xxxii) oxandrolone (17α-methyl-17β-hydroxy-2-oxa-[5α]-androstan-3-one);

''(xxxiii) oxymesterone (17α-methyl-4,17β-dihydroxyandrost-4-en-3-one);

''(xxxiv) oxymetholone (17α-methyl-2-hydroxymethylene-17β-hydroxy-[5α]-androstan-3-one);

''(xxxv) stanozolol (17α-methyl-17β-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole);

''(xxxvi) stenbolone (17β-hydroxy-2-methyl-[5α]-androst-1-en-3-one);

''(xxxvii) testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

''(xxxviii) 1-testosterone (17β-Hydroxy-5α-androst-1-en-3-one);

''(xxxix) testosterone (17β-hydroxyandrost-4-en-3-one);

''(xl) tetrahydrogestrinone (13β,17α-diethyl-17β-hydroxygon-4,9,11-trien-3-one);

''(xli) trenbolone (17β-hydroxyestr-4,9,11-trien-3-one); and

''(xlii) any salt, ester, or ether of a drug or substance described in this paragraph; and

(C) by adding at the end the following:

''(C) Notwithstanding subparagraph (A), the Attorney General may not schedule Androstenedione as a controlled substance in accordance with this Act until the Attorney General receives a finding from the Commissioner of Food and Drugs relating to whether Androstenedione is lawfully marketed under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).''; and

(2) in paragraph (44), by inserting ''anabolic steroids,'' after ''marihuana,''.

(b) AUTHORITY AND CRITERIA FOR CLASSIFICATION.—Section 201(g) of the Controlled Substances Act (21 U.S.C. 811(g)) is amended—

(1) in paragraph (1), by striking ''substance from a schedule if such substance'' and inserting ''drug which contains a controlled substance from the application of titles II and III of the Comprehensive Drug Abuse Prevention and Control Act (21 U.S.C. 802 et seq.) if such drug''; and

(2) in paragraph (3), by adding at the end the following:

''(C) Upon the recommendation of the Secretary of Health and Human Services, a compound, mixture, or preparation which contains any anabolic steroid, which is intended for administration to a human being or an animal, and which, because of its concentration, preparation, formulation or delivery system, does not present any significant potential for abuse.''.

(c) ANABOLIC STEROIDS CONTROL ACT.—Section 1903 of the Anabolic Steroids Control Act of 1990 (Public Law 101-647) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

SEC. 3. SENTENCING COMMISSION GUIDELINES.

The United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines with respect to offenses involving anabolic steroids;

(2) consider amending the Federal sentencing guidelines to provide for increased penalties with respect to offenses involving anabolic steroids in a manner that reflects the seriousness of such offenses and the need to deter anabolic steroid use; and

(3) take such other action that the Commission considers necessary to carry out this section.

SEC. 4. PREVENTION AND EDUCATION PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as the ''Secretary'') shall award grants to public and nonprofit private entities to enable such entities to carry out science-based education programs in elementary and secondary schools to highlight the harmful effects of anabolic steroids.

(b) ELIGIBILITY.—

(1) APPLICATION.—To be eligible for grants under subsection (a), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(2) PREFERENCE.—In awarding grants under subsection (a), the Secretary shall give preference to applicants that intend to use grant funds to carry out programs based on—

(A) the Athletes Training and Learning to Avoid Steroids program;

(B) the Athletes Targeting Healthy Exercise and Nutrition Alternatives program; and

(C) other programs determined to be effective by the National Institute on Drug Abuse.

(c) USE OF FUNDS.—Amounts received under a grant under subsection (a) shall be used primarily for education programs that will directly communicate with teachers, principals, coaches, as well as elementary and secondary school children concerning the harmful effects of anabolic steroids.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $15,000,000 for each of fiscal years 2004 through 2009.

SEC. 5. NATIONAL SURVEY ON DRUG USE AND HEALTH.

(a) IN GENERAL.—The Secretary of Health and Human Services shall ensure that the National Survey on Drug Use and Health includes questions concerning the use of anabolic steroids.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $1,000,000 for each of fiscal years 2004 through 2009.

Mr. GRASSLEY. Mr. President, I am pleased to join Senator BIDEN and Senator HATCH as a co-sponsor of the Steroid Control Act of 2003. Our youth need to understand that while the short-term use of steroids may seem beneficial, the long-term effects on overall health can be extremely harmful or even fatal. Adults need to be more vigilant in ensuring young people are not able to obtain these dangerous substances. The Steroid Control Act is an important step in working toward that goal.

According to the latest Monitoring the Future Survey, 2.5 percent of eighth graders, 3.5 percent of tenth graders and 4.0 percent of twelfth graders used steroids at least once during their lifetime. Teens in particular seem to believe the myth that steroid abuse, typically at 10 to 100 times what might be prescribed by a doctor, is a quick way to gain muscle mass with little cost.

But steroid abuse is associated with a range of physical and emotional problems. According to the National Drug Intelligence Center, the dangers associated with steroid use include liver tumors and cancer, jaundice, high blood pressure and increases in cholesterol levels, kidney tumors, fluid retention, and severe acne. Adolescents in particular risk prematurely halting their growth because of early skeletal maturation and acceleration of puberty. The emotional problems associated with steroid use include dramatic mood swings, including manic symptoms that can lead to violence called ''roid'' rage, depression, paranoid jealousy, extreme irritability, delusions, and impaired judgment.

This Bill makes clarifications to the Steroid Control Act passed in 1990. It will make it easier to add steroid precursors such as androstenedione, THG, and other similar substances—many of which have been developed since the Steroid Control Act of 1990 passed in order to evade the law—to the list of Schedule III anabolic steroids. In addition, it adds a number of known steroid precursors to the anabolic steroid list, and removes the requirement that a substance be proven to promote muscle growth.

The Steroid Control Act also directs the United States Sentencing Commission to review the Federal sentencing guidelines for crimes involving anabolic steroids. It provides an opportunity to conduct prevention programs for young students to educate them on the dangers of using steroids.

I encourage my colleagues to join us in supporting these important reforms.

By Mr. DORGAN (for himself, Ms. SNOWE, Ms. STABENOW, Mr. JOHNSON, Mr. PRYOR, Mr. DAYTON, Mr. LEAHY, Mr. LEVIN, Mr. FEINGOLD, Mr. MCCAIN, and Mr. JEFFORDS):

S. 1781. A bill to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes; read the first time.

Mr. DORGAN. Mr. President, today I am introducing the Pharmaceutical Market Access Act of 2003 in the Senate, along with my colleagues, Senators SNOWE, STABENOW, JOHNSON, PRYOR, DAYTON, LEAHY, LEVIN, FEINGOLD, MCCAIN, and JEFFORDS. This legislation is the Senate companion to H.R. 2427, which passed the House of Representatives by a wide, bipartisan 243–186 vote earlier this year.

This bill would give Americans the benefit of the global market in purchasing FDA-approved medicines. Rather than paying the highest prices in the world for their prescription drugs, Americans, through their local pharmacist or drug wholesaler, should be able to access FDA-approved medicines from Canada and 24 other major industrialized countries. The Congressional Budget Office recently estimated that this legislation would save taxpayers $40.4 billion, including $4.5 billion in savings for the Federal Government.

As my colleagues know, the conference committee on Medicare currently has before it House and Senate bills that include pharmaceutical market access provisions. My hope is that the Medicare conferees will include strong drug importation language that will give American consumers immediate relief from high drug prices. If not, however, I will fight to have this bill called up separately in the Senate at the earliest available opportunity.

I ask unanimous consent that the text of my legislation be printed in the RECORD.

By Mr. DASCHLE (for Mr. KERRY):

S. 1782. A bill to provide duty-free treatment for certain tuna; to the Committee on Finance.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Mr. President, I rise to introduce legislation that is designed to eliminate tariffs on certain tuna products imported into the United States from member nations of the Association of Southeast Asian Nations (ASEAN).

ASEAN is a force for stability and development in Southeast Asia and pursuit of cooperative economic policies is critical to the relationship. The ASEAN nations include countries such as the Philippines, Thailand, Indonesia and Malaysia that are valuable trading partners and important friends and allies in the ongoing fight against world terrorism.

Several of the ASEAN nations import processed tuna imported into the United States. This includes pouch tuna, which is a relatively new product that uses an innovative process to vacuum pack tuna into easy to use and environmentally friendly airtight pouches for commercial and retail sale. A few creative companies, including Jana Brands, Inc. of Natick, Massachusetts, pioneered pouch tuna in the United States.

Tuna imported from the ASEAN nations is subject to higher tariffs upon entry into the United States. A provision was included in the Trade Act of 2002 that gives duty-free treatment to pouch but not canned tuna imported from the beneficiary countries of the Andean Trade Promotion and Drug Eradication Act. I understand that the Andean Pact preferences are intended to increase production and trade with the United States in certain products and wean their economies away from any dependence on the production of crops used to make illegal drugs. I support the rationale behind the Andean Pact but it is also true that duty free treatment for pouch tuna imported from Andean countries puts pouch tuna imported from ASEAN member nations at a competitive disadvantage.

To restore fair trade and to benefit U.S. consumers and workers, I am introducing the ''Fair Trade in Pouch Tuna Act of 2003''. This bill provides limited duty free treatment for tuna packed in airtight pouches imported from ASEAN nations that meet internationally recognized labor standards and environmental protections. The legislation requires that these imports come only from ASEAN nations that provide and enforce recognized worker rights and environmental protections.

This legislation is just the first step. I look forward to working with the many parties that may be interested in this issue to craft a successful proposal.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. ALLEN):

S. 1783. A bill to provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes; to the Committee on Governmental Affairs.

Mr. SARBANES. Mr. President, I am pleased to introduce the Federal Employee Commuter Benefits Act of 2003, which is cosponsored by my colleagues Senators MIKULSKI, WARNER, and ALLEN. This bill will guarantee transit benefits to all Federal employees in the National Capital Area and will remove a restriction that currently forbids Federal agencies from providing employee shuttles to and from transit stations. This measure is an important step forward in our efforts to encourage transit ridership and improve the quality of life for Federal employees in the Washington, D.C. region and throughout the nation.

All across the Nation, congestion and gridlock are taking their toll in terms

of economic loss, environmental impact, and personal frustration. According to the Texas Transportation Institute, in 2001 Americans in 75 urban areas spent 3.6 billion hours stuck in traffic, with an estimated cost to the nation of $69.5 billion in lost time and wasted fuel. In response, Americans are turning to alternative transportation options in record numbers. The American Public Transportation Association estimates that Americans now take over 9 billion trips on transit per year, the highest level in more than 40 years.

Transit benefit programs are playing a vital role in increasing transit ridership, which benefits both transit users and drivers. In 1998, the Transportation Equity Act for the 21st Century amended the tax code to allow financial incentives related to commuting costs for employers and employees. These transit benefits allowed employers to offer a tax-free financial incentive toward the costs of transit commuting, starting at $65 per month and raised in 2002 to $100 per month.

Based upon the findings of the Environmental Protection Agency and the U.S. Department of Transportation, there are clear improvements to congestion, energy efficiency, and air quality from transit benefit programs. According to their findings, an employer with 1,000 employees that participates in a combination of transit benefits, carpool, and telecommuting programs can take credit for taking 175 cars off the road, saving 44,000 gallons of gasoline per year, and cutting global warming pollution by 420 tons per year on average.

In April 2000, an Executive Order was signed requiring all executive branch agencies in the National Capital Region to offer transit benefits to their employees. As a result, Federal employees commuting to Washington, D.C. from Montgomery, Prince George's, and Frederick Counties, Maryland, several counties in Northern Virginia, and as far away as West Virginia, are encouraged to choose transit as their means to get to work.

According to the Washington Metropolitan Area Transit Authority and the U.S. Department of Transportation, by 2001 more than 110,000 employees—approximately one-third of all Federal employees in the National Capital Region—joined the Federal transit benefit program created by the Executive Order. These program participants alone have eliminated an estimated 12,500 single-occupancy vehicles from Washington, D.C. area roads, helping to reduce congestion and improve air quality for our region.

The Executive Order, however, is limited. It does not cover the more than 100,000 Federal employees in the legislative and judicial branches, and the dozens of independent Federal agencies located in the Washington, D.C. region. While many of these organizations provide transit benefits to their employees, the implementation and level of benefit is up to the discretion of individual offices. As such, many of these organizations provide limited benefits or do not provide any benefits at all. Guaranteed transit benefits would give these employees more choice in their commuting options and provide an additional incentive to move off our congested roadways and onto public transit.

Of course, such incentives will be ineffective if employees lack access to transit services. In my own state of Maryland, the United States Food and Drug Administration planned to use its own resources to provide a shuttle service for its employees from its new White Oak facility to an area Metro station. When they investigated providing this service, FDA officials found that the current law does not allow Federal agencies to use their own vehicles to shuttle employees to mass transit stations.

The potential impact of this restriction on regional congestion is not insignificant. By 2005, FDA estimates 1,700 employees will work at the new White Oak facility, and plans have been made to eventually house more than 7,000 FDA researchers and administrators at the new facility. The lack of access from FDA's new campus to a transit station represents a lost opportunity for reducing congestion, improving our environment and elevating the quality of life for employees.

This type of lost opportunity occurs across the nation. Nationally, the Federal Government employs more than 2.6 million civilian workers at more than 3,000 Federal government office buildings. At Federal offices throughout the country, transit use is often limited as a commuting option due to lack of employee access to a transit station or a bus stop.

The Federal Employee Commuter Benefits Act would address both of these issues faced by Federal employees. First, the bill would put into law the Executive Order's requirement that transit pass benefits be made available to all qualified Federal employees in the National Capital Region. The bill also extends the requirement beyond executive branch agencies to include the legislative and judicial branches and independent agencies, providing guaranteed transit benefits to an additional 100,000 employees in the Washington, DC region.

Second, the Federal Employee Commuter Benefits Act would remove the restriction that prohibits a Federal agency from operating a shuttle service to a public transit facility. With this legislation, any Federal agency, anywhere in the United States, can choose to provide a transit shuttle service for their employees. By providing access to commuting alternatives, Federal agencies will be able to provide a benefit to their employees that can make getting to work easier, more affordable, and more employee-friendly. It will also provide an opportunity to help reduce congestion and improve air quality across the Nation.

Since 1982, the U.S. population has grown 20 percent, but the time spent by commuters in traffic has grown 236 percent. Each year, traffic congestion wastes nine billion gallons of fuel. By encouraging Federal employees to look to transit and by providing access to transit stations, we can help reduce congestion, improve the environment, and promote an improved quality of life.

I am introducing the Federal Employee Commuter Benefits Act because of the opportunities it will give Federal agencies to support public transportation, both by providing employee access to transit facilities across the nation, and by providing transit benefits to Federal employees in the Washington, D.C. region. Both of these improvements will aid our efforts to fight congestion and pollution by encouraging the use of transportation alternatives. This legislation is strongly supported by Federal employees, transit providers, and local elected officials, and I ask unanimous consent that the text of the bill, along with their letters of support, be printed in the RECORD. I encourage my colleagues to join me in supporting the Federal Employee Commuter Benefits Act.

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

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL NO. 12, AFL–CIO,

Washington, DC, September 25, 2003.

Hon. PAUL SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: The American Federation of Government Employees (AFGE) Local 12 represents 4,000 employees at the U.S. Department of Labor in the Washington D.C. metropolitan area.

We appreciate very much all the work you have done on behalf of Federal employees, in particular your work to assist our local to have the monthly transit subsidy raised to $100. Unfortunately, Secretary of Labor Elaine Chao continues to deny the $100 transit subsidy to the employees represented by AFGE Local 12. This is why I am writing to you today.

We respectfully request that you sponsor and introduce in the Senate a companion bill to H.R. 1151. The purpose of H.R. 1151 is ''To provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes.''

H.R. 1151 was introduced by Congressman Jim Moran and is co-sponsored by Representatives Eleanor Holmes Norton, Albert Wynn, Chris Van Hollen, Tom Davis, Steny Hoyer, and Frank Wolf. It has been marked up in the Subcommittee on Civil Service and Agency Organization of the Government Reform Committee.

Passage into law of this legislation would not only help employees at the Department of Labor and employees at any other Federal agency in this area where management has decided, for whatever reason, not to offer the tax-free maximum transit subsidy. It would also benefit the region generally by giving

more Federal employees the incentive to use mass transit, thus helping to lesson traffic congestion and air pollution.

If you would like to discuss this further, please call me. Thank you very much for your consideration of this serious matter.

Respectfully yours,

LAWRENCE C. DRAKE, Jr.,
President.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY,
Washington, DC, October 10, 2003.

Hon. PAUL SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: I am pleased to offer the Washington Metropolitan Area Transit Authority's (WMATA) endorsement of the legislation you are proposing concerning federal employee commuter benefits. This legislation is very important in supporting regional efforts to use every feasible technique to reduce the severe traffic congestion in the National Capital Region.

The recently released Texas Transportation Institute (TTI) report on congestion cites the metropolitan Washington region as the third most congested in the nation, despite intense transit use by commuters in this area. The TTI report cites a number of strategies that help to reduce congestion and the cost of delay to the residents of the region. For the Washington metropolitan area, the TTI report indicates that transit services currently save the metropolitan area more than $1 billion annually in delay costs and almost 42 percent of current delay time. A report issued by the Surface Transportation Policy Project (STPP) in 2002 noted that if TTI calculated person trip delay rather than vehicle delay and incorporated transit ridership into the equation, then the Washington metropolitan area congestion ranking would fall from 4th to 31st.

The TTI report and the STPP analysis demonstrate the positive affects of transit services on reducing traffic congestion in the Washington metropolitan area. With our assault on traffic congestion, it is essential that we continue to grow transit ridership. It is essential that the federal government as the region's largest employer, employing more than 374,000 people in this area, give employees every incentive to take transit. The tremendously successful transit benefits program, known in this area as Metrochek, is currently required to be offered to civilian and military employees of the Executive Branch and voluntarily provided by the U.S. House and Senate and several independent agencies. Since the imposition of Executive Order 13150 on October 1, 2000, the number of federal employees receiving transit benefits has increased 147 percent, from 57,000 to 141,000 and 47 percent of Metrorail's peak period riders are federal employees—up from 35 percent in the mid 1980s.

Your proposal will codify the federal employees transit benefit and expand its eligibility to judicial, legislative and independent agency employees in the National Capital Region. While some of these agencies already participate in the Metrochek program, this legislation ensures that participation will be uniform across all three branches of the federal government.

WMATA also supports the proposal to authorize the establishment of federal agency shuttles to and from mass transit facilities. While many federal agencies throughout the region are within walking distance of Metrorail stations, and other transit facilities, some are not. This legislation will make transit accessible to many federal workers for whom transit is not currently a viable alternative because their work site is not convenient to a Metro station.

Many thanks for your leadership in proposing this legislation. It is another example in a long list of initiatives you have sponsored to promote public transportation in the National Capital Region and the nation.

Sincerely,

RICHARD A. WHITE,
Chief Executive Officer.

MARYLAND DEPARTMENT OF TRANSPORTATION, THE SECRETARY'S OFFICE,
Hanover, MD, October 10, 2003.

Hon. PAUL S. SARBANES,
U.S. Senate, 309 Hart Senate Office Building,
Washington, DC.

DEAR SENATOR SARBANES: It has recently been brought to my attention that you intend to introduce legislation to expand and strengthen existing transit benefits available to federal employees. My understanding is that the proposed bill would accomplish the following: Codify the existing employee transit benefit which is currently an Executive Order; extend the eligibility of transit pass benefits to legislative, judicial branch and independent agency employees in the National Capital Region (estimated to be over 100,000 employees); and allow government vehicles to be used to provide shuttle services between federal agency locations and mass transit facilities.

In the past Governor Ehrlich supported providing transit benefits to federal employees. The Ehrlich Administration continues its dedication to reducing congestion and aiding the environment. According to the recently released Texas Transportation Institute Study, the Washington area was ranked third in congestion nationwide, this situation will worsen unless serious measures are taken. Providing additional access and an improved ability to utilize public transportation is the type of sound policy that constitutes the balanced and comprehensive transportation strategy that is critically needed in the fight to relieve traffic congestion.

In our view, your proposed bill deserves and receives our support as it would expand coverage of a program that has served the many Maryland citizens residing in the Washington area who are employed by federal departments to those who work for the remaining federal governmental entities. If I may be of additional assistance, please do not hesitate to contact me.

Sincerely,

ROBERT L. FLANAGAN,
Secretary.

VIRGINIA RAILWAY EXPRESS,
Alexandria, VA, October 22, 2003.

Hon.PAUL SARBANES,
Ranking Member Senate Committee on Banking, Housing and Urban Affairs,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: I am writing to you to express my support for your efforts to offer legislation that would provide transit pass transportation fringe benefits to all qualified Federal employees in the National Capital region. As someone who has always been an advocate for the promotion of public transportation and the mobility it affords the citizenry, we are fortunate to have you as the Ranking Member of the Senate Committee on Banking, Housing and Urban Affairs, which oversees mass transit programs.

As you have witnessed, increased federal investment in transit under TEA 21 has led to dramatic growth in public transportation ridership, particularly in the National Capital Region. The Virginia Railway Express is a prime example of that growth, with ridership increasing by 18% each year for the past three years, making us one of the fastest growing commuter railroads in America. Nearly 69% of our ridership is comprised of federal and/or military employees working in the region.

Currently, transit benefits are offered to a select core of federal employees under Executive Order 13150. The benefit is limited to the executive branch agencies with no requirement for participation by the legislative and judicial branches. Such legislation would codify transit benefits to all eligible federal employees by broadening the scope of participation to another 100,000 workers, thus providing greater flexibility and mobility for the federal work force in the region.

Your legislation is significant not only because it affords greater options to our federal workforce, but also because the use of public transit is the only recourse to help relieve the growing problem of traffic congestion in the region. For instance, today VRE transports enough people to remove one lane of traffic off of I–95 and I–66 during peak rush hours in the morning and evening. Not only does it reduce car emissions; thus improving air quality, but also ensures that the federal and private workforce can get to work in a timely fashion; thus saving millions of dollars for employers. The passage of this legislation would only increase these benefits to our region.

In conclusion, let me again thank you for all the support that you have given to public transportation over the years and for authoring this much needed legislation. I hope that with your direct involvement that we will be successful in seeing this measure signed into law.

Sincerely,

DALE ZEHNER,
Acting Chief Operating Officer.

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION,
Washington, DC, October 20, 2003.

Hon. PAUL S. SARBANES,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of the 1,500 member organizations of the American Public Transportation Association (APTA), I write to express strong support for legislation you are proposing that would expand the use of transit-related commuter tax benefits in the Washington, D.C. region. This legislation will help promote the use of public transportation and thereby support regional efforts to reduce traffic congestion in the National Capital area. We note that a recent report by the Texas Transportation Institute (TTI) cited the Washington, D.C. metropolitan area as the third most congested in the nation.

As we understand it, your legislation would codify language currently in an executive order that requires federal executive branch agencies to offer to their employees transit benefits equal to employee commuting costs, up to $100 per month. The legislation would also expand the eligibility of these benefits to legislative and judicial branch employees in the National Capital area.

We believe that it is important that the federal government support the use of public transportation in its efforts to reduce congestion, minimize auto pollution, and make the best use of existing public transportation facilities that are built with a substantial federal investment. APTA has been a longtime proponent of providing federal tax incentives that promote public transportation at no less a level than those provided for parking.

We thank you for your leadership on this issue. If you have questions, please have your staff contact Rob Healy of APTA's Government Affairs staff at (202) 496–4811 or e-mail rhealy@apta.com. We look forward to

working with you to see this important legislation enacted into law.

Sincerely yours,

WILLIAM W. MILLAR,
President.

OFFICE OF THE COUNTY EXECUTIVE,
Rockville, Maryland, October 13, 2003.

Hon. PAUL S. SARBANES,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: Thank you for introducing companion legislation to H.R. 1151, a bill to address federal employee commuter benefits, including a critical transit provision for a growing number of federal employees working for the Food and Drug Administration (FDA) at White Oak. This measure will directly benefit thousands of federal employees in the region, and indirectly help Montgomery County at reducing traffic congestion.

It is both timely and critical that this legislation be adopted now, given the increased challenges the Washington metropolitan area faces as a result of its recent designation as a severe air quality non-attainment area. As the region struggles to find the appropriate combination of actions necessary to bring air quality into conformity with healthier standards, this legislation can play a pivotal role.

Montgomery County has been a leader in encouraging employers to provide transit benefits to their employees. Through an intensive outreach program coupled with cost-sharing incentives, the County raises awareness among employers of the value of such benefits to both employees and the community. For employers considering these options for inclusion in their benefits packages, the context in which they operate is a critical factor in their decision.

The federal government, as the largest single employer in the region, plays a crucial role in setting that employment benefits context. It is critical that the federal government continue to provide transit benefits, and expand application of these key benefits to the maximum number of employees possible. By so doing, the federal government establishes the standard against which many other employers in the region measure their own benefits—a standard which has benefits for the people of the Washington region which extend far beyond those provided to the direct recipients.

By encouraging ridership to support a robust transit system throughout the region, federal transit benefits help provide accessibility in our transportation system. This is particularly true for the FDA consolidation at White Oak. It is critical that federal employees at FDA-White Oak not only be encouraged to use transit by providing extended transit benefits, but be permitted to travel on federal vehicles from their agency to our local system. Daily shuttle operations between White Oak and the New Carrollton or Silver Spring Metro stations will be a positive contribution toward increasing the security and accessibility of this federal facility, while also promoting transit ridership, and addressing air quality objectives in the region.

Again, thank you for your continued efforts to improve the lives of thousands of Montgomery County residents. Please let me know if I can do anything to help you in advancing this important legislation.

Sincerely,

DOUGLAS M. DUNCAN,
County Executive.

METROPOLITAN WASHINGTON
COUNCIL OF GOVERNMENTS,
Washington, DC, October 21, 2003.

Hon. PAUL S. SARBANES,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: On behalf of the National Capital Region Transportation Planning Board (TPB) at the Metropolitan Washington Council of Governments, I would like to applaud your introduction of new legislation to codify and expand the existing federal executive branch employee transit benefit in the National Capital Region and allow government vehicles to be used to provide shuttle services between federal agency locations and transit stations.

It is TPB policy to support regional, state, and federal programs which promote cost-effective strategies to reduce traffic congestion and improve air quality, including promoting the use of transit options and financial incentives. One of the most pressing issues facing the TPB is the contribution of vehicle emissions to the region's air quality problems. Expanding the transit benefits to more federal workers and providing shuttle links will encourage more transit use, which will help reduce automobile vehicle-miles traveled and reduce vehicle emissions.

In June of 2000, the Board of Directors of the Metropolitan Washington Council of Governments (COG) adopted a resolution to provide COG employees the same transit benefits that federal executive branch employees receive as a result of President Clinton's Executive Order of April 2000. It also strongly urged local governments and public agencies to adopt or expand similar transit benefit programs. We have estimated that 50,000 executive branch employees will use transit by 2005 as a result of the current transit benefits. Passage of this legislation will encourage even more federal workers to use transit and provide additional support to the region's efforts to reduce traffic congestion and improve air quality.

We greatly appreciate your introduction of this legislation. Your ongoing dedication to improving public transit in the Washington region continues to benefit families and organizations in our region.

Sincerely,

PETER SHAPIRO,
Chair, National Capital Region, Transportation Planning Board.

S. 1783

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 ''Federal Employee Commuter Benefits Act of 2003''.

SEC. 2. TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.

(a) IN GENERAL.—Effective as of the first day of the next fiscal year beginning after the date of the enactment of this Act, each covered agency shall implement a program under which all qualified Federal employees serving in or under such agency shall be offered transit pass transportation fringe benefits, as described in subsection (b).

(b) BENEFITS DESCRIBED.—The benefits described in this subsection are, as of any given date, the transit pass transportation fringe benefits which, under section 2 of Executive Order 13150, are then currently required to be offered by Federal agencies in the National Capital Region.

(c) DEFINITIONS.—In this section—

(1) the term ''covered agency'' means any agency, to the extent of its facilities in the National Capital Region;

(2) the term ''agency'' means any agency (as defined by 7905(a)(2) of title 5, United States Code) not otherwise covered by section 2 of Executive Order 13150, the United States Postal Service, the Postal Rate Commission, and the Smithsonian Institution;

(3) the term ''National Capital Region'' includes the District of Columbia and every county or other geographic area covered by section 2 of Executive Order 13150;

(4) the term ''Executive Order 13150'' refers to Executive Order 13150 (5 U.S.C. 7905 note);

(5) the term ''Federal agency'' is used in the same way as under section 2 of Executive Order 13150; and

(6) any determination as to whether or not one is a ''qualified Federal employee'' shall be made applying the same criteria as would apply under section 2 of Executive Order 13150.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to require that a covered agency—

(1) terminate any program or benefits in existence on the date of the enactment of this Act, or postpone any plans to implement (before the effective date referred to in subsection (a)) any program or benefits permitted or required under any other provision of law; or

(2) discontinue (on or after the effective date referred to in subsection (a)) any program or benefits referred to in paragraph (1), so long as such program or benefits satisfy the requirements of subsections (a) through (c).

SEC. 3. AUTHORITY TO USE GOVERNMENT VEHICLES TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.

(a) IN GENERAL.—Section 1344 of title 31, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following:

''(g)(1) A passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

''(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) shall absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

''(3) In carrying out this subsection, a Federal agency shall—

''(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;

''(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

''(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

''(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the 'performance of duty' by virtue of the fact that such individual is receiving transportation services under this subsection.

''(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

''(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any

regulations under the last sentence of subsection (e)(1).

''(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.''.

(b) FUNDS FOR MAINTENANCE, REPAIR, ETC.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

''(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.

(c) COORDINATION.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by subsection (a)) shall be in addition to any authority otherwise available to the agency involved.

By Mrs. FEINSTEIN (for herself, Mr. GRASSLEY, Mr. KOHL, Mr. BIDEN, Mr. KYL, and Mr. HARKIN):

S. 1784. A bill to eliminate the safe-harbor exception for certain packaged pseudoephedrine products used in the manufacture of methamphetamine; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the ''Methamphetamine Blister Pack Loophole Elimination Act of 2003,'' along with my colleagues Senators GRASSLEY, KOHL, BIDEN, KYL and HARKIN.

This is a simple bill, and directly follows recommendations made by the United States Drug Enforcement Administration in a 2002 study requested by Congress.

All this legislation does is make it harder for meth dealers to get the precursor pseudoephedrine products necessary to make this illegal drug.

Making it harder for meth dealers to make and obtain their drugs is something beneficial not just to California, but to the entire Nation.

Once predominantly found in the American Southwest, methamphetamine's presence now stretches from coast to coast.

I'm sorry to say that my home State of California has been referred to as the ''Colombia of meth production.'' In fact, our State is known as the ''source country'' for the drug, producing roughly 80 percent of the Nation's methamphetamine supply.

According to the DEA, 1,847 clandestine meth labs were found in California in 2001 alone.

In each of these meth labs across the country, those who make methamphetamine combine a number of precursor drugs, from red phosphorus, which is difficult to obtain, highly flammable and toxic, to pseudoephedrine, which can be found in common cold medicine in every supermarket, pharmacy, and convenience store in America.

Recognizing the easy availability of pseudoephedrine, Congress has acted several times to make it more difficult for meth dealers to purchase it in bulk.

First, we placed a 24-gram limit, which represented almost 1000 pills. Then, just a few years ago, we reduced this threshold to just 9 grams—still some 366 30-milligram pills. Anyone buying more than this amount of pseudoephedrine at one time would be required to give his or her name and address.

As it turns out, this reporting requirement is considered too burdensome by most retail stores, so instead of keeping track of purchasers, most retailers simply limit single transaction sales of pseudoephedrine pills to less than 9 grams. This is an even more beneficial result than the reporting requirements. Such limits, which now often go as low as three or even two packages of cold medicine, make it much harder for meth manufacturers to get this precursor drug. Instead of simply going to the local WalMart or Costco and clearing the shelves of thousands of packages at once, they must now buy just a few packages at a time.

But through all of this, there is one gaping loophole in the law, that allows any of this product packaged in so-called ''blister-packs'' to avoid these reporting requirements. Only loose pills in bottles face the 9-gram restrictions in the law.

Blister packs are the most common form of packaging for cold medicine, as anyone who goes grocery shopping knows. Most people who buy pseudoephedrine will find it in blister packs, as will most meth dealers. As a result, the 9-gram limit in the law has become fairly useless—we limited the sales of pills, so meth dealers simply migrated to blister packs.

This loophole in the law exists because of previous doubts, by some, that meth dealers would bother to use blister-packed products. These foil and plastic containers hold each pill individually, and as a result it is harder to gather the thousands of pills necessary to manufacture methamphetamine in bulk.

Those of us from California have known for some time that blister packs are a problem, because California's Bureau of Narcotic Enforcement has been finding blister packs at meth lab sites for years.

But to answer the doubts of those not lucky enough to come from my home state, we authorized DEA to do a study into this issue in 1999.

Well, that study is back, and guess what—DEA has given us clear, incontrovertible evidence that these blister packs are making up an increasing percentage of the pseudoephedrine found at lab sites.

In some instances, meth manufacturers use sophisticated, industrial ''deblistering'' machines to quickly extract pills from blister packs.

In others, I have been told, children are employed to sit in the meth lab and pop out thousands of pills, by hand, into nearby buckets.

According to the report we requested from the DEA, which was released in March of 2002, blister packaged pseudoephedrine products seized at clandestine methamphetamine laboratories and other locations, such as dumpsites, have involved seizures of over a million tablets.

The seizure of so many blister packaged pseudoephedrine products shows convincingly that blister packaging is not a deterrent to ordinary, over-the-counter pseudoephedrine use in clandestine methamphetamine laboratories.

So clearly, what we argued in 1999, and in 1996, is true. Meth manufacturers are using blister packs, and something must be done to stop them as best we can.

In order to address this problem, DEA recommended in its report that the blister pack loophole be closed, and that the current retail sales limit of 9 grams for bottled pseudoephedrine be extended to blister packed products as well.

And that, is all that this bill would do.

According to DEA, this is the single best thing we can do to help them in the fight against methamphetamine.

This legislation will clear up confusion among retailers who may find it hard to train employees to limit the sales of certain cold medicine if sold in bottles, but not the same medicine in other packaging.

This legislation will help DEA enforce the retail sales thresholds by making it harder for sellers to claim ignorance or confusion about the law.

This legislation might make it less likely that meth dealers will employ young children to pop pills out of the blister packs, all within harms reach in meth labs around the country.

This legislation will not negatively impact the ability of pharmaceutical manufacturers to make legitimate profits.

This legislation will not be a burden on consumers, because the 9 gram limit still represents 366 pills—30 packages of 12 pills, or 15 packages of 24 pills, two of the most common amounts.

It is hard for me to imagine that an average person—or even a large family—needs to buy more than 366 cold pills at one time. In fact, many stores throughout the country have already voluntarily limited pseudoephedrine sales to just a few packages at a time, and there has been little outcry from consumers unable to purchase more.

This bill is not a panacea for the meth problem in the United States—far from it. I have been working on various parts of the meth problem for many years, and I know that this must be a multi-faceted approach—tougher penalties, money for training, enforcement and clean-up, restrictions on precursor chemicals, tools for prosecutors, and so on.

But to fail to enact this legislation is to make it far easier for meth dealers to continue to easily ply their trade.

I urge my colleagues to look at this bill, join us in supporting it, and help us to pass it as soon as possible to assist the DEA in the very uphill battle

against the illegal and pervasive manufacture and sale of methamphetamine.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1784

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 ''Methamphetamine Blister Pack Loophole Elimination Act of 2003''.

SEC. 2. FINDINGS.

Congress finds that—

(1) methamphetamine is a dangerous drug distributed throughout the United States;

(2) the manufacture, distribution, and use of methamphetamine results in increased crime, damage to the environment, hazardous waste that endangers the public, expensive cleanup costs often borne by Federal, State, and local government agencies, and broken families;

(3) Congress has acted many times to limit the availability of chemicals and equipment used in the manufacturing of methamphetamine;

(4) pseudoephedrine is 1 of the basic precursor chemicals used in the manufacture of methamphetamine;

(5) the United States Drug Enforcement Administration has indicated that methamphetamine manufacturers often obtain pseudoephedrine from retail and wholesale distributors, in both bottles and ''blister packs'', and that the use of pseudoephedrine tablets in blister packs is pervasive in the illicit production of methamphetamine in both small and large clandestine methamphetamine laboratories;

(6) while current law establishes a retail sales limit of 9 grams for most pseudoephedrine products, including common cold medicine, there is no such limit on the sale of blister-packed pseudoephedrine products;

(7) the 9 gram limit on bottled pseudoephedrine allows an individual to purchase approximately 366 thirty-milligram tablets at 1 time, which is more than enough for a typical consumer in 1 transaction;

(8) the United States Drug Enforcement Administration recommended in March 2002 that retail distribution of pseudoephedrine tablets in blister packages should not be exempt from the 9 gram retail sales limit; and

(9) in recommending legislation to correct the current disparity in the law between bottled and blister-packed pseudoephedrine tablets, the United States Drug Enforcement Administration stated that ''The removal of this difference would significantly prevent illicit access to this methamphetamine precursor and would be easier for both the government and the industry to monitor and would increase compliance by retailers''.

SEC. 3. ELIMINATION OF BLISTER PACK EXEMPTION.

(a) REGULATED TRANSACTION.—Section 102(39)(A)(iv)(I)(aa) of the Controlled Substances Act (21 U.S.C. 802(39)(A)(iv)(I)(aa)) is amended by striking ''(except that'' and all that follows through ''1996)''.

(b) RULE OF LAW.—To the extent that there exists a conflict between the amendment made by subsection (a) and section 401(d) of the Comprehensive Methamphetamine Control Act of 1996 (21 U.S.C. 802 note), the amendment shall control.

Mr. GRASSLEY. Mr. President, I am pleased to join Senator FEINSTEIN as a cosponsor of the Methamphetamine Blister Pack Loophool Elimination Act of 2003. This legislation will make it harder for meth cooks to get an essential ingredient needed to manufacture methamphetamine. Methamphetamine is a dangerous narcotic and is a serious challenge facing our country. The manufacture, distribution, and use of methamphetamine has a lasting and devastating personal effect on our Nation's families, communities, and our environment.

According to the National Institute on Drug Abuse, methamphetamine is a highly addictive stimulant drug that strongly activates certain systems in the brain by releasing high levels of the neurotransmitter dopamine. Some of the short-term effects of using methamphetamine include: an accelerated heartbeat, elevated blood pressure, irritability, extreme nervousness, confusion, insomnia, aggression, tremors, convulsions, and hyperthermia, which can potentially result in death.

In addition to the effects on the central nervous system and the cardiovascular system, the prolonged use of methamphetamine also has many psychological effects. Some of the symptoms resemble those of schizophrenia and are characterized by anger, panic, paranoia, auditory and visual hallucinations, and repetitive behavior patterns.

Other long-term effects can result in kidney and lung disorders, brain damage, liver damage, blood clots, a deficient immune system and chronic depression.

The threat of methamphetamine is different than that of most other illegal drugs as it can be easily manufactured from readily available chemicals and substances. The relative ease of manufacturing and its highly addictive potential has caused methamphetamine use to drastically increase throughout the nation. According to the 2002 National Survey on Drug Abuse and Health 5.3 percent of the U.S. population—over 12 million people—reported trying methamphetamine at least once in their lifetime.

This is an alarming figure. Given the serious ramifications surrounding the use of methamphetamine, we need to be vigilant, making sure that we are doing all that we can to curb this dangerous statistic.

This bill makes specific clarifications to the Comprehensive Methamphetamine Act of 1996. While current law establishes a retail sales limit of 9 grams for most pseudoephedrine products, which is one of the basic precursor chemicals used in the manufacturing of methamphetamine, there is no such limit on the sale of ''blister-packed'' pseudoephedrine products.

The bill we are introducing today follows the recommendation of the U.S. Drug Enforcement Administration that retail distribution of pseudoephedrine tablets in blister packages should not be exempt from the 9-gram retail sales limit. This will make it more difficult for methamphetamine producers to obtain large quantities of the precursor chemical pseudoephedrine.

As Senator FEINSTEIN well knows, the two largest means of acquiring precursor chemicals for methamphetamine in California are by mail order and retail sales. This acquisition is made easier because the meth cooks are able to exploit the blister pack exemption provision in the current law. Removing this exemption will not halt meth production but it will make it more difficult for meth cooks to collect the key ingredients they need.

This is not the only answer to this problem, but it is an important step. Law enforcement cannot fix the problem alone. Schools can't do it alone. The Federal Government can't do it alone. It is important that we each unite and lead local anti-drug initiatives in our respective neighborhoods and communities. I encourage my colleagues to join us in supporting these important reforms. We cannot let this attack on our Nation's citizens go unchecked.

By Mr. KYL:

S.J. Res. 20. A joint resolution expressing the sense of Congress that the number of years during which the death tax under subtitle B of the Internal revenue Code of 1986 is repealed should be extended, pending the permanent repeal of the death tax; to the Committee on Finance.

Mr. KYL. Mr. President, today I am introducing a Sense of the Senate resolution that states that Congress should add to the number of years that repeal of the death tax will last until we archive its permanent repeal.

The death tax is an unfair, inefficient, economically unsound and, frankly, immoral tax that should not come back. I have introduced legislation, S. 13, to repeal it permanently in 2005. Unfortunately, under current law, it will only be repealed for 1 year, in 2010. The House of Representatives voted four times in the last 2 years to make repeal permanent, but because of Senate rules, we need 60 votes to do this.

And so, I propose a resolution that expresses the sense of the Senate that we should add 1 or more years to the 1-year repeal that is on the books. We could do this by moving the repeal date forward, for example, to 2009 or 2008; or we could extend the repeal through 2011 or 2012. This would signal to the American people that we will not let this tax come back.

I plan to follow up this resolution with a concerted effort next year to in fact add 1 or more years of repeal. We must end this tax on virtue, work, savings, job creation and the American dream, and we must end if forever. I urge all of my colleagues to join me in this effort.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 250—COMMENDING THE PEOPLE AND GOVERNMENT OF ROMANIA, ON THE OCCASION OF THE VISIT OF ROMANIAN PRESIDENT ION ILIESCU TO THE UNITED STATES, FOR THE IMPORTANT PROGRESS THEY HAVE MADE WITH RESPECT TO ECONOMIC REFORM AND DEMOCRATIC DEVELOPMENT, AS WELL AS FOR THE STRONG RELATIONSHIP BETWEEN ROMANIA AND THE UNITED STATES

Mr. BROWNBACK (for himself, Ms. LANDRIEU, Mr. BIDEN, Mr. HATCH, and Mr. MCCAIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 250

Whereas, in 1995, Romania joined with the United States and the North Atlantic Treaty Organization (NATO) to provide assistance to the Stabilization Force (SFOR) deployed to Bosnia and Herzegovina to support peace, security, and freedom in the western Balkans;

Whereas, in 1999, Romania joined with the United States and NATO member countries to provide assistance for Operation Allied Force to use military force in order to halt the genocide, known as ethnic cleansing, that was taking place in Kosovo;

Whereas, after the conclusion of Operation Allied Force, Romania provided support to democracy activists from the Federal Republic of Yugoslavia in their successful efforts to end the rule of Yugoslav dictator Slobodan Milosevic, and also provided support to NATO stabilization forces deployed in Kosovo Force (KFOR);

Whereas, following the terrorist attacks upon the United States in September 2001, the Government of Romania immediately expressed its sympathy for Americans and others killed in the attacks and pledged its full support in fighting the war on terror;

Whereas, on September 19, 2001, the Romanian Parliament voted to open Romanian territory and airspace to United States Armed Forces involved in Operation Enduring Freedom in Afghanistan;

Whereas thousands of American aircraft flew through Romanian airspace during the combat phase of Operation Enduring Freedom, and continue to do so as part of peacebuilding efforts;

Whereas, beginning on June 2002, Romanian aircraft flew Romanian soldiers to serve in Afghanistan as part of the forces involved in Operation Enduring Freedom and the International Security Assistance Force, and over 500 elite Romanian soldiers are currently stationed in Afghanistan;

Whereas Romania stood with the United States as a vital member of the international coalition in Operation Iraqi Freedom by offering diplomatic, political, and military support;

Whereas, in a January 31, 2003, letter to President George W. Bush, President Ion Iliescu of Romania stated that "Romania can understand that aggressive dictators cannot be appeased or ignored, but always be opposed. Romanians indeed know the value of freedom and living in peace. They have seen the face of evil embodied in communism and deeply share your conviction, expressed in the State of the Union address, that 'free people will set the course of history' ";

Whereas, on February 12, 2003, the Romanian Parliament voted to open Romanian territory and airspace to United States Armed Forces carrying out Operation Iraqi Freedom;

Whereas hundreds of American aircraft flew through Romanian airspace and landed at Romanian airfields during the combat phase of Operation Iraqi Freedom from May to July 2003;

Whereas thousands of United States soldiers were stationed and transported into the Iraq theatre of operations from Mihail Kogalniceanu Air Base, and the neighboring Black Sea port of Constantza was also used in the fall of 2002 and spring of 2003 for rotating United States Armed Forces and equipment in and out of the Balkans;

Whereas, beginning on March 12, 2003, Romania began deploying military forces to Iraq to assist in building security, peace, and democracy, and over 750 Romanian soldiers are currently stationed in Iraq;

Whereas the Government of Romania has spent more than $160,000,000 during the past two years to fund its participation in SFOR, KFOR, Operation Enduring Freedom, the International Security Assistance Force, and Operation Iraqi Freedom;

Whereas, together with Bulgaria, Estonia, Latvia, Lithuania, Slovakia, and Slovenia, Romania successfully achieved the military, economic, and political reforms necessary to be invited, at the November 2002 summit meeting in Prague of the North Atlantic Council, to join the NATO alliance;

Whereas, in his historic address at Piata Revolutiei on November 23, 2002, President Bush told the Romanian people that "Romania has made a historic journey. Instead of hatred, you have chosen tolerance. Instead of destructive rivalry with your neighbors, you have chosen reconciliation. Instead of state control, you have chosen free markets and the rule of law. And instead of dictatorship, you have built a proud and working democracy."; and

Whereas, on May 8, 2003, the Senate voted 96 to 0 to approve the resolution of advice and consent to the Protocols to the North Atlantic Treaty of 1949 on the Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia: Now, therefore, be it

Resolved, That the Senate—

(1) appreciates the support expressed by the people of Romania for strong and vibrant relations between the United States and Romania;

(2) recognizes the steps the Government of Romania has taken and continues to take in economic, political, and social reforms, including reforms to improve protections of the rights of minorities and to promote awareness and understanding of the Holocaust;

(3) commends Romania for its leadership and commitment in promoting regional peace and security in the Balkan and Black Sea regions;

(4) values the participation of a significant number of Romanian troops and civilian experts in Operation Enduring Freedom and Operation Iraqi Freedom, the permission granted by the Government of Romania for the United States to use Romanian airspace and territory, and the deployment of Romanian military forces in support of Operation Enduring Freedom and Operation Iraqi Freedom, all of which have been important contributions to the global war on terror and serve as a tangible and ongoing demonstration of Romania's commitment as an ally of the United States;

(5) supports further cooperation between the United States and Romania in the process of stabilizing and reconstructing Iraq, including the utilization of Romania's experience emerging from a Communist dictatorship and creating a functioning democracy and free market economy; and

(6) welcomes Romanian President Ion Iliescu to the United States and looks forward to expanded political, diplomatic, economic, and military cooperation between Romania and the United States.

SENATE RESOLUTION 251—DESIGNATING OCTOBER 27, 2003, AS "INTERNATIONAL RELIGIOUS FREEDOM DAY"

Mr. BROWNBACK (for himself, Mr. LIEBERMAN, Mr. DORGAN, Mr. BAYH, Mrs. CLINTON, Mr. COLEMAN, Mr. CRAIG, Mr. CRAPO, Mr. DASCHLE, Mr. DURBIN, Mr. ENSIGN, Mrs. DOLE, Mr. ENZI, Mrs. FEINSTEIN, Mr. GRAHAM of South Carolina, Mr. HATCH, Mr. INHOFE, Mr. LAUTENBERG, Mr. LOTT, Mr. KOHL, Ms. MURKOWSKI, Mr. NELSON of Nebraska, Mr. NICKLES, Mr. SANTORUM, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Mr. SPECTER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

Whereas the people of the United States enjoy and respect the freedom of religion and believe that the fundamental rights of all individuals shall be recognized;

Whereas fundamental human rights, including the right to freedom of thought, conscience, and religion, are protected in numerous international agreements and declarations;

Whereas religious freedom is an absolute human right and all people are entitled to do with their own souls as they choose;

Whereas the right to freedom of religion is expressed in the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, adopted and proclaimed by the United Nations General Assembly Resolution 36/55 of November 22, 1981; the Helsinki Accords; the International Covenant on Civil and Political Rights, done at New York on December 16, 1966, and entered into force March 23, 1976; the United Nations Charter; and the Universal Declaration of Human Rights, adopted and proclaimed by the United Nations General Assembly Resolution 217(A)(III) of December 10, 1984;

Whereas the freedom for all individuals to adopt, believe, worship, observe, teach, and practice a religion individually or collectively has been explicitly articulated in Article 18 of the Universal Declaration of Human Rights and Article 18(1) of the International Covenant on Civil and Political Rights;

Whereas religious persecution is not confined to a country, a region, or a regime; but whereas all governments should provide and protect religious liberty;

Whereas nearly half of the people in the world are continually denied or restricted in the right to believe or practice their faith;

Whereas religious persecution often includes confinement, separation, humiliation, rape, enslavement, forced conversion, imprisonment, torture, and death;

Whereas October 27, 2003, marks the 5th anniversary of the signing of the International Religious Freedom Act of 1998 (22 U.S.C. 6401 et seq.), creating the Office of International Religious Freedom in the Department of State and the United States Commission on International Religious Freedom and resulting in a greater awareness of religious persecution both in the United States and abroad; and

Whereas the United States recognizes the need for additional domestic and international attention and action to promote religious liberty: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 27, 2003, as ''International Religious Freedom Day''; and

(2) requests that the President issue a proclamation—

(A) calling for a renewed commitment to eliminating violations of the internationally recognized right to freedom of religion and protecting fundamental human rights; and

(B) calling upon the people of the United States and interested groups and organizations to observe International Religious Freedom Day with appropriate ceremonies and activities.

SENATE RESOLUTION 252—DESIGNATING THE MONTH OF FEBRUARY 2004 AS ''NATIONAL CANCER PREVENTION MONTH''

Mr. HOLLINGS submitted the following resolution; which was considered and agreed to:

S. RES. 252

Whereas cancer is one of the most prevalent and devastating diseases to face society in the United States, taking over 550,000 lives in the United States every year;

Whereas early detection of some cancers can prevent the disease from reaching an advanced, potentially fatal stage;

Whereas recent advances in molecular biology have begun to explain the basic origins of cancer;

Whereas these research advances have opened new opportunities for cancer prevention research, giving increased optimism for effective cancer control;

Whereas the people of the United States need to be aware of these research advances and early detection opportunities so that they can better understand how to prevent cancer in themselves and their families; and

Whereas the people of the United States also need to recognize and be reminded that they can help prevent cancer through lifestyle changes, including modification of diet, cessation of smoking, and regular exercise: Now, therefore, be it

Resolved, That the Senate—

(1) designates February 2004 as ''National Cancer Prevention Month''; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

SENATE CONCURRENT RESOLUTION 75—EXPRESSING THE SENSE OF THE CONGRESS THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED TO PROMOTE PUBLIC AWARENESS OF DOWN SYNDROME

Mr. DURBIN (for himself, Mr. CORNYN, Mr. BINGAMAN, Mr. BAYH, Mr. FEINGOLD, and Mr. INOUYE) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 75

Whereas Down syndrome affects people of all races and economic levels;

Whereas Down syndrome is the most frequently occurring chromosomal abnormality;

Whereas 1 in every 800 to 1,000 children is born with Down syndrome;

Whereas more than 350,000 people in the United States have Down syndrome;

Whereas 5,000 children with Down syndrome are born each year;

Whereas as the mortality rate associated with Down syndrome in the United States decreases, the prevalence of individuals with Down syndrome in the United States will increase;

Whereas some experts project that the number of people with Down syndrome will double by 2013;

Whereas individuals with Down syndrome are becoming increasingly integrated into society and community organizations, such as school, health care systems, work forces, and social and recreational activities;

Whereas more and more people in the United States interact with individuals with Down syndrome, increasing the need for widespread public acceptance and education; and

Whereas a greater understanding of Down syndrome and advancements in treatment of Down syndrome-related health problems have allowed people with Down syndrome to enjoy fuller and more active lives: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the United States Postal Service should issue a commemorative postage stamp to promote public awareness of Down syndrome; and

(2) the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued.

Mr. DURBIN. Mr. President, today I am pleased to submit a resolution expressing the sense of the Congress that a commemorative United States postage stamp should be issued to promote public awareness of Down syndrome and the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued. I am honored to be joined by Senator CORNYN, Senator BAYH, Senator BINGAMAN, Senator FEINGOLD, and Senator INOUYE in this effort.

Down syndrome is a genetic condition usually caused by an error in cell division called non-disjunction. Regardless of the type of Down syndrome a person may have, all people with Down syndrome have an extra, critical portion of the number 21 chromosome present in all, or some, of their cells. This additional genetic material alters the course of development and causes the characteristics associated with the syndrome.

Down syndrome affects people of all races and economic levels. It is the most frequently occurring chromosomal abnormality, occurring once out of every 800 to 1,000 births. In the United States, more than 350,000 people have Down syndrome. Nearly 5,000 children with Down syndrome are born each year. Because the mortality rate connected with Down syndrome is decreasing, the number of individuals with Down syndrome in our society is increasing. Some experts predict that the prevalence of individuals with Down syndrome will double in the next 10 years, further increasing the need for public acceptance and education about this genetic condition.

October is designated as Down Syndrome Awareness Month, so this is an appropriate time to demonstrate support for people with Down syndrome and encourage greater inclusion and acceptance in our society. I encourage my colleagues to co-sponsor this meaningful resolution and assist our efforts to convince the Citizens' Stamp Advisory Committee to recommend the issuance of a postage stamp promoting public awareness of Down syndrome.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1899. Mr. SHELBY (for himself and Mrs. MURRAY) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes.

SA 1900. Mr. DORGAN (for himself, Mr. ENZI, Mr. HAGEL, Mr. BAUCUS, Mr. CRAIG, Mr. DODD, Mr. BINGAMAN, Mr. LEAHY, and Mr. DURBIN) proposed an amendment to the bill H.R. 2989, supra.

SA 1901. Mr. CRAIG (for himself, Mr. DORGAN, Mr. ENZI, Mr. HAGEL, Mr. BAUCUS, Mr. DODD, and Mr. ROBERTS) proposed an amendment to amendment SA 1900 proposed by Mr. DORGAN (for himself, Mr. ENZI, Mr. HAGEL, Mr. BAUCUS, Mr. CRAIG, Mr. DODD, Mr. BINGAMAN, Mr. LEAHY, and Mr. DURBIN) to the bill H.R. 2989, supra.

SA 1902. Mr. BAYH (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1903. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1904. Mr. FEINGOLD proposed an amendment to the bill H.R. 2989, supra.

SA 1905. Mr. HARKIN (for himself, Mr. FEINGOLD, Mr. KENNEDY, and Mr. DURBIN) proposed an amendment to the bill H.R. 2989, supra.

SA 1906. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1907. Mr. BINGAMAN (for himself, Mr. INHOFE, Mr. INOUYE, Mr. JOHNSON, and Mr. DASCHLE) submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1908. Mr. BINGAMAN (for himself, Ms. SNOWE, Mr. SPECTER, Mr. NELSON, of Nebraska, Mr. SCHUMER, Mr. JEFFORDS, Mr. PRYOR, Mr. LEAHY, Mr. DASCHLE, Mr. BAUCUS, Ms. COLLINS, Mr. GRASSLEY, Mr. DOMENICI, Mr. HARKIN, Mrs. LINCOLN, Mr. HAGEL, and Mr. BUNNING) submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1909. Mr. HOLLINGS (for himself, Mr. LAUTENBERG, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1910. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1911. Mr. CARPER (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1912. Mr. CARPER (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1913. Mr. CARPER (for himself and Mr. BIDEN) submitted an amendment intended to

be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1914. Mr. GRASSLEY (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1915. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1916. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1917. Ms. MIKULSKI (for herself, Ms. LANDRIEU, Mr. REID, Mr. SARBANES, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. KENNEDY, Mr. LEAHY, Mr. AKAKA, Mr. BYRD, Mr. EDWARDS, and Mr. CORZINE) proposed an amendment to the bill H.R. 2989, supra .

SA 1918. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1919. Mr. CHAMBLISS (for himself and Mr. MILLER) submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1920. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1921. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1922. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1923. Mr. THOMAS (for himself and Mr. VOINOVICH) proposed an amendment to the bill H.R. 2989, supra.

SA 1924. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1925. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1926. Mr. AKAKA (for himself, Mr. EDWARDS, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1927. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1928. Mr. DODD (for himself, Mr. MCCONNELL, Mr. DASCHLE, Mr. REID, Mr. DURBIN, Mr. SCHUMER, Mr. LIEBERMAN, Mr. EDWARDS, Mr. BOND, Mr. HATCH, Mr. ROBERTS, and Mr. BURNS) proposed an amendment to the bill H.R. 2989, supra.

SA 1929. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1930. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1931. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1932. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1933. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1934. Mrs. HUTCHISON (for herself and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1935. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill H.R. 2989, supra; which was ordered to lie on the table.

SA 1936. Mr. SHELBY (for Mr. DURBIN) proposed an amendment to the bill H.R. 2989, supra.

SA 1937. Mr. SHELBY (for Mr. CHAMBLISS) proposed an amendment to the bill H.R. 2989, supra.

SA 1938. Mr. SHELBY (for Mrs. FEINSTEIN) proposed an amendment to the bill H.R. 2989, supra.

SA 1939. Mr. SHELBY (for Mr. BINGAMAN (for himself, Ms. SNOWE, Mr. SPECTER, Mr. NELSON, of Nebraska, Mr. SCHUMER, Mr. JEFFORDS, Mr. PRYOR, Mr. LEAHY, Mr. DASCHLE, Mr. BAUCUS, Ms. COLLINS, Mr. GRASSLEY, Mrs. LINCOLN, Mr. HAGEL, Mrs. CLINTON, and Mr. BUNNING)) proposed an amendment to the bill H.R. 2989, supra.

SA 1940. Mr. SHELBY (for Mr. BAYH) proposed an amendment to the bill H.R. 2989, supra.

SA 1941. Mr. SHELBY (for Mr. REID (for himself and Mrs. MURRAY)) proposed an amendment to the bill H.R. 2989, supra.

SA 1942. Mr. SHELBY (for Mr. HOLLINGS) proposed an amendment to the bill H.R. 2989, supra.

SA 1943. Mr. SHELBY (for Mrs. MURRAY) proposed an amendment to the bill H.R. 2989, supra.

SA 1944. Mr. SHELBY (for Mr. REED) proposed an amendment to the bill H.R. 2989, supra.

SA 1945. Mr. SHELBY (for Mr. LEVIN) proposed an amendment to the bill H.R. 2989, supra.

SA 1946. Mr. SHELBY (for Mr. AKAKA) proposed an amendment to the bill H.R. 2989, supra.

SA 1947. Mr. SHELBY (for Mr. SPECTER) proposed an amendment to the bill H.R. 2989, supra.

SA 1948. Mr. SHELBY (for Mr. CARPER (for himself and Mr. BIDEN)) proposed an amendment to the bill H.R. 2989, supra.

SA 1949. Mr. SHELBY (for Mr. GRASSLEY (for himself, Mrs. HUTCHISON, and Mr. DOMENICI)) proposed an amendment to the bill H.R. 2989, supra.

SA 1950. Mr. SHELBY (for Mr. STEVENS) proposed an amendment to the bill H.R. 2989, supra.

SA 1951. Mr. SHELBY (for Mr. LOTT) proposed an amendment to the bill H.R. 2989, supra.

SA 1952. Mr. SHELBY (for Mr. ROBERTS) proposed an amendment to the bill H.R. 2989, supra.

SA 1953. Mr. SHELBY (for Ms. LANDRIEU) proposed an amendment to the bill H.R. 2989, supra.

SA 1954. Mr. SHELBY (for Mrs. HUTCHISON (for herself and Mr. CORNYN)) proposed an amendment to the bill H.R. 2989, supra.

SA 1955. Mr. SHELBY (for Mr. THOMAS) proposed an amendment to the bill H.R. 2989, supra.

SA 1956. Mr. SHELBY (for Mr. THOMAS) proposed an amendment to the bill H.R. 2989, supra.

SA 1957. Mr. SHELBY (for Mr. LAUTENBERG) proposed an amendment to the bill H.R. 2989, supra.

SA 1958. Mr. SHELBY (for Mr. FRIST) proposed an amendment to the bill H.R. 2989, supra.

SA 1959. Mr. SHELBY (for Mr. WARNER (for himself and Mr. JEFFORDS)) proposed an amendment to the bill H.R. 2989, supra.

SA 1960. Mr. SHELBY (for Mr. WARNER) proposed an amendment to the bill H.R. 2989, supra.

SA 1961. Mr. SHELBY (for Mrs. MURRAY) proposed an amendment to the bill H.R. 2989, supra.

SA 1962. Mr. SHELBY (for Mr. FRIST) proposed an amendment to the bill H.R. 2989, supra.

SA 1963. Mr. SHELBY (for Mr. CHAMBLISS (for himself and Mr. MILLER)) proposed an amendment to the bill H.R. 2989, supra.

SA 1964. Mr. MCCONNELL (for Ms. COLLINS (for herself, Mr. KENNEDY, Ms. MIKULSKI, and Mr. CARPER)) proposed an amendment to the bill H.R. 2989, supra.

TEXT OF AMENDMENTS

SA 1899. Mr. SHELBY (for himself and Mrs. MURRAY) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Transportation and Treasury, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary, $91,276,000, of which not to exceed $2,500,000 shall be available for the immediate Office of the Secretary; not to exceed $706,000 shall be available for the immediate Office of the Deputy Secretary; not to exceed $15,403,000 shall be available for the Office of the General Counsel; not to exceed $12,312,000 shall be available for the Office of the Under Secretary of Transportation for Policy; not to exceed $8,536,000 shall be available for the Office of the Assistant Secretary for Budget and Programs; not to exceed $2,477,000 shall be available for the Office of the Assistant Secretary for Governmental Affairs; not to exceed $28,882,000 shall be available for the Office of the Assistant Secretary for Administration; not to exceed $1,915,000 shall be available for the Office of Public Affairs; not to exceed $1,458,000 shall be available for the Office of the Executive Secretariat; not to exceed $700,000 shall be available for the Board of Contract Appeals; not to exceed $1,268,000 shall be available for the Office of Small and Disadvantaged Business Utilization; not to exceed $1,792,000 for the Office of Intelligence and Security; and not to exceed $13,327,000 shall be available for the Office of the Chief Information Officer: *Provided*, That the Secretary of Transportation is authorized to transfer funds appropriated for any office of the Office of the Secretary to any other office of the Office of the Secretary: *Provided further*, That no appropriation for any office shall be increased or decreased by more than 5 percent by all such transfers: *Provided further*, That any change in funding greater than 5 percent shall be submitted for approval to the House and Senate Committees on Appropriations: *Provided further*, That not to exceed $60,000 shall be for allocation within the Department for official reception and representation expenses as the Secretary may determine: *Provided further*, That notwithstanding any other provision of law, excluding fees authorized in Public Law 107–71, there may be credited to this appropriation up to $2,500,000 in funds received in

user fees: *Provided further*, That none of the funds provided in this Act shall be available for the position of Assistant Secretary for Public Affairs.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $8,569,000.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, systems development, development activities, and making grants, to remain available until expended, $15,836,000.

WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Working Capital Fund, not to exceed $116,715,000, shall be paid from appropriations made available to the Department of Transportation: *Provided*, That such services shall be provided on a competitive basis to entities within the Department of Transportation: *Provided further*, That the above limitation on operating expenses shall not apply to non-DOT entities: *Provided further*, That no funds appropriated in this Act to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency modal administrator: *Provided further*, That no assessments may be levied against any program, budget activity, subactivity or project funded by this Act unless notice of such assessments and the basis therefor are presented to the House and Senate Committees on Appropriations and are approved by such Committees.

MINORITY BUSINESS RESOURCE CENTER PROGRAM

For the cost of guaranteed loans, $500,000, as authorized by 49 U.S.C. 332: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $18,367,000. In addition, for administrative expenses to carry out the guaranteed loan program, $400,000.

MINORITY BUSINESS OUTREACH

For necessary expenses of Minority Business Resource Center outreach activities, $3,000,000, to remain available until September 30, 2005: *Provided*, That notwithstanding 49 U.S.C. 332, these funds may be used for business opportunities related to any mode of transportation.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

In addition to funds made available from any other source to carry out the essential air service program under 49 U.S.C. 41731 through 41742, $52,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to commercial space transportation, administrative expenses for research and development, establishment of air navigation facilities, the operation (including leasing) and maintenance of aircraft, subsidizing the cost of aeronautical charts and maps sold to the public, lease or purchase of passenger motor vehicles for replacement only, in addition to amounts made available by Public Law 104–264, $7,535,648,000, of which $6,000,000,000 shall be derived from the Airport and Airway Trust Fund, of which not to exceed $6,047,300,000 shall be available for air traffic services program activities; not to exceed $873,374,000 shall be available for aviation regulation and certification program activities; not to exceed $218,481,000 shall be available for research and acquisition program activities; not to exceed $12,601,000 shall be available for commercial space transportation program activities; not to exceed $49,783,000 shall be available for financial services program activities; not to exceed $77,029,000 shall be available for human resources program activities; not to exceed $84,749,000 shall be available for regional coordination program activities; not to exceed $142,650,000 shall be available for staff offices; and not to exceed $29,681,000 shall be available for information services: *Provided*, That none of the funds in this Act shall be available for the Federal Aviation Administration to finalize or implement any regulation that would promulgate new aviation user fees not specifically authorized by law after the date of the enactment of this Act: *Provided further*, That there may be credited to this appropriation funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the provision of agency services, including receipts for the maintenance and operation of air navigation facilities, and for issuance, renewal or modification of certificates, including airman, aircraft, and repair station certificates, or for tests related thereto, or for processing major repair or alteration forms: *Provided further*, That of the funds appropriated under this heading, not less than $6,500,000 shall be for the contract tower cost-sharing program: *Provided further*, That funds may be used to enter into a grant agreement with a nonprofit standard-setting organization to assist in the development of aviation safety standards: *Provided further*, That none of the funds in this Act shall be available for new applicants for the second career training program: *Provided further*, That none of the funds in this Act shall be available for paying premium pay under 5 U.S.C. 5546(a) to any Federal Aviation Administration employee unless such employee actually performed work during the time corresponding to such premium pay: *Provided further*, That none of the funds in this Act may be obligated or expended to operate a manned auxiliary flight service station in the contiguous United States: *Provided further*, That none of the funds in this Act for aeronautical charting and cartography are available for activities conducted by, or coordinated through, the Working Capital Fund: *Provided further*, That of the amount appropriated under this heading, not to exceed $50,000 may be transferred to the Aircraft Loan Purchase Gurantee Program.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, technical support services, improvement by contract or purchase, hire of air navigation and experimental facilities and equipment and other capital facilities and equipment in direct support of the National Airspace System, as authorized under part A of subtitle VII of title 49, United States Code, including initial acquisition of necessary sites by lease or grant; engineering and service testing, including construction of test facilities and acquisition of necessary sites by lease or grant; construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease, or transfer of aircraft from funds available under this heading; to be derived from the Airport and Airway Trust Fund, $2,916,000,000, of which $2,480,520,000 shall remain available until September 30, 2006, and of which $435,480,000 shall remain available until September 30, 2004: *Provided*, That of the total amount made available under this heading, $100,000,000 shall be transferred to the heading ''Grants-in-Aid for Airports'' and shall not be subject to the obligation limitation stated therein and shall remain available until expended: *Provided further*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further*, That upon initial submission to the Congress of the fiscal year 2005 President's budget, the Secretary of Transportation shall transmit to the Congress a comprehensive capital investment plan for the Federal Aviation Administration which includes funding for each budget line item for fiscal years 2005 through 2009, with total funding for each year of the plan constrained to the funding targets for those years as estimated and approved by the Office of Management and Budget.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, as authorized under part A of subtitle VII of title 49, United States Code, including construction of experimental facilities and acquisition of necessary sites by lease or grant, $118,939,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2006: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for grants-in-aid for airport planning and development, and noise compatibility planning and programs as authorized under subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, and under other law authorizing such obligations; for procurement, installation, and commissioning of runway incursion prevention devices and systems at airports of such title; for grants authorized under section 41743 of title 49, United States Code; and for inspection activities and administration of airport safety programs, including those related to airport operating certificates under section 44706 of title 49, United States Code, $3,400,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That none of the funds under this heading shall be available for the planning or execution of programs the obligations for which are in excess of $3,400,000,000 in fiscal year 2004, notwithstanding section 47117(g) of title 49, United States Code: *Provided further*, That none of the funds under this heading shall be available for the replacement of baggage conveyor systems, reconfiguration of terminal baggage areas, or other airport improvements that are necessary to install bulk explosive detection systems: *Provided further*, That notwithstanding any other provision of law, not more than $66,638,000 of funds limited under this heading shall be obligated for administration and not less than $20,000,000 shall be for the Small Community Air Service Development Pilot Program.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to 49 U.S.C. 44307, and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program for aviation insurance activities under chapter 443 of title 49, United States Code.

GENERAL PROVISIONS—FEDERAL AVIATION ADMINISTRATION

SEC. 101. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport-aid program, airport development aid program or airport improvement program grant: *Provided,* That, the Federal Aviation Administration shall accept such equipment, which shall thereafter be operated and maintained by FAA in accordance with agency criteria.

SEC. 102. None of the funds in this Act may be used to compensate in excess of 350 technical staff-years under the federally funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development during fiscal year 2004.

SEC. 103. None of the funds in this Act shall be used to pursue or adopt guidelines or regulations requiring airport sponsors to provide to the Federal Aviation Administration without cost building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings for services relating to air traffic control, air navigation, or weather reporting: *Provided,* That the prohibition of funds in this section does not apply to negotiations between the agency and airport sponsors to achieve agreement on ''below-market'' rates for these items or to grant assurances that require airport sponsors to provide land without cost to the FAA for air traffic control.

SEC. 104. For an airport project that the Administrator of the Federal Aviation Administration (FAA) determines will add critical airport capacity to the national air transportation system, the Administrator is authorized to accept funds from an airport sponsor, including entitlement funds provided under the ''Grants-in-Aid for Airports'' program, for the FAA to hire additional staff or obtain the services of consultants: *Provided,* That the Administrator is authorized to accept and utilize such funds only for the purpose of facilitating the timely processing, review, and completion of environmental activities associated with such project.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Necessary expenses for administration and operation of the Federal Highway Administration, not to exceed $337,834,000, shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided,* That of the funds available under section 104(a)(1)(A) of title 23, United States Code: $20,000,000 shall be available to provide grants to States for the development or enhancement of notification or communications systems along highways for alerts and other information for the recovery of abducted children under section 303 of Public Law 108–21; $175,000,000 shall be available to enable the Secretary of Transportation to make grants for surface transportation projects, and shall remain available until expended; $7,000,000 shall be available for environmental streamlining activities, which may include making grants to, or entering into contracts, cooperative agreements, and other transactions, with a Federal agency, State agency, local agency, authority, association, nonprofit or for-profit corporation, or institution of higher education.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of $33,843,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 2004: *Provided,* That within the $33,843,000,000 obligation limitation on Federal-aid highways and highway safety construction programs, not more than $462,500,000 shall be available for the implementation or execution of programs for transportation research (sections 502, 503, 504, 506, 507, and 508 of title 23, United States Code, as amended; section 5505 of title 49, Unites States Code, as amended; and sections 5112 and 5204–5209 of Public Law 105–178) for fiscal year 2003: *Provided further,* That this limitation on transportation research programs shall not apply to any authority previously made available for obligation: *Provided further,* That within the $232,000,000 obligation limitation on Intelligent Transportation Systems, the following sums shall be made available for Intelligent Transportation System projects that are designed to achieve the goals and purposes set forth in section 5203 of the Intelligent Transportation Systems Act of 1998 (subtitle C of title V of Public Law 105–178; 112 Stat. 453; 23 U.S.C. 502 note) in the following specified areas:

511 Traveler Information Program, North Carolina, $400,000;

Advanced Ticket Collection and Passenger Information Systems, New Jersey, $1,500,000;

Advanced Traffic Analysis Center, North Dakota, $500,000;

Advanced Transportation Management Systems (AMTS), Montgomery County, Maryland, $1,000,000;

ATR Transportation Technology/CVISN, New Mexico, $1,000,000;

Auburn, Auburn Way South ITS, Washington, $1,600,000;

Cargo Watch Logistics Information System, New York, $4,000,000;

CCTA Intelligent Transportation Systems, Vermont, $1,000,000;

Central Florida Regional Transportation Authority: North Orange/South Seminole ITS Enhanced Circulator, $2,500,000;

City of Boston Intelligent Transportation Systems, Massachusetts, $1,750,000;

City of Huntsville, Alabama ITS, $5,000,000;

City of Shreveport Intelligent Transportation System Deployment, Louisiana, $1,000,000;

Clark County Transit, VAST ITS, Washington, $1,600,000;

Dynamic Changeable Message Signs—Urban Interstate System, Iowa, $1,000,000;

Fiber Optic Signal Interconnect System, Arizona, $4,000,000;

Germantown Parkway ITS Project, Tennessee, $3,000,000;

GMU ITS, Virginia, $2,000,000;

Great Lakes ITS, Michigan, $2,000,000;

Greater Philadelphia Chamber of Commerce ITS System, Pennsylvania, $2,000,000;

Hillsborough Area Regional Transit Bus Tracking, Communication and Security, Florida, $1,000,000;

Hoosier SAFE–T, Indiana, $3,500,000;

I–70 Incident Management Plan, Colorado, $3,000,000;

Intelligent Transportation Systems—Phases II and III, Ohio, $1,250,000;

Intelligent Transportation Systems [ITS] Statewide and Commercial Vehicle Information Systems Network [CVISN], Maryland, $1,000,000;

Intelligent Transportation Systems, Illinois, $4,000,000;

Iowa Transit Communications, $1,500,000;

ITS Expansion in Davis and Utah Counties, Utah, $1,250,000;

ITS, Cache Valley, Utah, $1,000,000;

Jacksonville Transportation Authority: Intelligent Transportation Systems Regional Planning, Florida, $1,000,000;

King County, Countywide Signaling Program, Washington, $1,500,000;

Lewis & Clark 511 Coalition, Montana, $1,000,000;

Lincoln, Nebraska StarTran Automatic Vehicle Location System, $1,000,000;

Maine Statewide ITS, $1,000,000;

MARTA Automated Fare Collection/Smart Card System, Georgia, $1,500,000;

Mid-America Surface Transportation Weather Research Institute, North Dakota, $1,000,000;

Missouri Statewide Rural ITS, $5,000,000;

Nebraska Statewide Intelligent Transportation System Deployment, $2,000,000;

Oklahoma Statewide ITS, $5,000,000;

Port of Anchorage Intermodal Facility, Alaska, $1,500,000;

Program of Projects, Washington, $5,400,000;

RIPTA ITS Program Phase II, Rhode Island, $1,500,000;

Real Time Transit Passenger Information System for the Prince George's County Department of Public Works, Maryland, $1,000,000;

Sacramento Area Council of Governments—ITS Projects, California, $4,000,000;

SCDOT InRoads, South Carolina, $3,000,000;

Seattle City Center ITS, Washington, $2,500,000;

Springfield, Missouri Regional ITS, $2,000,000;

State of Vermont Interstate Variable Message Signs and Weather Information Stations, $1,000,000;

Statewide AVL Initiative, Nebraska, $750,000;

TalTran: ITS Smart Bus Implementation, Florida, $1,500,000;

Texas Medical Center Early Warning Transportation System, $2,000,000;

Texas Statewide ITS Deployment and Integration, $1,000,000;

Town of Cary: Computerized Traffic Signal System Project, North Carolina, $1,600,000;

Transportation Research Center [TRC] for Freight, Trade, Security, and Economic Strength, Georgia, $1,000,000;

Tri-County Automated System Project, University of Southern Mississippi, $1,000,000;

Tukwila, Signalization Interconnect and Intelligent Transportation, Washington, $1,400,000;

Twin Cities, Minnesota Redundant Communications Pilot, $2,000,000;

UAB Center for Injury Sciences, Birmingham, Alabama, $2,000,000;

University of Alaska Transportation Research Center, $2,000,000;

University of Kentucky Transportation Center, $1,500,000;

University of Oklahoma Intelligent Bridge System Research, $3,000,000;

Wisconsin State Patrol Mobile Data Computer Network Phase II, $3,000,000;

Wyoming Statewide ITS Initiative, $5,000,000.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursement for sums expended pursuant to the provisions of 23 U.S.C. 308, $34,000,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

(RESCISSION)

Of the unobligated balances of funds apportioned to each state under the program authorized under sections 1101(a)(1), 1101(a)(2), 1101(a)(3), 1101(a)(4), and 1101(a)(5) of Public Law 105–178, as amended, $156,000,000 are rescinded.

APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

For necessary expenses for the Appalachian Development Highway System as authorized under section 1069(y) of Public Law 102–240, as amended, $150,000,000, to remain available until expended.

GENERAL PROVISIONS—FEDERAL HIGHWAY ADMINISTRATION

SEC. 110. (a) For fiscal year 2004, the Secretary of Transportation shall—

(1) not distribute from the obligation limitation for Federal-aid Highways amounts authorized for administrative expenses and programs funded from the administrative takedown authorized by section 104(a)(1)(A) of title 23, United States Code, for the highway use tax evasion program, and for the Bureau of Transportation Statistics;

(2) not distribute an amount from the obligation limitation for Federal-aid Highways that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highways and highway safety programs for the previous fiscal year the funds for which are allocated by the Secretary;

(3) determine the ratio that—

(A) the obligation limitation for Federal-aid Highways less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

(B) the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(8)) for such fiscal year less the aggregate of the amounts not distributed under paragraph (1) of this subsection;

(4) distribute the obligation limitation for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) for section 201 of the Appalachian Regional Development Act of 1965 and $2,000,000,000 for such fiscal year under section 105 of title 23, United States Code (relating to minimum guarantee) so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such section (except in the case of section 105, $2,000,000,000) for such fiscal year;

(5) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4) for each of the programs that are allocated by the Secretary under title 23, United States Code (other than activities to which paragraph (1) applies and programs to which paragraph (4) applies) by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such program for such fiscal year; and

(6) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5) for Federal-aid highways and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed $2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under title 23, United States Code, in the ratio that—

(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

(b) EXCEPTIONS FROM OBLIGATION LIMITATION.—The obligation limitation for Federal-aid Highways shall not apply to obligations: (1) under section 125 of title 23, United States Code; (2) under section 147 of the Surface Transportation Assistance Act of 1978; (3) under section 9 of the Federal-Aid Highway Act of 1981; (4) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982; (5) under sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987; (6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991; (7) under section 157 of title 23, United States Code, as in effect on the day before the date of the enactment of the Transportation Equity Act for the 21st Century; (8) under section 105 of title 23, United States Code (but, only in an amount equal to $639,000,000 for such fiscal year); and for Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century or subsequent public laws for multiple years or to remain available until used, but only to the extent that such obligation authority has not lapsed or been used.

(c) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (a), the Secretary shall after August 1 for such fiscal year revise a distribution of the obligation limitation made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code, section 160 (as in effect on the day before the enactment of the Transportation Equity Act for the 21st Century) of title 23, United States Code, and under section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1943–1945).

(d) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—The obligation limitation shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, except that obligation authority made available for such programs under such limitation shall remain available for a period of 3 fiscal years.

(e) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—Not later than 30 days after the date of the distribution of obligation limitation under subsection (a), the Secretary shall distribute to the States any funds: (1) that are authorized to be appropriated for such fiscal year for Federal-aid highways programs (other than the program under section 160 of title 23, United States Code) and for carrying out subchapter I of chapter 311 of title 49, United States Code, and highway-related programs under chapter 4 of title 23, United States Code; and (2) that the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any obligation limitation for such fiscal year. Such distribution to the States shall be made in the same ratio as the distribution of obligation authority under subsection (a)(6). The funds so distributed shall be available for any purposes described in section 133(b) of title 23, United States Code.

(f) SPECIAL RULE.—Obligation limitation distributed for a fiscal year under subsection (a)(4) of this section for a section set forth in subsection (a)(4) shall remain available until used and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(g) Of the obligation limitation transferred to the National Highway Traffic Safety Administration for expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under chapter 301 of title 49, United States Code, and part C of subtitle VI of title 49, United States Code, $94,543,500 shall remain available until September 30, 2006.

SEC. 111. Notwithstanding any other provision of law, whenever an allocation is made of the sums authorized to be appropriated for expenditure on the Federal lands highway program, and whenever an apportionment is made of the sums authorized to be appropriated for expenditure on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, the Interstate maintenance program, the bridge program, the Appalachian development highway system, and the minimum guarantee program, the Secretary of Transportation shall—

(1) deduct a sum in such amount not to exceed 2.55 percent of all sums so made available, as the Secretary determines necessary, to administer the provisions of law to be financed from appropriations for motor carrier safety programs and motor carrier safety research: *Provided,* That any deduction by the Secretary of Transportation in accordance with this subsection shall be deemed to be a deduction under section 104(a)(1)(B) of title 23, United States Code, and the sum so deducted shall remain available until expended; and

(2) deduct a sum in such amount not to exceed 1.05 percent of all sums so made available, as the Secretary determines necessary to administer the provisions of law to be financed from appropriations for the programs authorized under chapters 1 and 2 of title 23, United States Code, and to make transfers in accordance with section 104(a)(1)(A)(ii) of title 23, United States Code: *Provided,* That any deduction by the Secretary of Transportation in accordance with this subsection shall be deemed to be a deduction under section 104(a)(1)(A) of title 23, United States Code, and the sum so deducted shall remain available until expended.

SEC. 112. Notwithstanding 31 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to 49 U.S.C. 111 may be credited to the Federal-aid highways account for the purpose of reimbursing the Bureau for such expenses: *Provided,* That such funds shall be

subject to the obligation limitation for Federal-aid highways and highway safety construction.

SEC. 113. For fiscal year 2004, notwithstanding any other provision of law, historic covered bridges eligible for Federal assistance under section 1224 of the Transportation Equity Act for the 21st Century, as amended, may be funded from amounts set aside for the discretionary bridge program.

SEC. 114. (a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of Transportation shall enter into an agreement with the State of Nevada, the State of Arizona, or both, to provide a method of funding for construction of a Hoover Dam Bypass Bridge from funds allocated for the Federal Lands Highway Program under section 202(b) of title 23, United States Code.

(b) METHODS OF FUNDING.—

(1) The agreement entered into under subsection (a) shall provide for funding in a manner consistent with the advance construction and debt instrument financing procedures for Federal-aid highways set forth in section 115 and 122 of title 23, except that the funding source may include funds made available under the Federal Lands Highway Program.

(2) Eligibility for funding under this subsection shall not be construed as a commitment, guarantee, or obligation on the part of the United States to provide for payment of principal or interest of an eligible debt financing instrument as so defined in section 122, nor create a right of a third party against the United States for payment under an eligible debt financing instrument. The agreement entered into pursuant to subsection (a) shall make specific reference to this provision of law.

(3) The provisions of this section do not limit the use of other available funds for which the project referenced in subsection (a) is eligible.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

MOTOR CARRIER SAFETY

LIMITATION ON ADMINISTRATIVE EXPENSES

(HIGHWAY TRUST FUND)

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for administration of motor carrier safety programs and motor carrier safety research, pursuant to section 104(a)(1)(B) of title 23, United States Code, not to exceed $292,972,233 shall be paid in accordance with law from appropriations made available by this Act and from any available take-down balances to the Federal Motor Carrier Safety Administration, together with advances and reimbursements received by the Federal Motor Carrier Safety Administration: *Provided,* That such amounts shall be available to carry out the functions and operations of the Federal Motor Carrier Safety Administration: *Provided further,* That notwithstanding any other provision of law, $11,744,000 of the funds made available under this heading shall be transferred to and merged with funding provided for grants to the States for implementation of section 210 of Public Law 106–159 under ''Federal Motor Carrier Safety Administration, Motor Carrier Safety Assistance Program'': *Provided further,* That of the funds made available under this heading, $47,000,000 shall be available for the border enforcement program as authorized under section 350 of the Department of Transportation and Related Agencies Appropriations Act, 2002.

NATIONAL MOTOR CARRIER SAFETY PROGRAM

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out 49 U.S.C. 31102, 31106 and 31309, $190,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $190,000,000 for ''Motor Carrier Safety Grants'', and ''Information Systems''.

GENERAL PROVISION—MOTOR CARRIER SAFETY ADMINISTRATION

SEC. 130. None of the funds appropriated or made available by this Act shall be used to implement or enforce any provision of the Final Rule issued on April 16, 2003 (Docket No. FMCSA–97–2350) as it may apply to operators of utility service vehicles as defined in 49 C.F.R. 395.2.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary, with respect to traffic and highway safety under chapter 301 of title 49, United States Code, and part C of subtitle VI of title 49, United States Code, $148,102,000, to be derived from funds available under 104(a)(1)(A) of title 23, United States Code: *Provided,* That such funds shall be transferred to and administered by the National Highway Traffic Safety Administration: *Provided further,* That none of the funds appropriated by this Act may be obligated or expended to plan, finalize, or implement any rulemaking to add to section 575.104 of title 49 of the Code of Federal Regulations any requirement pertaining to a grading standard that is different from the three grading standards (treadwear, traction, and temperature resistance) already in effect.

OPERATIONS AND RESEARCH

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 403, to remain available until expended, $72,000,000, to be derived from the Highway Trust Fund: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2004, are in excess of $72,000,000 for programs authorized under 23 U.S.C. 403.

NATIONAL DRIVER REGISTER

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to the National Driver Register under chapter 303 of title 49, United States Code, $3,600,000, to be derived from the Highway Trust Fund, and to remain available until expended.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402, 405, and 410, to remain available until expended, $225,000,000, to be derived from the Highway Trust Fund: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2004, are in excess of $225,000,000 for programs authorized under 23 U.S.C. 402, 405, and 410, of which $165,000,000 shall be for ''Highway Safety Programs'' under 23 U.S.C. 402, $20,000,000 shall be for ''Occupant Protection Incentive Grants'' under 23 U.S.C. 405, and $40,000,000 shall be for ''Alcohol-Impaired Driving Countermeasures Grants'' under 23 U.S.C. 410: *Provided further,* That none of these funds shall be used for construction, rehabilitation, or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further,* That not to exceed $8,150,000 of the funds made available for section 402, not to exceed $1,000,000 of the funds made available for section 405, and not to exceed $2,000,000 of the funds made available for section 410 shall be available to NHTSA for administering highway safety grants under chapter 4 of title 23, United States Code: *Provided further,* That not to exceed $500,000 of the funds made available for section 410 ''Alcohol-Impaired Driving Countermeasures Grants'' shall be available for technical assistance to the States.

GENERAL PROVISIONS—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

SEC. 140. Notwithstanding any other provision of law, States may use funds provided in this Act under section 402 of title 23, United States Code, to produce and place highway safety public service messages in television, radio, cinema, and print media, and on the Internet in accordance with guidance issued by the Secretary of Transportation: *Provided,* That any State that uses funds for such public service messages shall submit to the Secretary a report describing and assessing the effectiveness of the messages: *Provided further,* That $10,000,000 of the funds allocated under section 157 of title 23, United States Code, shall be used as directed by the National Highway Traffic Safety Administrator to purchase national paid advertising (including production and placement) to support national safety belt mobilizations: *Provided further,* That, of the funds allocated under section 163 of title 23, United States Code, $2,750,000 shall be used as directed by the Administrator to support national impaired driving mobilizations and enforcement efforts, $14,000,000 shall be used as directed by the Administrator to purchase national paid advertising (including production and placement) to support such national impaired driving mobilizations and enforcement efforts, $250,000 shall be used as directed by the Administrator to conduct an evaluation of alcohol-impaired driving messages, and $3,000,000 shall be used as directed by the Administrator to conduct an impaired driving demonstration program.

SEC. 141. Notwithstanding any other provision of law, funds appropriated or limited in the Act to educate the motoring public on how to share the road safely with commercial motor vehicles shall be administered by the National Highway Traffic Safety Administration.

FEDERAL RAILROAD ADMINISTRATION

SAFETY AND OPERATIONS

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $130,825,000, of which $11,712,000 shall remain available until expended.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $34,225,000, to remain available until expended.

RAILROAD REHABILITATION AND IMPROVEMENT PROGRAM

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such

Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That pursuant to section 502 of such Act, as amended, no new direct loans or loan guarantee commitments shall be made using Federal funds for the credit risk premium during fiscal year 2004: *Provided further*, That no payments of principal or interest shall be collected during fiscal year 2004 for the direct loan made to the National Railroad Passenger Corporation under section 502 of such Act.

NEXT GENERATION HIGH-SPEED RAIL

For necessary expenses for the Next Generation High-Speed Rail program as authorized under 49 U.S.C. 26101 and 26102, $29,350,000, to remain available until expended.

ALASKA RAILROAD REHABILITATION

To enable the Secretary of Transportation to make grants to the Alaska Railroad, $25,000,000 shall be for capital rehabilitation and improvements benefiting its passenger operations, to remain available until expended.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make quarterly grants to the National Railroad Passenger Corporation, $1,346,000,000, to remain available until September 30, 2004: *Provided*, That the Secretary of Transportation shall approve funding to cover operating losses and capital expenditures for a train of the National Railroad Passenger Corporation only after receiving and reviewing a grant request for each specific train route: *Provided further*, That each such grant request shall be accompanied by a detailed financial analysis, revenue projection, and capital expenditure projection justifying the Federal support to the Secretary's satisfaction: *Provided further*, That the Secretary of Transportation and the Amtrak Board of Directors shall ensure that, of the amount made available under this heading, sufficient sums are reserved to satisfy the contractual obligations of the National Railroad Passenger Corporation for commuter and intercity passenger rail service: *Provided further*, That within 60 days of enactment of this Act, Amtrak shall transmit to the Secretary of Transportation and the House and Senate Committees on Appropriations a business plan for operating and capital improvements to be funded in fiscal year 2004 under section 24104(a) of title 49, United States Code: *Provided further*, That the business plan shall include a description of the work to be funded, along with cost estimates and an estimated timetable for completion of the projects covered by this business plan: *Provided further*, That not later than June 1, 2003 and each month thereafter, Amtrak shall submit to the Secretary of Transportation and the House and Senate Committees on Appropriations a supplemental report regarding the business plan, which shall describe the work completed to date, any changes to the business plan, and the reasons for such changes: *Provided further*, That none of the funds in this Act may be used for operating expenses and capital projects not approved by the Secretary of Transportation nor on the National Railroad Passenger Corporation's fiscal year 2004 business plan: *Provided further*, That none of the funds under this heading may be obligated or expended until the National Railroad Passenger Corporation agrees to continue abiding by the provisions of paragraphs 1, 2, 3, 5, 9, and 11 of the summary of conditions for the direct loan agreement of June 28, 2002, in the same manner as in effect on the date of enactment of this Act.

FEDERAL TRANSIT ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the Federal Transit Administration's programs authorized by chapter 53 of title 49, United States Code, $14,600,000: *Provided*, That no more than $73,000,000 of budget authority shall be available for these purposes: *Provided further*, That of the funds available not to exceed $980,000 shall be available for the Office of the Administrator; not to exceed $6,133,000 shall be available for the Office of Administration; not to exceed $3,750,000 shall be available for the Office of the Chief Counsel; not to exceed $1,160,000 shall be available for the Office of Communication and Congressional Affairs; not to exceed $7,250,000 shall be available for the Office of Program Management; not to exceed $6,200,000 shall be available for the Office of Budget and Policy; not to exceed $4,600,000 shall be available for the Office of Demonstration and Innovation; not to exceed $2,700,000 shall be available for the Office of Civil Rights; not to exceed $3,450,000 shall be available for the Office of Planning; not to exceed $17,777,000 shall be available for regional offices; and not to exceed $16,800,000 shall be available for the central account: *Provided further*, That the Administrator is authorized to transfer funds appropriated for an office of the Federal Transit Administration: *Provided further*, That no appropriation for an office shall be increased or decreased by more than 3 percent by all such transfers: *Provided further*, That any change in funding greater than 3 percent shall be submitted for approval to the House and Senate Committees on Appropriations: *Provided further*, That of the funds in this Act available for the execution of contracts under section 5327(c) of title 49, United States Code, $2,000,000 shall be reimbursed to the Department of Transportation's Office of Inspector General for costs associated with audits and investigations of transit-related issues, including reviews of new fixed guideway systems: *Provided further*, That not to exceed $2,200,000 for the National transit database shall remain available until expended.

FORMULA GRANTS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out 49 U.S.C. 5307, 5308, 5310, 5311, 5327, and section 3038 of Public Law 105–178, $767,800,000, to remain available until expended: *Provided*, That no more than $3,839,000,000 of budget authority shall be available for these purposes: *Provided further*, That notwithstanding section 3008 of Public Law 105–178, $50,000,000 of the funds to carry out 49 U.S.C. 5308 shall be transferred to and merged with funding provided for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities under ''Federal Transit Administration, Capital investment grants''.

UNIVERSITY TRANSPORTATION RESEARCH

For necessary expenses to carry out 49 U.S.C. 5505, $1,200,000, to remain available until expended: *Provided*, That no more than $6,000,000 of budget authority shall be available for these purposes.

TRANSIT PLANNING AND RESEARCH

For necessary expenses to carry out 49 U.S.C. 5303, 5304, 5305, 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322, $24,400,000, to remain available until expended: *Provided*, That no more than $122,000,000 of budget authority shall be available for these purposes: *Provided further*, That $5,250,000 is available to provide rural transportation assistance (49 U.S.C. 5311(b)(2)), $4,000,000 is available to carry out programs under the National Transit Institute (49 U.S.C. 5315), $8,250,000 is available to carry out transit cooperative research programs (49 U.S.C. 5313(a)), $60,385,600 is available for metropolitan planning (49 U.S.C. 5303, 5304, and 5305), $12,614,400 is available for State planning (49 U.S.C. 5313(b)); and $31,500,000 is available for the national planning and research program (49 U.S.C. 5314).

TRUST FUND SHARE OF EXPENSES

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out 49 U.S.C. 5303–5308, 5310–5315, 5317(b), 5322, 5327, 5334, 5505, and sections 3037 and 3038 of Public Law 105–178, $5,844,000,000, to remain available until expended, and to be derived from the Mass Transit Account of the Highway Trust Fund: *Provided*, That $3,071,200,000 shall be paid to the Federal Transit Administration's formula grants account: *Provided further*, That $97,600,000 shall be paid to the Federal Transit Administration's transit planning and research account: *Provided further*, That $58,400,000 shall be paid to the Federal Transit Administration's administrative expenses account: *Provided further*, That $4,800,000 shall be paid to the Federal Transit Administration's university transportation research account: *Provided further*, That $100,000,000 shall be paid to the Federal Transit Administration's job access and reverse commute grants program: *Provided further*, That $2,512,000,000 shall be paid to the Federal Transit Administration's capital investment grants account.

CAPITAL INVESTMENT GRANTS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out 49 U.S.C. 5308, 5309, 5318, and 5327, $628,000,000, to remain available until expended: *Provided*, That no more than $3,140,000,000 of budget authority shall be available for these purposes: *Provided further*, That there shall be available for fixed guideway modernization, $1,214,400,000; there shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities, $607,200,000, which shall include $50,000,000 made available under 5309(m)(3)(C) of this title, plus $50,000,000 transferred from ''Federal Transit Administration, Formula Grants''; and there shall be available for new fixed guideway systems $1,318,400,000, to be available as follows:

Alaska and Hawaii Ferry Projects, $10,296,000;

Baltimore—Central LRT Double Tracking, Maryland, $40,000,000;

Birmingham—Transit Corridor, Alabama, $6,000,000;

Boston—Silver Line Phase III, Massachusetts, $1,000,000;

Charlotte—South Corridor Light Rail Project, North Carolina, $18,000,000;

Chicago—Douglas Branch Reconstruction, Illinois, $85,000,000;

Chicago—North Central, Illinois, $20,000,000;

Chicago—UP West Line Extension, Illinois, $12,000,000;

Chicago—Metra Southwest Corridor Commuter Rail, Illinois, $20,000,000;

Chicago—Ravenswood Line Extension, Illinois, $10,000,000;

Commuter Rail Improvements, Delaware, $3,000,000;

Dallas—North Central LRT Extension, Texas, $30,161,283;

Denver—Southeast Corridor LRT, Colorado, $80,000,000;

Dulles Corridor Rapid Transit Project, Virginia, $25,000,000;

Euclid Corridor Transportation Project, Ohio, $15,000,000;

Ft. Lauderdale—Tri-Rail Commuter Rail Upgrade, Florida, $18,410,000;

Houston Advanced Metro Transit Plan, Texas, $10,000,000;

Integrated Intermodal project, Rhode Island, $6,000,000;

Kenosha-Racine-Milwaukee Commuter Rail Extension, Wisconsin, $4,000,000;

Las Vegas—Resort Corridor Fixed Guideway, Nevada, $25,000,000;

Little Rock—River Rail Project, Arkansas, $5,000,000;

Los Angeles—Eastside LRT, California, $5,000,000;

Maine Marine Highway, $2,000,000;

Memphis—Medical Center Extension, Tennessee, $9,247,588;

Minneapolis—Hiawatha Corridor LRT, Minnesota, $74,980,000;

Minneapolis—Northstar Commuter Rail Project, Minnesota, $10,000,000;

New Orleans—Canal Street Streetcar Project, Louisiana, $36,020,000;

New York—East Side Access Project, New York, $10,000,000;

Newark Rail Link (MOS–1), New Jersey, $22,566,022;

Northern New Jersey-Hudson-Bergen LRT–MOS–2, $100,000,000;

Northwest Corridor BRT, Atlanta, $4,000,000;

Philadelphia—Schuylkill Valley Metro, Pennsylvania, $16,000,000;

Pittsburgh—North Shore Connector LRT, Pennsylvania, $13,812,304;

Pittsburgh—Stage II LRT Reconstruction, Pennsylvania, $32,243,442;

Portland—Interstate MAX LRT Extension, Oregon, $77,500,000;

Regional Commuter Rail (Weber County to Salt Lake City), Utah, $12,000,000;

Salt Lake City—Medical Center, Utah, $30,663,361;

San Diego—Mission Valley East LRT Extension, California, $65,000,000;

San Diego—Oceanside Escondido Rail Project, California, $48,000,000;

San Juan—Tren Urbano Rapid Transit System, Puerto Rico, $20,000,000;

Scranton—NY City Rail Service, Pennsylvania, $5,000,000;

Seattle—Central Link LRT MOS–1, Washington, $75,000,000;

SF Area—BART Airport Extension, California, $100,000,000;

Silicon Valley Rapid Transit Corridor, California, $4,000,000;

Stamford Urban Transitway Phase II, Connecticut, $7,000,000;

Trans-Hudson Midtown Corridor, New Jersey, $5,000,000;

Triangle Transit Authority Regional Rail Phase I Project, North Carolina, $9,000,000;

VRE Parking Improvements, Virginia, $4,000,000;

Washington, DC/Maryland—Largo Extension, $65,000,000;

Wilmington Train Station Improvements, Delaware, $2,500,000;

Wilsonville-Beaverton Commuter Rail, Oregon, $6,000,000;

Yarmouth to Auburn Line, Maine, $3,000,000.

JOB ACCESS AND REVERSE COMMUTE GRANTS

For necessary expenses to carry out section 3037 of the Federal Transit Act of 1998, $25,000,000, to remain available until expended: *Provided*, That no more than $125,000,000 of budget authority shall be available for these purposes: *Provided further*, That up to $300,000 of the funds provided under this heading may be used by the Federal Transit Administration for technical assistance and support and performance reviews of the Job Access and Reverse Commute Grants program.

GENERAL PROVISIONS—FEDERAL TRANSIT ADMINISTRATION

SEC. 150. The limitations on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49 U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation.

SEC. 151. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act under ''Federal Transit Administration, Capital investment grants'' for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 2006, and other recoveries, shall be made available for other projects under 49 U.S.C. 5309.

SEC. 152. Notwithstanding any other provision of law, any funds appropriated before October 1, 2003, under any section of chapter 53 of title 49, United States Code, that remain available for expenditure may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 153. Funds made available for Alaska or Hawaii ferry boats or ferry terminal facilities pursuant to 49 U.S.C. 5309(m)(2)(B) may be used to construct new vessels and facilities, or to improve existing vessels and facilities, including both the passenger and vehicle-related elements of such vessels and facilities, and for repair facilities: *Provided*, That not more than $3,000,000 of the funds made available pursuant to 49 U.S.C. 5309(m)(2)(B) may be used by the State of Hawaii to initiate and operate a passenger ferryboat services demonstration project to test the viability of different intra-island and inter-island ferry boat routes and technology: *Provided further*, That notwithstanding 49 U.S.C. 5302(a)(7), funds made available for Alaska or Hawaii ferry boats may be used to acquire passenger ferry boats and to provide passenger ferry transportation services within areas of the State of Hawaii under the control or use of the National Park Service.

SEC. 154. Notwithstanding any other provision of law, funds made available to the Colorado Roaring Fork Transportation Authority under ''Federal Transit Administration, Capital investment grants'' in Public Laws 106–69 and 106–346 shall be available for expenditure on park and ride lots in Carbondale and Glenwood Springs, Colorado as part of the Roaring Fork Valley Bus Rapid Transit project.

SEC. 155. Notwithstanding any other provision of law, unobligated funds made available for a new fixed guideway systems projects under the heading ''Federal Transit Administration, Capital Investment Grants'' in any appropriations act prior to this Act may be used during this fiscal year to satisfy expenses incurred for such projects.

SEC. 156. (a) IN GENERAL.—The Secretary shall establish a pilot program to determine the benefits of encouraging cooperative procurement of major capital equipment under sections 5307, 5309, and 5311. The program shall consist of three pilot projects. Cooperative procurements in these projects may be carried out by grantees, consortiums of grantees, or members of the private sector acting as agents of grantees.

(b) FEDERAL SHARE.—Notwithstanding any other provision of law, the Federal share for a grant under this pilot program shall be 90 percent of the net project cost.

(c) PERMISSIBLE ACTIVITIES.—

(1) DEVELOPING SPECIFICATIONS.—Cooperative specifications may be developed either by the grantees or their agents.

(2) REQUESTS FOR PROPOSALS.—To the extent permissible under state and local law, cooperative procurements under this section may be carried out, either by the grantees or their agents, by issuing one request for proposal for each cooperative procurement, covering all agencies that are participating in the procurement.

(3) BEST AND FINAL OFFERS.—The cost of evaluating best and final offers either by the grantees or their agents, is an eligible expense under this program.

(d) TECHNOLOGY.—To the extent feasible, cooperative procurements under this section shall maximize use of Internet-based software technology designed specifically for transit buses and other major capital equipment to develop specifications; aggregate equipment requirements with other transit agencies; generate cooperative request for proposal packages; create cooperative specifications; and automate the request for approved equals process.

(e) ELIGIBLE EXPENSES.—The cost of the permissible activities under (c) and procurement under (d) are eligible expenses under the pilot program.

(f) PROPORTIONATE CONTRIBUTIONS.—Cooperating agencies may contribute proportionately to the non-Federal share of any of the eligible expenses under (e).

(g) OUTREACH.—The Secretary shall conduct outreach on cooperative procurement. Under this program the Secretary shall: (1) offer technical assistance to transit agencies to facilitate the use of cooperative procurement of major capital equipment and (2) conduct seminars and conferences for grantees, nationwide, on the concept of cooperative procurement of major capital equipment.

(h) REPORT.—Not later than 30 days after delivery of the base order under each of the pilot projects, the Secretary shall submit to the House and Senate Committees on Appropriations a report on the results of that pilot project. Each report shall evaluate any savings realized through the cooperative procurement and the benefits of incorporating cooperative procurement, as shown by that project, into the mass transit program as a whole.

SEC. 157. Notwithstanding any other provision of law, new fixed guideway system funds available for the Yosemite, California, area regional transportation system project, in the Department of Transportation and Related Agencies Appropriations Act, 2002, Public Law 107–87, under ''Capital Investment Grants'', in the amount of $400,000 shall be available for obligation for the replacement, rehabilitation, or purchase of buses or related equipment, or the construction of bus related facilities: *Provided*, That this amount shall be in addition to the amount available in fiscal year 2002 for these purposes.

SEC. 158. Notwithstanding any other provision of law, for the purpose of calculating the non-New Starts share of the total project cost of both phases of San Francisco Muni's Third Street Light Rail Transit project for fiscal year 2004, the Secretary of Transportation shall include all non-New Starts contributions made towards Phase 1 of the two-phase project for engineering, final design and construction, and also shall allow non-New Starts funds expended on one element or phase of the project to be used to meet the non-New Starts share requirement of any element or phase of the project.

SEC. 159. Notwithstanding any other provision of law, funds made available under ''Federal Transit Administration, Capital Investment Grants'' in Public Law 105–277 for the Cleveland Berea Red Line Extension to the Hopkins International Airport project may be used for the Euclid Corridor Transportation Project.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operations and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $14,400,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662.

MARITIME ADMINISTRATION

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $106,000,000, of which $13,000,000 shall remain available until expended for capital improvements at the United States Merchant Marine Academy, and $7,063,000 shall remain available until September 30, 2005 for state maritime schoolship maintenance and repair.

SHIP DISPOSAL

For necessary expenses related to the disposal of obsolete vessels in the National Defense Reserve Fleet of the Maritime Administration, $18,422,000, to remain available until expended.

MARITIME SECURITY PROGRAM

For necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, $98,700,000, to remain available until expended.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For administrative expenses to carry out the guaranteed loan program, not to exceed $4,498,000, which shall be transferred to and merged with the appropriation for Operations and Training.

GENERAL PROVISIONS—MARITIME ADMINISTRATION

SEC. 160. Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefore shall be credited to the appropriation charged with the cost thereof: *Provided,* That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

SEC. 161. No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, $42,516,000, of which $645,000 shall be derived from the Pipeline Safety Fund, and of which $3,473,000 shall remain available until September 30, 2006: *Provided,* That up to $1,200,000 in fees collected under 49 U.S.C. 5108(g) shall be deposited in the general fund of the Treasury as offsetting receipts: *Provided further,* That there may be credited to this appropriation, to be available until expended, funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination, and for travel expenses incurred in performance of hazardous materials exemptions and approvals functions.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

(OIL SPILL LIABILITY TRUST FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, $67,612,000, of which $17,183,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2006; of which $50,429,000 shall be derived from the Pipeline Safety Fund, of which $22,710,000 shall remain available until September 30, 2006.

EMERGENCY PREPAREDNESS GRANTS

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out 49 U.S.C. 5127(c), $200,000, to be derived from the Emergency Preparedness Fund, to remain available until September 30, 2006: *Provided,* That not more than $14,300,000 shall be made available for obligation in fiscal year 2004 from amounts made available by 49 U.S.C. 5116(i) and 5127(d): *Provided further,* That none of the funds made available by 49 U.S.C. 5116(i) and 5127(d) shall be made available for obligation by individuals other than the Secretary of Transportation, or his designee.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $56,000,000: *Provided,* That the Inspector General shall have all necessary authority, in carrying out the duties specified in the Inspector General Act, as amended (5 U.S.C. App. 3) to investigate allegations of fraud, including false statements to the government (18 U.S.C. 1001), by any person or entity that is subject to regulation by the Department: *Provided further,* That the funds made available under this heading shall be used to investigate, pursuant to section 41712 of title 49, United States Code: (1) unfair or deceptive practices and unfair methods of competition by domestic and foreign air carriers and ticket agents; and (2) the compliance of domestic and foreign air carriers with respect to item (1) of this proviso.

SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109, $19,521,000: *Provided,* That notwithstanding any other provision of law, not to exceed $1,050,000 from fees established by the Chairman of the Surface Transportation Board shall be credited to this appropriation as offsetting collections and used for necessary and authorized expenses under this heading: *Provided further,* That the sum herein appropriated from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2004, to result in a final appropriation from the general fund estimated at no more than $18,471,000.

TITLE II—DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $3,000,000, to remain available until September 30, 2005 for information technology modernization requirements; not to exceed $150,000 for official reception and representation expenses; not to exceed $258,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate, $174,809,000: *Provided,* That the Office of Foreign Assets Control shall be funded at no less than $21,855,000 and 120 full time equivalent positions: *Provided further,* That of these amounts, $2,900,000 is available for grants to State and local law enforcement groups to help fight money laundering: *Provided further,* That of these amounts, $3,393,000, to remain available until September 30, 2005, shall be for the Treasury-wide Financial Statement Audit Program, of which such amounts as may be necessary may be transferred to accounts of the Department's offices and bureaus to conduct audits: *Provided further,* That this transfer authority shall be in addition to any other provided in this Act.

DEPARTMENT-WIDE SYSTEMS AND CAPITAL INVESTMENTS PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For development and acquisition of automatic data processing equipment, software, and services for the Department of the Treasury, $36,928,000, to remain available until September 30, 2006: *Provided,* That these funds shall be transferred to accounts and in amounts as necessary to satisfy the requirements of the Department's offices, bureaus, and other organizations: *Provided further,* That this transfer authority shall be in addition to any other transfer authority provided in this Act: *Provided further,* That none of the funds appropriated shall be used to support or supplement the Internal Revenue Service appropriations for Information Systems or Business Systems Modernization.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, not to exceed $2,000,000 for official travel expenses, including hire of passenger motor vehicles; and not to exceed $100,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General of the Treasury, $12,687,000, of which not to exceed $2,500 shall be available for official reception and representation expenses.

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Treasury Inspector General for Tax Administration in carrying out the Inspector General Act of 1978, as amended, including purchase (not to exceed 150 for replacement only for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); services authorized by 5 U.S.C. 3109, at such rates as may be determined by the Inspector General for Tax Administration; not to exceed $6,000,000 for official travel expenses; and not to exceed

$500,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General for Tax Administration, $128,034,000.

AIR TRANSPORTATION STABILIZATION PROGRAM

For necessary expenses to administer the Air Transportation Stabilization Board established by section 102 of the Air Transportation Safety and System Stabilization Act (Public Law 107–42), $2,538,000, to remain available until expended.

TREASURY BUILDING AND ANNEX REPAIR AND RESTORATION

For the repair, alteration, and improvement of the Treasury Building and Annex, $25,000,000, to remain available until September 30, 2006.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; travel expenses of non-Federal law enforcement personnel to attend meetings concerned with financial intelligence activities, law enforcement, and financial regulation; not to exceed $14,000 for official reception and representation expenses; and for assistance to Federal law enforcement agencies, with or without reimbursement, $57,571,000, of which not to exceed $4,500,000 shall remain available until September 30, 2006; and of which $8,152,000 shall remain available until September 30, 2005: *Provided,* That funds appropriated in this account may be used to procure personal services contracts.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $228,558,000, of which not to exceed $9,220,000 shall remain available until September 30, 2006, for information systems modernization initiatives; and of which not to exceed $2,500 shall be available for official reception and representation expenses.

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

SALARIES AND EXPENSES

For necessary expenses of carrying out section 1111 of the Homeland Security Act of 2002, including hire of passenger motor vehicles, $80,000,000; of which not to exceed $6,000 for official reception and representation expenses; not to exceed $50,000 for cooperative research and development programs for Laboratory Services; and provision of laboratory assistance to State and local agencies with or without reimbursement.

UNITED STATES MINT

UNITED STATES MINT PUBLIC ENTERPRISE FUND

Pursuant to section 5136 of title 31, United States Code, the United States Mint is provided funding through the United States Mint Public Enterprise Fund for costs associated with the production of circulating coins, numismatic coins, and protective services, including both operating expenses and capital investments. The aggregate amount of new liabilities and obligations incurred during fiscal year 2004 under such section 5136 for circulating coinage and protective service capital investments of the United States Mint shall not exceed $40,652,000.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States, $178,052,000, of which not to exceed $2,500 shall be available for official reception and representation expenses, and of which not to exceed $2,000,000 shall remain available until expended for systems modernization: *Provided,* That the sum appropriated herein from the General Fund for fiscal year 2004 shall be reduced by not more than $4,400,000 as definitive security issue fees and Treasury Direct Investor Account Maintenance fees are collected, so as to result in a final fiscal year 2004 appropriation from the general fund estimated at $173,652,000. In addition, $40,000 to be derived from the Oil Spill Liability Trust Fund to reimburse the Bureau for administrative and personnel expenses for financial management of the Fund, as authorized by section 1012 of Public Law 101–380.

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE, AND MANAGEMENT

For necessary expenses of the Internal Revenue Service for pre-filing taxpayer assistance and education, filing and account services, shared services support, general management and administration; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $4,048,238,000, of which up to $3,950,000 shall be for the Tax Counseling for the Elderly Program, of which $7,000,000 shall be available for low-income taxpayer clinic grants, and of which not to exceed $25,000 shall be for official reception and representation expenses.

TAX LAW ENFORCEMENT

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; providing litigation support; conducting criminal investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; conducting a document matching program; resolving taxpayer problems through prompt identification, referral and settlement; resolving essential earned income tax credit compliance and error problems; compiling statistics of income and conducting compliance research; purchase (for police-type use, not to exceed 850) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by U.S.C. 3109, at such rates as may be determined by the Commissioner, $4,172,808,000, of which not to exceed $1,000,000 shall remain available until September 30, 2006, for research: *Provided,* That such sums may be transferred as necessary from this account to the IRS Processing, Assistance, and Management appropriation or the IRS Information Systems appropriation solely for the purposes of management of the Earned Income Tax Compliance program and to reimburse the Social Security Administration for the cost of implementing section 1090 of the Taxpayer Relief Act of 1997 (Public Law 105–33): *Provided further,* That this transfer authority shall be in addition to any other transfer authority provided in this Act.

INFORMATION SYSTEMS

For necessary expenses of the Internal Revenue Service for information systems and telecommunications support, including developmental information systems and operational information systems; the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $1,590,962,000, of which $200,000,000 shall remain available until September 30, 2005.

BUSINESS SYSTEMS MODERNIZATION

For necessary expenses of the Internal Revenue Service, $429,000,000, to remain available until September 30, 2006, for the capital asset acquisition of information technology systems, including management and related contractual costs of said acquisitions, including contractual costs associated with operations authorized by 5 U.S.C. 3109: *Provided,* That none of these funds may be obligated until the Internal Revenue Service submits to the Committees on Appropriations, and such Committees approve, a plan for expenditure that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11 part 3; (2) complies with the Internal Revenue Service's enterprise architecture, including the modernization blueprint; (3) conforms with the Internal Revenue Service's enterprise life cycle methodology; (4) is approved by the Internal Revenue Service, the Department of the Treasury, and the Office of Management and Budget; (5) has been reviewed by the General Accounting Office; and (6) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government.

HEALTH INSURANCE TAX CREDIT ADMINISTRATION

For expenses necessary to implement the health insurance tax credit included in the Trade Act of 2002 (Public Law 107–210), $35,000,000, to remain available until September 30, 2005.

GENERAL PROVISIONS—INTERNAL REVENUE SERVICE

SEC. 201. Not to exceed 5 percent of any appropriation made available in this Act to the Internal Revenue Service may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the Committees on Appropriations.

SEC. 202. The Internal Revenue Service shall maintain a training program to ensure that Internal Revenue Service employees are trained in taxpayers' rights, in dealing courteously with the taxpayers, and in cross-cultural relations.

SEC. 203. The Internal Revenue Service shall institute and enforce policies and procedures that will safeguard the confidentiality of taxpayer information.

SEC. 204. Funds made available by this or any other Act to the Internal Revenue Service shall be available for improved facilities and increased manpower to provide sufficient and effective 1–800 help line service for taxpayers. The Commissioner shall continue to make the improvement of the Internal Revenue Service 1–800 help line service a priority and allocate resources necessary to increase phone lines and staff to improve the Internal Revenue Service 1–800 help line service.

GENERAL PROVISIONS—DEPARTMENT OF THE TREASURY

SEC. 210. Appropriations to the Department of the Treasury in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; purchase of motor vehicles without regard to the general purchase price limitations for vehicles purchased and used overseas for the current fiscal year; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services authorized by 5 U.S.C. 3109.

SEC. 211. Not to exceed 2 percent of any appropriations in this Act made available to the Departmental Offices—Salaries and Expenses, Office of Inspector General, Financial Management Service, Alcohol and Tobacco Tax and Trade Bureau, Financial Crime Enforcement Network, and Bureau of the Public Debt, may be transferred between such appropriations upon the advance approval of the Committees on Appropriations.

No transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 212. Not to exceed 2 percent of any appropriation made available in this Act to the Internal Revenue Service may be transferred to the Treasury Inspector General for Tax Administration's appropriation upon the advance approval of the Committees on Appropriations. No transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 213. Of the funds available for the purchase of law enforcement vehicles, no funds may be obligated until the Secretary of the Treasury certifies that the purchase by the respective Treasury bureau is consistent with Departmental vehicle management principles: *Provided,* That the Secretary may delegate this authority to the Assistant Secretary for Management.

SEC. 214. None of the funds appropriated in this Act or otherwise available to the Department of the Treasury or the Bureau of Engraving and Printing may be used to redesign the $1 Federal Reserve note.

SEC. 215. The Secretary of the Treasury may transfer funds from ''Salaries and Expenses'', Financial Management Service, to the Debt Services Account as necessary to cover the costs of debt collection: *Provided,* That such amounts shall be reimbursed to such Salaries and Expenses account from debt collections received in the Debt Services Account.

SEC. 216. Section 122(g)(1) of Public Law 105–119 (5 U.S.C. 3104 note), is further amended by striking ''5 years'' and inserting ''6 years''.

SEC. 217. None of the funds appropriated or otherwise made available by this or any other Act may be used by the United States Mint to construct or operate any museum without the explicit approval of the House Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs.

SEC. 218. Beginning in fiscal year 2004 and thereafter, there are appropriated to the Secretary of the Treasury such sums as may be necessary to reimburse financial institutions in their capacity as depositaries and financial agents of the United States for all services required or directed by the Secretary of the Treasury, or his designee, to be performed by such financial institutions on behalf of the Treasury or other Federal agencies, including services rendered prior to fiscal year 2004.

TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

COMPENSATION OF THE PRESIDENT AND THE WHITE HOUSE OFFICE

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102, $450,000: *Provided,* That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31, United States Code: *Provided further,* That none of the funds made available for official expenses shall be considered as taxable to the President.

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); and not to exceed $19,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President, $61,937,000: *Provided,* That $8,650,000 of the funds appropriated shall be available for reimbursements to the White House Communications Agency.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating, and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President, $12,501,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109, 110, and 112–114.

REIMBURSABLE EXPENSES

For the reimbursable expenses of the Executive Residence at the White House, such sums as may be necessary: *Provided,* That all reimbursable operating expenses of the Executive Residence shall be made in accordance with the provisions of this paragraph: *Provided further,* That, notwithstanding any other provision of law, such amount for reimbursable operating expenses shall be the exclusive authority of the Executive Residence to incur obligations and to receive offsetting collections, for such expenses: *Provided further,* That the Executive Residence shall require each person sponsoring a reimbursable political event to pay in advance an amount equal to the estimated cost of the event, and all such advance payments shall be credited to this account and remain available until expended: *Provided further,* That the Executive Residence shall require the national committee of the political party of the President to maintain on deposit $25,000, to be separately accounted for and available for expenses relating to reimbursable political events sponsored by such committee during such fiscal year: *Provided further,* That the Executive Residence shall ensure that a written notice of any amount owed for a reimbursable operating expense under this paragraph is submitted to the person owing such amount within 60 days after such expense is incurred, and that such amount is collected within 30 days after the submission of such notice: *Provided further,* That the Executive Residence shall charge interest and assess penalties and other charges on any such amount that is not reimbursed within such 30 days, in accordance with the interest and penalty provisions applicable to an outstanding debt on a United States Government claim under section 3717 of title 31, United States Code: *Provided further,* That each such amount that is reimbursed, and any accompanying interest and charges, shall be deposited in the Treasury as miscellaneous receipts: *Provided further,* That the Executive Residence shall prepare and submit to the Committees on Appropriations, by not later than 90 days after the end of the fiscal year covered by this Act, a report setting forth the reimbursable operating expenses of the Executive Residence during the preceding fiscal year, including the total amount of such expenses, the amount of such total that consists of reimbursable official and ceremonial events, the amount of such total that consists of reimbursable political events, and the portion of each such amount that has been reimbursed as of the date of the report: *Provided further,* That the Executive Residence shall maintain a system for the tracking of expenses related to reimbursable events within the Executive Residence that includes a standard for the classification of any such expense as political or nonpolitical: *Provided further,* That no provision of this paragraph may be construed to exempt the Executive Residence from any other applicable requirement of subchapter I or II of chapter 37 of title 31, United States Code.

WHITE HOUSE REPAIR AND RESTORATION

For the repair, alteration, and improvement of the Executive Residence at the White House, $4,225,000, to remain available until expended, for required maintenance, safety and health issues, and continued preventative maintenance.

SPECIAL ASSISTANCE TO THE PRESIDENT AND THE OFFICIAL RESIDENCE OF THE VICE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions; services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles, $4,461,000.

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For the care, operation, refurnishing, improvement, and to the extent not otherwise provided for, heating and lighting, including electric power and fixtures, of the official residence of the Vice President; the hire of passenger motor vehicles; and not to exceed $90,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate, $331,000: *Provided,* That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council of Economic Advisors in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021), $4,502,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, $4,109,000.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109, $10,551,000.

HOMELAND SECURITY COUNCIL

For necessary expenses of the Homeland Security Council, including services authorized by 5 U.S.C. 3109, $8,331,000.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles, $77,164,000, of which $20,578,000 shall remain available until expended for the Capital Investment Plan for continued modernization of the information technology infrastructure within the Executive Office of the President: *Provided,* That the Executive Office of the President shall submit a report to the Committees on Appropriations that includes a current description of: (1) the Enterprise Architecture, as defined in OMB Circular A–130 and the Federal Chief Information Officers Council guidance; (2) the Information Technology (IT) Human Capital Plan; (3) the capital investment plan for implementing the Enterprise Architecture; and (4) the IT capital planning and investment control process: *Provided further,*

That this report shall be reviewed and approved by the Office of Management and Budget, and reviewed by the General Accounting Office.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $75,417,000, of which not to exceed $3,000 shall be available for official representation expenses: *Provided,* That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further,* That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further,* That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committees on Appropriations or the Committees on Veterans' Affairs or their subcommittees: *Provided further,* That the preceding shall not apply to printed hearings released by the Committees on Appropriations or the Committees on Veterans' Affairs: *Provided further,* That none of the funds appropriated in this Act may be available to pay the salary or expenses of any employee of the Office of Management and Budget who calculates, prepares, or approves any tabular or other material that proposes the sub-allocation of budget authority or outlays by the Committees on Appropriations among their subcommittees.

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701 et seq.); not to exceed $10,000 for official reception and representation expenses; and for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement, $27,996,500; of which $1,350,000 shall remain available until expended for policy research and evaluation; and $1,500,000 for the National Alliance for Model State Drug Laws: *Provided,* That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, public and private, without fiscal year limitation, for the purpose of aiding or facilitating the work of the Office.

COUNTERDRUG TECHNOLOGY ASSESSMENT CENTER

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Counterdrug Technology Assessment Center for research activities pursuant to the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701 et seq.), $42,000,000, which shall remain available until expended, consisting of $18,000,000 for counternarcotics research and development projects, and $24,000,000 for the continued operation of the technology transfer program: *Provided,* That the $18,000,000 for counternarcotics research and development projects shall be available for transfer to other Federal departments or agencies.

FEDERAL DRUG CONTROL PROGRAMS

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas Program, $226,350,000, for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, of which no less than 51 percent shall be transferred to State and local entities for drug control activities, which shall be obligated within 120 days of the date of the enactment of this Act: *Provided,* That up to 49 percent, to remain available until September 30, 2005, may be transferred to Federal agencies and departments at a rate to be determined by the Director, of which not less than $2,100,000 shall be used for auditing services and associated activities: *Provided further,* That High Intensity Drug Trafficking Areas Programs designated as of September 30, 2002, shall be funded at no less than the fiscal year 2002 initial allocation levels unless the Director submits to the Committees on Appropriations, and the Committees approve, justification for changes in those levels based on clearly articulated priorities for the High Intensity Drug Trafficking Areas Programs, as well as published Office of National Drug Control Policy performance measures of effectiveness: *Provided further,* That a request shall be submitted to the Committees on Appropriations for approval prior to the expenditure of funds of an amount in excess of the fiscal year 2004 budget request: *Provided further,* That such request shall be made in compliance with the reprogramming guidelines: *Provided further,* That no funds shall be used for any further or additional consolidation of the Southwest Border High Intensity Drug Trafficking Area, except for the operation of an office with a coordinating role, until the Office submits a report on the structure of the Southwest Border High Intensity Drug Trafficking Area.

OTHER FEDERAL DRUG CONTROL PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For activities to support a national anti-drug campaign for youth, and for other purposes, authorized by the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701 et seq.), $174,000,000, to remain available until expended, of which the following amounts are available as follows: $100,000,000 to support a national media campaign, as authorized by the Drug-Free Media Campaign Act of 1998; $60,000,000 to continue a program of matching grants to drug-free communities, of which $1,000,000 shall be a directed grant to the Community Anti-Drug Coalitions of America for the National Community Anti-Drug Coalition Institute, as authorized in chapter 2 of the National Narcotics Leadership Act of 1988, as amended; $1,500,000 for the Counterdrug Intelligence Executive Secretariat; $2,000,000 for evaluations and research related to National Drug Control Program performance measures; $1,000,000 for the National Drug Court Institute; $7,200,000 for the United States Anti-Doping Agency for anti-doping activities; and $800,000 for the United States membership dues to the World Anti-Doping Agency: *Provided,* That such funds may be transferred to other Federal departments and agencies to carry out such activities.

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year, as authorized by 3 U.S.C. 108, $1,000,000.

TITLE IV—INDEPENDENT AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended $5,401,000: *Provided,* That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From People Who Are Blind or Severely Disabled established by Public Law 92–28, $4,725,000.

ELECTION ASSISTANCE COMMISSION

For necessary expenses of the Election Assistance Commission, $500,000,000, for providing grants to assist State and local efforts to improve election technology and the administration of Federal elections, as authorized by the Help America Vote Act of 2002; of which not to exceed $1,000,000 shall be available for commission administrative expenses: *Provided,* That no more than 1/10 of 1 percent of funds available for requirements payments under Section 257 of the Help America Vote Act of 2002 shall be allocated to any territory.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended, $50,440,000, of which not to exceed $5,000 shall be available for reception and representation expenses.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services authorized by 5 U.S.C. 3109, and including hire of experts and consultants, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia and elsewhere, $29,611,000: *Provided,* That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109: *Provided further,* That notwithstanding 31 U.S.C. 3302, funds received from fees charged to non-Federal participants at labor-management relations conferences shall be credited to and merged with this account, to be available without further appropriation for the costs of carrying out these conferences.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act, 1936, as amended (46 U.S.C. App. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefore, as authorized by 5 U.S.C. 5901–5902, $18,471,000: *Provided,* That not to exceed $2,000 shall be available for official reception and representation expenses.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to be deposited in, and to be used for the purposes of, the

Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 592), $407,000,000. The revenues and collections deposited into the Fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings, and moving; repair and alteration of federally owned buildings including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; acquisition of options to purchase buildings and sites; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, and any other obligations for public buildings acquired by installment purchase and purchase contract; in the aggregate amount of $6,717,247,000, of which: (1) $659,668,000 shall remain available until expended for construction (including funds for sites and expenses and associated design and construction services) of additional projects at the following locations:

New Construction:

Alabama:

Anniston, United States Courthouse, $4,400,000

Tuscaloosa, Federal Building, $7,500,000

California:

Los Angeles, United States Courthouse, $50,000,000

San Diego, Border Station, $34,211,000

Colorado:

Denver Federal Center, site remediation, $6,000,000

Florida:

Orlando, United States Courthouse, $7,200,000

Maine:

Jackman, Border Station, $7,712,000

Maryland:

Montgomery County, Food and Drug Administration Consolidation, $45,000,000

Suitland, United States Census Bureau, $146,451,000

Michigan:

Detroit, Ambassador Bridge Border Station, $25,387,000

New York:

Champlain, Border Station, $31,031,000

North Carolina:

Charlotte, United States Courthouse, $8,500,000

Ohio:

Toledo, United States Courthouse, $6,500,000

Pennsylvania:

Harrisburg, PA, United States Courthouse, $26,000,000

South Carolina:

Greenville, United States Courthouse, $11,000,000

Texas:

Del Rio, Border Station, $23,966,000

Eagle Pass, Border Station, $31,980,000

Houston, Federal Bureau of Investigation, $58,080,000

McAllen, Border Station, $17,938,000

San Antonio, United States Courthouse, $8,000,000

Virginia:

Richmond, United States Courthouse, $83,000,000

Washington:

Blaine, Border Station, $9,812,000

Nonprospectus Construction, $10,000,000: *Provided*, That each of the foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but not to exceed 10 percent of the amounts included in an approved prospectus, if required, unless advance approval is obtained from the Committees on Appropriations of a greater amount: *Provided further*, That all funds for direct construction projects shall expire on September 30, 2005, and remain in the Federal Buildings Fund except for funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (2) $1,000,939,000 shall remain available until expended for repairs and alterations, which includes associated design and construction services: *Provided further*, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project, as follows, except each project may be increased by an amount not to exceed 10 percent unless advance approval is obtained from the Committees on Appropriations of a greater amount:

Repairs and Alterations:

Colorado:

Denver, Byron G. Rogers Federal Building—Courthouse, $39,436,000

District of Columbia:

320 First Street, $7,485,000

Eisenhower Executive Office Building, $65,757,000

Federal Office Building 8, $134,872,000

Main Interior Building, $15,603,000

Fire & Life Safety, $68,188,000

Georgia:

Atlanta, Richard B. Russell Federal Building, $32,173,000

Illinois:

Chicago, Dirksen Courthouse & Kluczynski Federal Building, $24,056,000

Springfield, Paul H. Findley Federal Building—Courthouse, $6,183,000

Indiana:

Terra Haute Federal Building—Post Office, $4,600,000

Massachusetts:

Boston, John W. McCormack Post Office and Courthouse, $73,037,000

New York:

Brooklyn, Emanuel Celler Courthouse, $65,511,000

North Dakota:

Fargo, Federal Building—Post Office, $5,801,000

Ohio:

Columbus, John W. Bricker Federal Building, $10,707,000

Washington:

Auburn, Building 7, Auburn Federal Building, $18,315,000

Bellingham, Federal Building (design), $2,610,000

Seattle, Henry M. Jackson Federal Building, $6,868,000

Special Emphasis Programs:

Chlorofluorocarbons Program, $5,000,000

Energy Program, $5,000,000

Glass Fragmentation Program, $20,000,000

Design Program, $34,737,000

Basic Repairs and Alterations, $355,000,000: *Provided further*, That funds made available in any previous Act in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount identified for each project, except each project in any previous Act may be increased by an amount not to exceed 10 percent unless advance approval is obtained from the Committees on Appropriations of a greater amount: *Provided further*, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations: *Provided further*, That the amounts provided in this or any prior Act for ''Repairs and Alterations'' may be used to fund costs associated with implementing security improvements to buildings necessary to meet the minimum standards for security in accordance with current law and in compliance with the reprogramming guidelines of the appropriate Committees of the House and Senate: *Provided further*, That the difference between the funds appropriated and expended on any projects in this or any prior Act, under the heading ''Repairs and Alterations'', may be transferred to Basic Repairs and Alterations or used to fund authorized increases in prospectus projects: *Provided further*, That all funds for repairs and alterations prospectus projects shall expire on September 30, 2005 and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That the amount provided in this or any prior Act for Basic Repairs and Alterations may be used to pay claims against the Government arising from any projects under the heading ''Repairs and Alterations'' or used to fund authorized increases in prospectus projects; (3) $169,745,000 for installment acquisition payments including payments on purchase contracts which shall remain available until expended; (4) $3,278,187,000 for rental of space which shall remain available until expended; and (5) $1,608,708,000 for building operations which shall remain available until expended: *Provided further*, That funds available to the General Services Administration shall not be available for expenses of any construction, repair, alteration and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 592(b)(2)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, shall be available from such revenues and collections: *Provided further*, That revenues and collections and any other sums accruing to this Fund during fiscal year 2004, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 592(b)(2)) in excess of $6,717,247,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

GENERAL ACTIVITIES

GOVERNMENT-WIDE POLICY

For expenses authorized by law, not otherwise provided for, for Government-wide policy and evaluation activities associated with the management of real and personal property assets and certain administrative services; Government-wide policy support responsibilities relating to acquisition, telecommunications, information technology

management, and related technology activities; and services as authorized by 5 U.S.C. 3109, $61,781,000.

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, for Government-wide activities associated with utilization and donation of surplus personal property; disposal of real property; telecommunications, information technology management, and related technology activities; providing citizens with Internet access to Federal information and services; agency-wide policy direction and management, and Board of Contract Appeals; accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Federal Claims; services as authorized by 5 U.S.C. 3109; and not to exceed $7,500 for official reception and representation expenses, $85,083,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General and services authorized by 5 U.S.C. 3109, $39,169,000: *Provided*, That not to exceed $15,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further*, That not to exceed $2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

ELECTRONIC GOVERNMENT (E-GOV) FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in support of interagency projects that enable the Federal Government to expand its ability to conduct activities electronically, through the development and implementation of innovative uses of the Internet and other electronic methods, $5,000,000, to remain available until expended: *Provided*, That these funds may be transferred to Federal agencies to carry out the purposes of the Fund: *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act: *Provided further*, That such transfers may not be made until 10 days after a proposed spending plan and justification for each project to be undertaken has been submitted to the Committees on Appropriations.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

(INCLUDING TRANSFER OF FUNDS)

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95–138, $3,393,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SEC. 401. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 402. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 403. Funds in the Federal Buildings Fund made available for fiscal year 2004 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary to meet program requirements: *Provided*, That any proposed transfers shall be approved in advance by the Committees on Appropriations.

SEC. 404. No funds made available by this Act shall be used to transmit a fiscal year 2005 request for United States Courthouse construction that: (1) does not meet the design guide standards for construction as established and approved by the General Services Administration, the Judicial Conference of the United States, and the Office of Management and Budget; and (2) does not reflect the priorities of the Judicial Conference of the United States as set out in its approved 5-year construction plan: *Provided*, That the fiscal year 2005 request must be accompanied by a standardized courtroom utilization study of each facility to be constructed, replaced, or expanded.

SEC. 405. None of the funds provided in this Act may be used to increase the amount of occupiable square feet, provide cleaning services, security enhancements, or any other service usually provided through the Federal Buildings Fund, to any agency that does not pay the rate per square foot assessment for space and services as determined by the General Services Administration in compliance with the Public Buildings Amendments Act of 1972 (Public Law 92–313).

SEC. 406. Funds provided to other Government agencies by the Information Technology Fund, General Services Administration, under section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757) and sections 5124(b) and 5128 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1424(b) and 1428), for performance of pilot information technology projects which have potential for Government-wide benefits and savings, may be repaid to this Fund from any savings actually incurred by these projects or other funding, to the extent feasible.

SEC. 407. From funds made available under the heading ''Federal Buildings Fund, Limitations on Availability of Revenue'', claims against the Government of less than $250,000 arising from direct construction projects and acquisition of buildings may be liquidated from savings effected in other construction projects with prior notification to the Committees on Appropriations.

SEC. 408. (a) Notwithstanding any other provision of law, the Administrator of General Services is authorized to acquire, under such terms and conditions as he deems to be in the interests of the United States, approximately 27 acres of land, identified as Site 7 and located at 234 Corporate Drive, Pease International Tradeport, Portsmouth, NH 03801, as a site for the public building needs of the Federal Government, and to design and construct upon the site a new Federal Office Building of approximately 98,000 gross square feet: *Provided*, That the Administrator shall not acquire any property under this subsection until the Administrator determines that the property is in compliance with applicable environmental laws, and that the property is suitable and available for use as a site to house the Federal agencies presently located in the Thomas J. McIntyre Federal Building.

(b) For the site acquisition, design, construction, and relocation, $11,149,000 shall be available from funds previously provided under the heading ''General Services Administration, Real Property Activities, Federal Buildings Fund'' in Public Law 108–7 for repairs and alterations to the Thomas J. McIntyre Federal Building in Portsmouth, New Hampshire, which was included in the plan for expenditure of repairs and alterations funds as required by accompanying House Report 108–10.

(c) For any additional costs of construction, management and inspection of the new facility to house the Federal agencies relocated from the McIntyre Federal Office Building, and for the costs of relocating the Federal agencies occupying the McIntyre Federal Office Building, $13,669,000 shall be deposited into the Federal Buildings Fund (40 U.S.C. 592) from the General Fund; which amount, together with the amount set forth in subsection (b) of this section shall remain available until expended and shall be subject to such escalation and reprogramming authorities available to the Administrator for any other new construction projects under the heading ''Federal Building Fund Limitations on Availability of Revenue''.

(d) The Administrator is authorized and directed to convey, without consideration, the Thomas J. McIntyre Federal Office Building to the City of Portsmouth, New Hampshire for economic development purposes subject to the following conditions: (i) that all Federal agencies currently occupying the McIntyre Building except the United States Postal Service are completely relocated to the new Federal Building for so long as those agencies have continuing mission needs for that new location, (ii) that the requirements of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411 et seq.) shall not apply to this conveyance; and (iii) that the Administrator may include in the conveyance documents such terms and conditions as the Administrator determines in the best interest of the United States.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and direct procurement of survey printing, $32,877,000 together with not to exceed $2,626,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY TRUST FUND

For payment to the Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund, pursuant to the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5601 et seq.), $1,996,000, to remain available until expended: *Provided*, That up to 60 percent of such funds may be transferred by the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for the necessary expenses of the Native Nations Institute.

ENVIRONMENTAL DISPUTE RESOLUTION FUND

For payment to the Environmental Dispute Resolution Fund to carry out activities authorized in the Environmental Policy and Conflict Resolution Act of 1998, $1,309,000, to remain available until expended.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with the administration of the National Archives (including the Information Security Oversight Office) and archived Federal records and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles,

$258,191,000: *Provided,* That the Archivist of the United States is authorized to use any excess funds available from the amount borrowed for construction of the National Archives facility, for expenses necessary to provide adequate storage for holdings.

REPAIRS AND RESTORATION

For the repair, alteration, and improvement of archives facilities, and to provide adequate storage for holdings, $13,483,000, to remain available until expended, of which $2,025,000 is for land acquisition for a site in Anchorage, Alaska to construct a new regional archives and records facility and of which $5,000,000 is for the repair and restoration of the plaza that surrounds the Lyndon Baines Johnson Presidential Library and that is under the joint control and custody of the University of Texas: *Provided,* That such funds may be transferred directly to the University and used, together with University funds, for repair and restoration of the plaza and remain available until expended for this purpose: *Provided further,* That the same transfer authority shall extend to funds previously appropriated in Public Law 108–7 for this purpose.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

GRANTS PROGRAM

For necessary expenses for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, $5,000,000, to remain available until expended.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–15; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902) $72,170,000, of which not to exceed $2,000 may be used for official reception and representation expenses.

EMERGENCY FUND

For necessary expenses of the National Transportation Safety Board for accident investigations, $600,000, to remain available until expended: *Provided,* That these funds shall be available only to the extent necessary to restore the balance of the emergency fund to $2,000,000 (29 U.S.C. 1118 (b)).

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended and the Ethics Reform Act of 1989, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed $1,500 for official reception and representation expenses, $10,738,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109; medical examinations performed for veterans by private physicians on a fee basis; rental of conference rooms in the District of Columbia and elsewhere; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order No. 10422 of January 9, 1953, as amended; and payment of per diem and/or subsistence allowances to employees where Voting Rights Act activities require an employee to remain overnight at his or her post of duty, $118,748,000, of which $2,000,000 shall remain available until expended for the cost of the enterprise human resources integration project, and $2,500,000 shall remain available until expended for the cost of leading the government-wide initiative to modernize the Federal payroll systems and service delivery and $2,500,000 shall remain available through September 30, 2005 to coordinate and conduct program evaluation and performance measurement; and in addition $135,914,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management without regard to other statutes, including direct procurement of printed materials, for the retirement and insurance programs, of which $36,700,000 shall remain available until expended for the cost of automating the retirement recordkeeping systems: *Provided,* That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by sections 8348(a)(1)(B), 8909(g), and 9004(f)(1)(A) and (2)(A) of title 5, United States Code: *Provided further,* That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order No. 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further,* That the President's Commission on White House Fellows, established by Executive Order No. 11183 of October 3, 1964, may, during fiscal year 2004, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, hire of passenger motor vehicles, $1,498,000, and in addition, not to exceed $14,427,000 for administrative expenses to audit, investigate, and provide other oversight of the Office of Personnel Management's retirement and insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General: *Provided,* That the Inspector General is authorized to rent conference rooms in the District of Columbia and elsewhere.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, such sums as may be necessary.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, such sums as may be necessary.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, such sums as may be necessary: *Provided,* That annuities authorized by the Act of May 29, 1944, as amended, and the Act of August 19, 1950, as amended (33 U.S.C. 771–775), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95–454), as amended, the Whistleblower Protection Act of 1989 (Public Law 101–12), as amended, Public Law 103–424, and the Uniformed Services Employment and Reemployment Act of 1994 (Public Law 103–353), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $13,504,000.

UNITED STATES POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (c) and (d) of section 2401 of title 39, United States Code, $65,521,000, of which $36,521,000 shall not be available for obligation until October 1, 2004: *Provided,* That mail for overseas voting and mail for the blind shall continue to be free: *Provided further,* That 6-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further,* That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further,* That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in fiscal year 2004.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109, $40,187,000: *Provided,* That travel expenses of the judges shall be paid upon the written certificate of the judge.

WHITE HOUSE COMMISSION ON THE NATIONAL MOMENT OF REMEMBRANCE

For necessary expenses of the White House Commission on the National Moment of Remembrance, $250,000.

TITLE V—GENERAL PROVISIONS

THIS ACT

(INCLUDING TRANSFERS OF FUNDS)

SEC. 501. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 502. Such sums as may be necessary for fiscal year 2004 pay raises for programs funded in this Act shall be absorbed within

the levels appropriated in this Act or previous appropriations Acts.

SEC. 503. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for an Executive Level IV.

SEC. 504. None of the funds in this Act shall be available for salaries and expenses of more than 106 political and Presidential appointees in the Department of Transportation: *Provided*, That none of the personnel covered by this provision or political and Presidential appointees in an independent agency funded in this Act may be assigned on temporary detail outside the Department of Transportation or such independent agency.

SEC. 505. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 506. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 507. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 508. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 509. (a) No recipient of funds made available in this Act shall disseminate personal information (as defined in 18 U.S.C. 2725(3)) obtained by a State department of motor vehicles in connection with a motor vehicle record as defined in 18 U.S.C. 2725(1), except as provided in 18 U.S.C. 2721 for a use permitted under 18 U.S.C. 2721.

(b) Notwithstanding subsection (a), the Secretary shall not withhold funds provided in this Act for any grantee if a State is in noncompliance with this provision.

SEC. 510. Funds received by the Federal Highway Administration, Federal Transit Administration, and Federal Railroad Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited respectively to the Federal Highway Administration's ''Federal-Aid Highways'' account, the Federal Transit Administration's ''Transit Planning and Research'' account, and to the Federal Railroad Administration's ''Safety and Operations'' account, except for State rail safety inspectors participating in training pursuant to 49 U.S.C. 20105.

SEC. 511. Notwithstanding any other provision of law, rule or regulation, the Secretary of Transportation is authorized to allow the issuer of any preferred stock heretofore sold to the Department to redeem or repurchase such stock upon the payment to the Department of an amount determined by the Secretary.

SEC. 512. None of the funds in title I of this Act may be used to make a grant unless the Secretary of Transportation, or the Secretary of the department in which the Transportation Security Administration is operating, notifies the House and Senate Committees on Appropriations not less than 3 full business days before any discretionary grant award, letter of intent, or full funding grant agreement totaling $1,000,000 or more is announced by the department or its modal administrations from: (1) any discretionary grant program of the Federal Highway Administration other than the emergency relief program; (2) the airport improvement program of the Federal Aviation Administration; or (3) any program of the Federal Transit Administration other than the formula grants and fixed guideway modernization programs: *Provided*, That no notification shall involve funds that are not available for obligation.

SEC. 513. Rebates, refunds, incentive payments, minor fees and other funds received by the Department of Transportation from travel management centers, charge card programs, the subleasing of building space, and miscellaneous sources are to be credited to appropriations of the Department of Transportation and allocated to elements of the Department of Transportation using fair and equitable criteria and such funds shall be available until expended.

SEC. 514. None of the funds in this Act may be obligated for the Office of the Secretary of Transportation to approve assessments or reimbursable agreements pertaining to funds appropriated to the modal administrations in this Act, except for activities underway on the date of enactment of this Act, unless such assessments or agreements have completed the normal reprogramming process for Congressional notification.

SEC. 515. Funds appropriated or limited in title I of this Act shall be subject to the terms and conditions stipulated in section 350 of Public Law 107–87, including that the Secretary submit a report to the House and Senate Appropriations Committees annually on the safety and security of transportation into the United States by Mexico-domiciled motor carriers.

SEC. 516. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

SEC. 517. Funds provided in this Act for the Working Capital Fund shall be reduced by $17,816,000, which limits fiscal year 2004 Working Capital Fund obligational authority for elements of the Department of Transportation funded in this Act to no more than $98,899,000: *Provided*, That such reductions from the budget request shall be allocated by the Department of Transportation to each appropriations account in proportion to the amount included in each account for the Working Capital Fund.

SEC. 518. AMENDMENTS TO PRIOR SURFACE TRANSPORTATION LAWS. (a) ISTEA HIGH PRIORITY CORRIDORS.—

(1) Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032–2033) as amended, is further amended by inserting after paragraph (44) the following:

''(45) U.S. 78 from Tupelo, Mississippi, to Memphis, Tennessee.''.

(2) Section 1105(e)(5)(A) of such Act as amended is further amended by striking ''and subsection (c)(42)'' and inserting after ''(c)(40),'' the following: ''in subsection (c)(42), and in subsection (c)(45)''.

(3) Section 1105(e)(5)(B)(i) of such Act is amended by adding at the end the following: ''The portion of the route referred to in subsection (c)(45) and the portion of the route referred to in subsection (c)(42) between Tupelo, Mississippi, and Birmingham, Alabama, are designated as Interstate Route I–22.''.

SEC. 519. Amounts made available in this or any other Act that the Secretary determines represent improper payments by the Department of Transportation to a third party contractor under a financial assistance award, which are recovered pursuant to law, shall be available—

(1) to reimburse the actual expenses incurred by the Department of Transportation in recovering improper payments; and

(2) to pay contractors for services provided in recovering improper payments: *Provided*, That amounts in excess of that required for paragraphs (1) and (2)—

(A) shall be credited to and merged with the appropriation from which the improper payments were made, and shall be available for the purposes and period for which such appropriations are available; or

(B) if no such appropriation remains available, shall be deposited in the Treasury as miscellaneous receipts: *Provided*, That prior to the transfer of any such recovery to an appropriations account, the Secretary shall notify the House and Senate Committees on Appropriations of the amount and reasons for such transfer: *Provided further*, That for purposes of this section, the term ''improper payments'', has the same meaning as that provided in section 2(d)(2) of Public Law 107–300.

SEC. 520. The Secretary of Transportation is authorized to transfer the unexpended balances available for the bonding assistance program from ''Office of the Secretary, Salaries and expenses'' to ''Minority Business Outreach''.

SEC. 521. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 522. In conducting the rulemaking mandated by Section 352 of Public Law 108–7, the Department of Transportation and any other agencies involved in the rulemaking shall ensure that the proposed rules fully and accurately reflect the findings in the General Accounting Office. The study concerns the adequacy of the Department's procedures used prior to the passage of Public Law 108–7 in order to ensure the security of facilities and activities described in Section 352.

SEC. 523. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service, and has within 90 days after his release from such service or from hospitalization continuing after discharge for a period of not more than 1 year, made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 524. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the ''Buy America Act'').

SEC. 525. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this

Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 526. If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 527. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2004 from appropriations made available for salaries and expenses for fiscal year 2004 in this Act, shall remain available through September 30, 2005, for each such account for the purposes authorized: *Provided,* That a request shall be submitted to the Committees on Appropriations for approval prior to the expenditure of such funds: *Provided further,* That these requests shall be made in compliance with reprogramming guidelines.

SEC. 528. None of the funds made available in this Act may be used by the Executive Office of the President to request from the Federal Bureau of Investigation any official background investigation report on any individual, except when—

(1) such individual has given his or her express written consent for such request not more than 6 months prior to the date of such request and during the same presidential administration; or

(2) such request is required due to extraordinary circumstances involving national security.

SEC. 529. The cost accounting standards promulgated under section 26 of the Office of Federal Procurement Policy Act (Public Law 93–400; 41 U.S.C. 422) shall not apply with respect to a contract under the Federal Employees Health Benefits Program established under chapter 89 of title 5, United States Code.

SEC. 530. For the purpose of resolving litigation and implementing any settlement agreements regarding the nonforeign area cost-of-living allowance program, the Office of Personnel Management may accept and utilize (without regard to any restriction on unanticipated travel expenses imposed in an Appropriations Act) funds made available to the Office pursuant to court approval.

SEC. 531. No funds appropriated or otherwise made available under this Act shall be made available to any person or entity that has been convicted of violating the Buy American Act (41 U.S.C. 10a–10c).

SEC. 532. Notwithstanding any other provision of law, any bridge that is owned and operated by a state agency (1) whose toll revenues are administered by a Metropolitan Planning Organization (MPO), and (2) whose toll revenues provide for subsidizing of noncapital transportation costs, shall be eligible for assistance under this section but the amount of toll revenues expended for noncapital transportation costs shall in no event exceed the cumulative amount of local toll revenues used for federal interstate and federal-aid highway construction and improvement projects in the toll bridge corridors. Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the cumulative amount of toll revenues used for construction and improvement to the federal interstate and federal-aid highway system is greater than the cumulative amount of toll revenue used for non-capital transportation projects not directly related to the on-going operation and maintenance of the toll bridges.

SEC. 533. Notwithstanding any other provision of this Act, amounts appropriated or limited in this Act are hereby reduced by $128,076,000. Such reductions shall—

(1) be administered by the Director, Office of Management and Budget;

(2) be assessed by the Director within 30 days of enactment of this Act;

(3) be derived solely from funds appropriated or limited for activities under:

(A) Object Class 21.0—Travel and Transportation of Persons, with the exception of funds provided for the travel of safety inspectors within the Department of Transportation and enforcement personnel within the Department of the Treasury;

(B) Object Class 22.0—Transportation of Things;

(C) Object Class 23.3—Communications, Utilities, and Miscellaneous Charges, with the exception of the telecommunication costs associated with the FAA air traffic control system and the Internal Revenue Service;

(D) Object Class 24.0—Printing and Reproduction, with the exception of such expenses within the Internal Revenue Service;

(E) Object Class 25.1—Advisory and Assistance Services;

(F) Object Class 26.0—Supplies and Materials, with the exception of such expenses in the United States Mint;

(G) Object Class 31.0—Equipment, with the exception of such expenses under the Internal Revenue Service and the FAA Facilities and Equipment account.

(4) be assessed by the Director on a prorata basis against all agencies funded in this Act with adjustments necessitated by the exceptions cited under subsection (3); and

(5) not be assessed against the Department of Transportation's Working Capital Fund.

SEC. 534. None of the funds appropriated or limited in title I of this Act may be used to change weight restrictions or prior permission rules at Teterboro Airport.

SEC. 535. Section 414(h) of title 39, United States Code, is amended by striking ''2003'' and inserting ''2005''.

SEC. 536. After the last section of the Federal Transit Act, 49 U.S.C. Chapter 53, add the following section:

"SEC. ___. UTAH TRANSPORTATION PROJECTS.

''(a) COORDINATION.—FTA and FHWA are directed to work with the Utah Transit Authority and the Utah Department of Transportation to coordinate the development regional commuter rail and the northern segment of I–15 reconstruction located in the Wasatch Front corridor extending from Brigham City to Payson, Utah. Coordination includes integration of preliminary engineering and design, a simplified method for allocating project costs among eligible FTA and FHWA funding sources, and a unified accounting and audit process.

''(b) GOVERNMENTAL FUNDING.—For purposes of determining and allocating the nongovernmental and governmental share of costs, the following projects comprise a related program of projects: regional commuter rail, the TRAX light rail system, TRAX extensions to the Medical Center and to the Gateway Intermodal Center, and the northern segment of I–15 reconstruction. The governmental share of project costs appropriated from the Section 5309 New Start program shall conform to the share specified in the extension or reauthorization of TEA21.''.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 602. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 2004 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

SEC. 603. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses, ambulances, law enforcement, and undercover surveillance vehicles), is hereby fixed at $8,100 except station wagons for which the maximum shall be $9,100: *Provided,* That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further,* That the limits set forth in this section may not be exceeded by more than 5 percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976: *Provided further,* That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101–549 over the cost of comparable conventionally fueled vehicles.

SEC. 604. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel, or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–5924.

SEC. 605. Unless otherwise specified during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person: (1) is a citizen of the United States; (2) is a person in the service of the United States on the date of the enactment of this Act who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States; (3) is a person who owes allegiance to the United States; (4) is an alien from Cuba, Poland, South Vietnam, the countries of the former Soviet Union, or the Baltic countries lawfully admitted to the United States for permanent residence; (5) is a South Vietnamese, Cambodian, or Laotian refugee paroled in the United States after January 1, 1975; or (6) is a national of the People's Republic of China who qualifies for adjustment of status pursuant to the Chinese Student Protection Act of 1992: *Provided,* That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his or her status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than 1 year, or both: *Provided further,* That the above penal clause shall be in addition to,

and not in substitution for, any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, or the Republic of the Philippines, or to nationals of those countries allied with the United States in a current defense effort, or to international broadcasters employed by the United States Information Agency, or to temporary employment of translators, or to temporary employment in the field service (not to exceed 60 days) as a result of emergencies.

SEC. 606. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (87 Stat. 216), or other applicable law.

SEC. 607. In addition to funds provided in this or any other Act, all Federal agencies are authorized to receive and use funds resulting from the sale of materials, including Federal records disposed of pursuant to a records schedule recovered through recycling or waste prevention programs. Such funds shall be available until expended for the following purposes:

(1) Acquisition, waste reduction and prevention, and recycling programs as described in Executive Order No. 13101 (September 14, 1998), including any such programs adopted prior to the effective date of the Executive order.

(2) Other Federal agency environmental management programs, including, but not limited to, the development and implementation of hazardous waste management and pollution prevention programs.

(3) Other employee programs as authorized by law or as deemed appropriate by the head of the Federal agency.

SEC. 608. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided*, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 609. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 610. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards (except Federal Executive Boards), commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 611. Funds made available by this or any other Act to the Postal Service Fund (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a and 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

SEC. 612. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 613. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for fiscal year 2004, by this or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code—

(1) during the period from the date of expiration of the limitation imposed by the comparable section for previous fiscal years until the normal effective date of the applicable wage survey adjustment that is to take effect in fiscal year 2004, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section; and

(2) during the period consisting of the remainder of fiscal year 2004, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) by more than the sum of—

(A) the percentage adjustment taking effect in fiscal year 2004 under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule; and

(B) the difference between the overall average percentage of the locality-based comparability payments taking effect in fiscal year 2004 under section 5304 of such title (whether by adjustment or otherwise), and the overall average percentage of such payments which was effective in the previous fiscal year under such section.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (a) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule not in existence on September 30, 2003, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 2003, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) This section shall apply with respect to pay for service performed after September 30, 2003.

(f) For the purpose of administering any provision of law (including any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section shall be considered to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 614. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations. For the purposes of this section, the term ''office'' shall include the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual.

SEC. 615. Notwithstanding section 1346 of title 31, United States Code, or section 610 of this Act, funds made available for the current fiscal year by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order No. 12472 (April 3, 1984).

SEC. 616. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Department of Homeland Security, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of Transportation, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

SEC. 617. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act

for the current fiscal year shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from discrimination and sexual harassment and that all of its workplaces are not in violation of title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973.

SEC. 618. No part of any appropriation contained in this or any other Act shall be available for the payment of the salary of any officer or employee of the Federal Government, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any other officer or employee of the Federal Government from having any direct oral or written communication or contact with any Member, committee, or subcommittee of the Congress in connection with any matter pertaining to the employment of such other officer or employee or pertaining to the department or agency of such other officer or employee in any way, irrespective of whether such communication or contact is at the initiative of such other officer or employee or in response to the request or inquiry of such Member, committee, or subcommittee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any other officer or employee of the Federal Government, or attempts or threatens to commit any of the foregoing actions with respect to such other officer or employee, by reason of any communication or contact of such other officer or employee with any Member, committee, or subcommittee of the Congress as described in paragraph (1).

SEC. 619. (a) None of the funds made available in this or any other Act may be obligated or expended for any employee training that—

(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;

(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;

(3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluation;

(4) contains any methods or content associated with religious or quasi-religious belief systems or ''new age'' belief systems as defined in Equal Employment Opportunity Commission Notice N–915.022, dated September 2, 1988; or

(5) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace.

(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties.

SEC. 620. No funds appropriated in this or any other Act may be used to implement or enforce the agreements in Standard Forms 312 and 4414 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: ''These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive order and listed statutes are incorporated into this agreement and are controlling.'': *Provided*, That notwithstanding the preceding paragraph, a nondisclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that they do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

SEC. 621. No part of any funds appropriated in this or any other Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

SEC. 622. None of the funds appropriated by this or any other Act may be used by an agency to provide a Federal employee's home address to any labor organization except when the employee has authorized such disclosure or when such disclosure has been ordered by a court of competent jurisdiction.

SEC. 623. None of the funds made available in this Act or any other Act may be used to provide any non-public information such as mailing or telephone lists to any person or any organization outside of the Federal Government without the approval of the Committees on Appropriations.

SEC. 624. No part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 625. (a) In this section the term ''agency''—

(1) means an Executive agency as defined under section 105 of title 5, United States Code;

(2) includes a military department as defined under section 102 of such title, the Postal Service, and the Postal Rate Commission; and

(3) shall not include the General Accounting Office.

(b) Unless authorized in accordance with law or regulations to use such time for other purposes, an employee of an agency shall use official time in an honest effort to perform official duties. An employee not under a leave system, including a Presidential appointee exempted under section 6301(2) of title 5, United States Code, has an obligation to expend an honest effort and a reasonable proportion of such employee's time in the performance of official duties.

SEC. 626. Notwithstanding 31 U.S.C. 1346 and section 610 of this Act, funds made available for the current fiscal year by this or any other Act to any department or agency, which is a member of the Joint Financial Management Improvement Program (JFMIP), shall be available to finance an appropriate share of JFMIP administrative costs, as determined by the JFMIP, but not to exceed a total of $800,000 including the salary of the Executive Director and staff support.

SEC. 627. Notwithstanding 31 U.S.C. 1346 and section 610 of this Act, the head of each Executive department and agency is hereby authorized to transfer to or reimburse the ''Policy and Citizen Services'' account, General Services Administration, with the approval of the Director of the Office of Management and Budget, funds made available for the current fiscal year by this or any other Act, including rebates from charge card and other contracts. These funds shall be administered by the Administrator of General Services to support Government-wide financial, information technology, procurement, and other management innovations, initiatives, and activities, as approved by the Director of the Office of Management and Budget, in consultation with the appropriate interagency groups designated by the Director (including the Chief Financial Officers Council and the Joint Financial Management Improvement Program for financial management initiatives, the Chief Information Officers Council for information technology initiatives, and the Procurement Executives Council for procurement initiatives). The total funds transferred or reimbursed shall not exceed $12,250,000. Such transfers or reimbursements may only be made 15 days following notification of the Committees on Appropriations by the Director of the Office of Management and Budget.

SEC. 628. None of the funds made available in this or any other Act may be used by the Office of Personnel Management or any other department or agency of the Federal Government to (a) operate an online employment information service for the Federal Government under any contract awarded under the request for quotations number SOLO30000003 issued by the Office of Personnel Management unless the Office of Personnel Management complies with the recommendations of the Comptroller General in the General Accounting Office decision of April 29, 2003, referred to as Symplicity Corporation, B–291902; or (b) prohibit any agency from using appropriated funds as they see fit to independently contract with private companies to provide online employment applications and processing services.

SEC. 629. Notwithstanding any other provision of law, a woman may breastfeed her child at any location in a Federal building or on Federal property, if the woman and her child are otherwise authorized to be present at the location.

SEC. 630. Nothwithstanding section 1346 of title 31, United States Code, or section 610 of this Act, funds made available for the current fiscal year by this or any other Act shall be available for the interagency funding of specific projects, workshops, studies, and similar efforts to carry out the purposes of the National Science and Technology Council (authorized by Executive Order No. 12881), which benefit multiple Federal departments, agencies, or entities: *Provided*, That the Office of Management and Budget shall provide a report describing the budget

of and resources connected with the National Science and Technology Council to the Committees on Appropriations, the House Committee on Science; and the Senate Committee on Commerce, Science, and Transportation 90 days after enactment of this Act.

SEC. 631. Any request for proposals, solicitation, grant application, form, notification, press release, or other publications involving the distribution of Federal funds shall indicate the agency providing the funds, the Catalog of Federal Domestic Assistance Number, as applicable, and the amount provided. This provision shall apply to direct payments, formula funds, and grants received by a State receiving Federal funds.

SEC. 632. Subsection (f) of section 403 of Public Law 103–356 (31 U.S.C. 501 note) is amended by striking ''October 1, 2003'' and inserting ''October 1, 2004''.

SEC. 633. (a) PROHIBITION OF FEDERAL AGENCY MONITORING OF PERSONAL INFORMATION ON USE OF INTERNET.—None of the funds made available in this or any other Act may be used by any Federal agency—

(1) to collect, review, or create any aggregate list, derived from any means, that includes the collection of any personally identifiable information relating to an individual's access to or use of any Federal Government Internet site of the agency; or

(2) to enter into any agreement with a third party (including another government agency) to collect, review, or obtain any aggregate list, derived from any means, that includes the collection of any personally identifiable information relating to an individual's access to or use of any nongovernmental Internet site.

(b) EXCEPTIONS.—The limitations established in subsection (a) shall not apply to—

(1) any record of aggregate data that does not identify particular persons;

(2) any voluntary submission of personally identifiable information;

(3) any action taken for law enforcement, regulatory, or supervisory purposes, in accordance with applicable law; or

(4) any action described in subsection (a)(1) that is a system security action taken by the operator of an Internet site and is necessarily incident to the rendition of the Internet site services or to the protection of the rights or property of the provider of the Internet site.

(c) DEFINITIONS.—For the purposes of this section:

(1) The term ''regulatory'' means agency actions to implement, interpret or enforce authorities provided in law.

(2) The term ''supervisory'' means examinations of the agency's supervised institutions, including assessing safety and soundness, overall financial condition, management practices and policies and compliance with applicable standards as provided in law.

SEC. 634. (a) None of the funds appropriated by this Act may be used to enter into or renew a contract which includes a provision providing prescription drug coverage, except where the contract also includes a provision for contraceptive coverage.

(b) Nothing in this section shall apply to a contract with—

(1) any of the following religious plans:

(A) Personal Care's HMO; and

(B) OSF Health Plans, Inc.; and

(2) any existing or future plan, if the carrier for the plan objects to such coverage on the basis of religious beliefs.

(c) In implementing this section, any plan that enters into or renews a contract under this section may not subject any individual to discrimination on the basis that the individual refuses to prescribe or otherwise provide for contraceptives because such activities would be contrary to the individual's religious beliefs or moral convictions.

(d) Nothing in this section shall be construed to require coverage of abortion or abortion-related services.

SEC. 635. The Congress of the United States recognizes the United States Anti-Doping Agency (USADA) as the official anti-doping agency for Olympic, Pan American, and Paralympic sport in the United States.

SEC. 636. (a) The adjustment in rates of basic pay for employees under the statutory pay systems that takes effect in fiscal year 2004 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 4.1 percent, and this adjustment shall apply to civilian employees in the Department of Defense and the Department of Homeland Security and such adjustments shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2004.

(b) Notwithstanding section 713 of this Act, the adjustment in rates of basic pay for the statutory pay systems that take place in fiscal year 2004 under sections 5344 and 5348 of title 5, United States Code, shall be no less than the percentage in paragraph (a) as employees in the same location whose rates of basic pay are adjusted pursuant to the statutory pay systems under section 5303 and 5304 of title 5, United States Code. Prevailing rate employees at locations where there are no employees whose pay is increased pursuant to sections 5303 and 5304 of title 5 and prevailing rate employees described in section 5343(a)(5) of title 5 shall be considered to be located in the pay locality designated as ''Rest of US'' pursuant to section 5304 of title 5 for purposes of this paragraph.

(c) Funds used to carry out this section shall be paid from appropriations, which are made to each applicable department or agency for salaries and expenses for fiscal year 2004.

SEC. 637. Not later than 6 months after the date of enactment of this Act, the Inspector General of each applicable department or agency shall submit to the Committee on Appropriations a report detailing what policies and procedures are in place for each department or agency to give first priority to the location of new offices and other facilities in rural areas, as directed by the Rural Development Act of 1972.

SEC. 638. None of the funds made available under this or any other Act for fiscal year 2004 shall be expended for the purchase of a product or service offered by Federal Prison Industries, Inc. unless the agency making such purchase determines that such offered product or service provides the best value to the buying agency pursuant to government-wide procurement regulations, issued pursuant to section 25(c)(1) of the Office of Federal Procurement Act (41 U.S.C. 421(c)(1)) that impose procedures, standards, and limitations of section 2410n of title 10, United States Code.

SEC. 639. Notwithstanding any other provision of law, funds appropriated for official travel by Federal departments and agencies may be used by such departments and agencies, if consistent with Office of Management and Budget Circular A–126 regarding official travel for Government personnel, to participate in the fractional aircraft ownership pilot program.

SEC. 640. Each Executive department and agency shall evaluate the creditworthiness of an individual before issuing the individual a government purchase charge card or government travel charge card. The department or agency may not issue a government purchase charge card or government travel charge card to an individual that either lacks a credit history or is found to have an unsatisfactory credit history as a result of this evaluation: *Provided*, That this restriction shall not preclude issuance of a restricted-use charge, debit, or stored value card made in accordance with agency procedures to (a) an individual with an unsatisfactory credit history where such card is used to pay travel expenses and the agency determines there is no suitable alternative payment mechanism available before issuing the card, or (b) an individual who lacks a credit history. Each Executive department and agency shall establish guidelines and procedures for disciplinary actions to be taken against agency personnel for improper, fraudulent, or abusive use of government charge cards, which shall include appropriate disciplinary actions for use of charge cards for purposes, and at establishments, that are inconsistent with the official business of the Department or agency or with applicable standards of conduct. Disciplinary actions may include, but are not limited to, the review of the security clearance of the individual involved and the modification or revocation of such security clearance in light of the review.

SEC. 641. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 642. Not later than December 31 of each year, the head of each agency shall submit to Congress a report on the competitive sourcing activities performed during the previous fiscal year by Federal Government sources that are on the list required under the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 31 U.S.C. 501 note). The report shall include—

(1) the number of full time equivalent Federal employees studied for competitive sourcing;

(2) the total agency cost required to carry out its competitive sourcing program;

(3) the costs attributable to paying outside consultants and contractors to carry out the agency's competitive sourcing program;

(4) the costs attributable to paying agency personnel to carry out its competitive sourcing program; and

(5) an estimate of the savings attributed as a result of the agency competitive sourcing program.

This Act may be cited as the ''Transportation, Treasury, and General Government Appropriations Act, 2004''.

SA 1900. Mr. DORGAN (for himself, Mr. ENZI, Mr. HAGEL, Mr. BAUCUS, Mr. CRAIG, Mr. DODD, Mr. BINGAMAN, Mr. LEAHY, and Mr. DURBIN) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 155, between lines 21 and 22, insert the following:

SEC. 643. (a) None of the funds made available in this Act may be used to administer or enforce part 515 of title 31, Code of Federal Regulations (the Cuban Assets Control Regulations) with respect to any travel or travel-related transaction.

(b) The limitation established in subsection (a) shall not apply to the administration of general or specific licenses for travel

or travel-related transactions, shall not apply to section 515.204, 515.206, 515.332, 515.536, 515.544, 515.547, 515.560(c)(3), 515.569, 515.571, or 515.803 of such part 515, and shall not apply to transactions in relation to any business travel covered by section 515.560(g) of such part 515.

SA 1901. Mr. CRAIG (for himself, Mr. DORGAN, Mr. ENZI, Mr. HAGEL, Mr. BAUCUS, Mr. DODD, and Mr. ROBERTS) proposed an amendment to amendment SA 1900 proposed by Mr. DORGAN (for himself, Mr. ENZI, Mr. HAGEL, Mr. BAUCUS, Mr. CRAIG, Mr. DODD, Mr. BINGAMAN, Mr. LEAHY, and Mr. DURBIN) to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

In the amendment strike all after ''Sec. 643.'' and insert the following:

(a) None of the funds made available in this Act may be used to administer or enforce part 515 of title 31, Code of Federal Regulations (the Cuban Assets Control Regulations) with respect to any travel or travel-related transaction.

(b) The limitation established in subsection (a) shall not apply to the administration of general or specific licenses for travel or travel-related transactions, shall not apply to section 515.204, 515.206, 515.332, 515.536, 515.544, 515.547, 515.560(c)(3), 515.569, 515.571, or 515.803 of such part 515, and shall not apply to transactions in relation to any business travel covered by section 515.560(g) of such part 515.

(c) This section shall take effect one day after date of enactment.

SA 1902. Mr. BAYH (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 14, between lines 2 and 3, insert the following:

SEC. 105. The Administrator of the Federal Aviation Administration shall, for purposes of chapter 471 of title 49, United States Code, give priority consideration to a letter of intent application for funding submitted by the City of Gary, Indiana, or the State of Indiana, for the extension of the main runway at the Gary/Chicago Airport. The letter of intent application shall be considered upon completion of the environmental impact statement and benefit cost analysis in accordance with Federal Aviation Administration requirements. The Administrator shall consider the letter of intent application not later than 90 days after receiving it from the applicant.

SA 1903. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 63, line 22, strike the period and insert '', of which $1,000,000 shall be available without fiscal year limitation for the continuation of bimonthly audits of the Internal Revenue Service taxpayer assistance centers for calendar years 2004 and 2005.''

SA 1904. Mr. FEINGOLD proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

SEC. ____. Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost of living adjustments for Members of Congress) during fiscal year 2004.

SA 1905. Mr. HARKIN (for himself, Mr. FEINGOLD, Mr. KENNEDY, and Mr. DURBIN) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . None of the funds made available in this Act may be used by the Secretary of the Treasury or his delegate to issue any rule or regulation which implements the proposed amendments to Internal Revenue Service regulations set forth in REG–209500–86 and REG–164464–02, filed December 10, 2002, or any amendments reaching results similar to such proposed amendments.

SA 1906. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) Section 802(b)(1) of the Japanese Imperial Government Disclosure Act of 2000 (Public Law 106–567; 114 Stat. 2865) is amended by striking ''3 years'' and inserting ''4 years''.

(b) An additional amount of $500,000 is provided to the National Archives to carry out the Japanese Imperial Government Disclosure Act of 2000 (Public Law 106–567; 114 Stat. 2865).

SA 1907. Mr. BINGAMAN (for himself, Mr. INHOFE, Mr. INOUYE, Mr. JOHNSON, and Mr. DASCHLE) submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 31, between lines 13 and 14, insert the following:

SEC. 1___. INDIAN RESERVATION ROADS PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of law, in addition to funds limited in this Act for the Indian reservation roads program under section 204 of title 23, United States Code, an additional amount to be derived from the Highway Trust Fund (other than the Mass Transit Account) shall be available, such that a total of $333,000,000 shall be available in fiscal year 2004 to carry out the Indian reservation roads program.

(b) AVAILABILITY.—The additional amount under subsection (a)—

(1) shall be available in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; and

(2) shall be subject to any obligation limitation for Federal-aid highways established by this Act or any other Act.

(c) AMOUNT OF OBLIGATION LIMITATION.—The amount of any obligation limitation for the Indian reservation roads program shall be equal to the total amount of contract authority made available for the Indian reservation roads program for fiscal year 2004.

SA 1908. Mr. BINGAMAN (for himself, Ms. SNOWE, Mr. SPECTER, Mr. NELSON of Nebraska, Mr. SCHUMER, Mr. JEFFORDS, Mr. PRYOR, Mr. LEAHY, Mr. DASCHLE, Mr. BAUCUS, Ms. COLLINS, Mr. GRASSLEY, Mr. DOMENICI, Mr. HARKIN, Mrs. LINCOLN, Mr. HAGEL, and Mr. BUNNING) submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 14, between lines 2 and 3, insert the following new section:

SEC. 105. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to establish or implement a pilot program under which not more than 10 designated essential air service communities located in proximity to hub airports are required to assume 10 percent of their essential air subsidy costs for a 4-year period, commonly referred to as the EAS local participation program.

SA 1909. Mr. HOLLINGS (for himself, Mr. LAUTENBERG, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, line 10, strike ''$1,346,000,000,'' and insert ''$1,700,000,000,''.

SA 1910. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 31, between lines 13 and 14, insert the following:

SEC. 115. Section 345(6) of the Department of Transportation and Related Agencies Appropriations Act, 2003 (division I of Public Law 108–7; 117 Stat. 418) is amended in the fourth proviso—

(1) by striking ''except for'' and inserting ''including''; and

(2) by inserting before the period at the end the following: ''*Provided further,* That the

Secretary may also modify the permitted uses of draws on the lines of credit to include repair and replacement costs''.

SA 1911. Mr. CARPER (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. The Secretary of Transportation shall, in connection with the Philadelphia International Airport Capacity Enhancement Program, consider the impact of aircraft noise on northern Delaware—

(1) within the scope of the environmental impact statement prepared in connection with the Program; and

(2) as part of any study of aircraft noise required under the National Environmental Protection Act of 1969 and conducted pursuant to part 150 of title 14, Code of Federal Regulations, or any successor regulations.

SA 1912. Mr. CARPER (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. No funds appropriated or otherwise made available by this Act may be obligated or expended to undertake the environmental impact statement for the Philadelphia International Airport Capacity Enhancement Program unless the Secretary of Transportation considers the impact of aircraft noise on northern Delaware—

(1) within the scope of the environmental impact statement prepared in connection with the Program; and

(2) as part of any study of aircraft noise required under the National Environmental Protection Act of 1969 and conducted pursuant to part 150 of title 14, Code of Federal Regulations, or any successor regulations.

SA 1913. Mr. CARPER (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. It is the sense of the Senate that the Secretary of Transportation must, in connection with the Philadelphia International Airport Capacity Enhancement Program, consider the impact of aircraft noise on northern Delaware—

(1) within the scope of the environmental impact statement prepared in connection with the Program; and

(2) as part of any study of aircraft noise required under the National Environmental Protection Act of 1969 and conducted pursuant to part 150 of title 14, Code of Federal Regulations, or any successor regulations.

SA 1914. Mr. GRASSLEY (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. None of the funds appropriated or made available under this Act or any other appropriations Act may be used to implement the proposed regulations of the Office of Personnel Management to add sections 300.311 through 300.316 to part 300 of title 5 of the Code of Federal Regulations, published in the Federal Register, volume 68, number 174, on September 9, 2003 (relating to the detail of executive branch employees to the legislative branch). If such proposed regulations are final regulations on the date of enactment of this Act, none of the funds appropriated or made available under this Act may be used to implement, administer, or enforce such final regulations.

SA 1915. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 127, after line 23, insert the following:

SEC. 537. (a) None of the funds appropriated or otherwise made available by this or any other Act may be used by an executive agency to initiate, complete, or implement, under the provisions of Office of Management and Budget Circular A–76 or under any similar provisions of any other order or directive, any competitive sourcing study regarding the performance of any activity of an executive agency that relates to agency security, biodefense, or homeland security, including—

(1) any research relating to infectious diseases and biomedical terrorism;

(2) any activity requiring—

(A) physical, electronic, or other access to biological, pathological, chemical, genetic, or radioactive substances; and

(B) the development or documentation of such substances; and

(3) the safeguarding and maintenance of biological, pathological, chemical, genetic, or radioactive substances and the facilities housing such substances.

(b) Nothing in this section shall be construed to prohibit the use of funds for solicitation, review, or awarding of grants for support of research relating to biodefense or homeland security, including any such research that relates to infectious diseases or biomedical terrorism.

(c) In this section, the term ''executive agency'' has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

SA 1916. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 14, between lines 2 and 3, insert the following:

SEC. 105. None of the funds appropriated by this Act or any other Act may be used to carry out a public-private competition or take any other action to convert to contractor performance of any activity or function that, on or after January 1, 2003, is performed by employees of the National Aeronautical Charting Office of the Federal Aviation Administration.

SA 1917. Ms. MIKULSKI (for herself, Ms. LANDRIEU, Mr. REID, Mr. SARBANES, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. KENNEDY, Mr. LEAHY, Mr. AKAKA, Mr. BYRD, Mr. EDWARDS, and Mr. CORZINE) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 127, after line 23, insert the following:

SEC. 537. None of the funds made available by this Act may be used to implement the revision to Office of Management and Budget Circular A–76 made on May 29, 2003.

SA 1918. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert:

''SEC. . Notwithstanding any other provision of law, funds made available in this Act or identified in committee reports accompanying this Act for capital investment grants in the area of Harrisburg, Pennsylvania, may be used for costs associated with the Corridor One Regional Rail Project which are eligible to be financed under 49 U.S.C. 5309.''.

SA 1919. Mr. CHAMBLISS (for himself and Mr. MILLER) submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert: ''G.P. . Within available funds provided for ''Facilities and equipment,'' $1,500,000 shall be provided for a precision instrument approach landing system (ILS) at Lee Gilmer Memorial Airport, Gainesville, Georgia.''.

SA 1920. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert: ''Paulding County, GA Airport Improvements.''.

SA 1921. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 155, between lines 21 and 22, insert the following:

SEC. 643. (a) None of the funds appropriated or otherwise made available by this Act may be used to remove any area within a locality pay area established under section 5304 of title 5, United States Code, from coverage under that locality pay area.

(b) Subsection (a) shall not apply to the Rest of U.S. locality pay area.

SA 1922. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. . None of the Funds appropriated in this Act or otherwise available to the Department of the Treasury or the Bureau of the Public Debt may be used for the implementation of any program or action that eliminates the issuance of government printed United States Savings Bonds.

SA 1923. Mr. THOMAS (for himself and Mr. VOINOVICH) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place insert the following:

SEC. . (a) Not later than December 31 of each year, the head of each executive agency shall submit to Congress (instead of the report required by section 642) a report on the competitive sourcing activities on the list required under the Federal Activities Inventory Reform Act of 1998 (Public Law 105-270; 31 U.S.C. 501 note) that were performed for such executive agency during the previous fiscal year by Federal Government sources. The report shall include—

(1) the total number of competitions completed;

(2) the total number of competitions announced, together with a list of the activities covered by such competitions;

(3) the total number (expressed as a full-time employee equivalent number) of the Federal employees studied under completed competitions;

(4) the total number (expressed as a full-time employee equivalent number) of the Federal employees that are being studied under competitions announced but not completed;

(5) the incremental cost directly attributable to conducting the competitions identified under paragraphs (1) and (2), including costs attributable to paying outside consultants and contractors;

(6) an estimate of the total anticipated savings, or a quantifiable —description of improvements in service or performance, derived from completed competitions;

(7) actual savings, or a quantifiable description of improvements in —service or performance, derived from the implementation of competitions completed after May 29, 2003;

(8) the total projected number (expressed as a full-time employee equivalent number) of the Federal employees that are to be covered by competitions scheduled to be announced in the fiscal year covered by the next report required under this section; and

(9) a general description of how the competitive sourcing decisionmaking processes of the executive agency are aligned with the strategic workforce plan of that executive agency.

(b) The head of an executive agency may not be required, under Office of Management and Budget Circular A–76 or any other policy, directive, or regulation, to conduct a follow-on public-private competition to a prior public-private competition conducted under such circular within five years of the prior public-private competition if the activity or function covered by the prior public-private competition was performed by Federal Government employees as a result of the prior public-private competition.

(c) Hereafter, the head of an executive agency may expend funds appropriated or otherwise made available for any purpose to the executive agency under this or any other Act to monitor (in the administration of responsibilities under Office of Management and Budget Circular A–76 or any related policy, directive, or regulation) the performance of an activity or function of the executive agency that has previously been subjected to a public-private competition under such circular.

(d) For the purposes of subchapter V of chapter 35 of title 31, United States Code—

(1) the person designated to represent employees of the Federal Government in a public-private competition regarding the performance of an executive agency activity or function under Office of Management and Budget Circular A–76—

(A) shall be treated as an interested party on behalf of such employees; and

(B) may submit a protest with respect to such public-private competition on behalf of such employees; and

(2) the Comptroller General shall dispose of such a protest in accordance with the policies and procedures applicable to protests described in section 3551(1) of such title under the procurement protest system provided under such subchapter.

(e) An activity or function of an executive agency that is converted to contractor performance under Office of Management and Budget Circular A–76 may not be performed by the contractor at a location outside the United States except to the extent that such activity or function was previously been performed by Federal Government employees outside the United States.

(f) The process that applies to the selection of architects and engineers for meeting the requirements of an executive agency for architectural and engineering services under chapter 11 of title 40, United States Code, shall apply to a public-private competition for the performance of architectural and engineering services for an executive agency.

(g) In this section, the term ''executive agency'' has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

SA 1924. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. ____. (a) FACILITATION OF ADDITIONAL IMPROVEMENTS TO ALAMEDA CORRIDOR, CALIFORNIA.—Notwithstanding any other provision of law, for the purpose of assisting in the development, construction, and financing of additional improvements to the Alameda Corridor, California, including construction of a truck expressway or other enhancements, the Secretary of Transportation shall modify the loan agreement entered into with the Alameda Corridor Transportation Authority pursuant to the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208) to revise the interest rate to an interest rate equal to the average yield, as of the date of the modification of the loan agreement, on marketable Treasury securities of similar maturity to the expected remaining average life of the loan.

(b) TREATMENT.—Notwithstanding any other provision of law, the modification under subsection (a) shall be eligible under section 184 of title 23, United States Code, and shall be funded under section 188 of such title.

(c) ADDITIONAL MODIFICATIONS.—The Secretary may further revise the interest rate under the loan agreement referred to in subsection (a), or any other term of the loan agreement, if the marginal budgetary cost, if any, of such modification does not exceed $80,000,000 and is funded under section 188 of title 23, United States Code.

SA 1925. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 33, strike lines 5 through 10 and insert the following:

SEC. 130. No funds appropriated or otherwise made available by this Act may be used to implement or enforce any provisions of the Final Rule, issued on April 16, 2003 (Docket No. FMCSA–97–2350), with respect to either of the following:

(1) The operators of utility service vehicles, as that term is defined in section 395.2 of title 49, Code of Federal Regulations.

(2) Maximum daily hours of service for drivers engaged in the transportation of property or passengers to or from a motion picture or television production site located within a 100-air mile radius of the work reporting location of such drivers.

SA 1926. Mr. AKAKA (for himself, Mr. EDWARDS, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 73, between lines 9 and 10, insert the following:

SEC. 218. None of the funds appropriated or otherwise made available by this Act may be used for the Debt Indicator program announced in Internal Revenue Service Notice 99–58.

SA 1927. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of

Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert:

SEC. . Notwithstanding any other provision of law, funds designated to the Pennsylvania Cumberland/Dauphin County Corridor I project in committee reports accompanying this Act may be available to the recipient for any project activities authorized under 49 U.S.C. 5307 and 5309.

SA 1928. Mr. DODD (for himself, Mr. MCCONNELL, Mr. DASCHLE, Mr. REID, Mr. DURBIN, Mr. SCHUMER, Mr. LIEBERMAN, Mr. EDWARDS, Mr. BOND, Mr. HATCH, Mr. ROBERTS, and Mr. BURNS) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 85, strike lines 20 through 25, and insert the following:

Commission, $1,500,000,000, for providing grants to assist State and local efforts to improve election technology and the administration of Federal elections, as authorized by the Help America Vote Act of 2002: *Provided*, That no more than 1/10 of 1 per-

---

SA 1929. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, line 22, strike the period at the end and insert ": *Provided further*, That of such amount, sufficient funds shall be available for the Secretary of Transportation, not later than 60 days after the last day of the fiscal year, to submit to Congress a report on the amount of acquisitions made by the Department of Transportation during such fiscal year of articles, materials, or supplies that were manufactured outside the United States. Such report shall separately indicate the dollar value of any articles, materials, or supplies purchased by the Department of Transportation that were manufactured outside the United States, an itemized list of all waivers under the Buy American Act (41 U.S.C. 10a et seq.) that were granted with respect to such articles, materials, or supplies, and a summary of total procurement funds spent on goods manufactured in the United States versus funds spent on goods manufactured outside of the United States. The Secretary of Transportation shall make the report publicly available by posting the report on an Internet website.".

On page 62, line 5, strike the period at the end and insert ": *Provided further*, That of such amount, sufficient funds shall be available for the Secretary of the Treasury, not later than 60 days after the last day of the fiscal year, to submit to Congress a report on the amount of acquisitions made by the Department of the Treasury during such fiscal year of articles, materials, or supplies that were manufactured outside the United States. Such report shall separately indicate the dollar value of any articles, materials, or supplies purchased by the Department of the Treasury that were manufactured outside the United States, an itemized list of all waivers under the Buy American Act (41 U.S.C. 10a et seq.) that were granted with respect to such articles, materials, or supplies, and a summary of total procurement funds spent on goods manufactured in the United States versus funds spent on goods manufactured outside of the United States. The Secretary of the Treasury shall make the report publicly available by posting the report on an Internet website.".

SA 1930. Mr. BAY submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 14, between lines 2 and 3, insert the following:

SEC. 105. The Administrator of the Federal Aviation Administration shall ensure that the temporary flight restriction applicable to the Newport Chemical Depot, Newport, Indiana, stays in effect until the completion of the accelerated neutralization process employed to destroy the chemical agent stored at such facility.

SA 1931. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 14, between lines 2 and 3, insert the following:

SEC. 105. There are authorized to be appropriated such sums as may be necessary for fiscal years 2004 through 2007 for the Secretary of Transportation to carry out and expand the Air Traffic Control Collegiate Training Initiative.

SA 1932. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 17, strike line 12 and insert the following:

GMU ITS, Virginia, $1,000,000

George Washington University, Virginia Campus, $1,000,000

SA 1933. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

Insert after section 114 the following:

SEC. 115. Of the amount appropriated or otherwise made available by this Act for the Federal Highway Administration for the Transportation and Community and System Pilot Preservation Program, $850,000 shall be available for interior air quality demonstration activities at the Bristol, Virginia, control facility to evaluate standard industrial fuel system performance and efficiency with drive-by-wire engine management and emissions systems.

SA 1934. Mrs. HUTCHISON (for herself, and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 31, between lines 13 and 14, insert the following:

SEC. 115. Of the amounts made available under this title under the heading "FEDERAL-AID HIGHWAYS" for Texas Statewide ITS Deployment and Integration—

(1) $500,000 shall be made available for the deployment and implementation of an Intelligent Transportation System project at Port of Galveston, Texas; and

(1) $500,000 shall be made available for the deployment and implementation of an Intelligent Transportation System project at City of Lubbock, Texas.

SA 1935. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill add the following new section:

"SEC. . Notwithstanding 31 U.S.C. 1346 and section 610 of this Act, the head of each executive department and agency shall transfer to or reimburse the Federal Aviation Administration, with the approval of the Director of the Office of Management and Budget, funds made available by this or any other Act for the purposes described below, and shall submit budget requests for such purposes. These funds shall be administered by the Federal Aviation Administration as approved by the Director of the Office of Management and Budget, in consultation with the appropriate interagency groups designated by the Director to ensure the operation of the Midway Atoll Airfield by the Federal Aviation Administration pursuant to an operational agreement with the Department of the Interior. The total funds transferred or reimbursed shall not exceed $6,000,000 and shall not be available for activities other than the operation of the airfield. The Director of the Office of Management and Budget shall notify the Committees on Appropriations of such transfers or reimbursements within 15 days of this Act. Such transfers or reimbursements shall begin within 30 days of enactment of this Act."

SA 1936. Mr. SHELBY (for Mr. DURBIN) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 155, between lines 21 and 22, insert the following:

SEC. 6. MOTORIST INFORMATION CONCERNING PHARMACY SERVICES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall amend the

Manual on Uniform Traffic Control Devices to include a provision requiring that information be provided to motorists to assist motorists in locating licensed 24-hour pharmacy services open to the public.

(b) LOGO PANEL.—The provision under subsection (a) shall require placement of a logo panel that displays information disclosing the names or logos of pharmacies described in subsection (a) that are located within 3 miles of an interchange on the Federal-aid system (as defined in section 101 of title 23, United States Code).

SA 1937. Mr. SHELBY (for Mr. CHAMBLISS) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place insert the following:

SEC. . The Federal Aviation Administration shall give priority consideration to ''Paulding County, GA Airport Improvements'' for the Airport Improvement Program.

SA 1938. Mr. SHELBY (for Mrs. FEINSTEIN) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 33, strike lines 5 through 10 and insert the following:

SEC. 130. No funds appropriated or otherwise made available by this Act may be used to implement or enforce any provisions of the Final Rule, issued on April 16, 2003 (Docket No. FMCSA–97–2350), with respect to either of the following:

(1) The operators of utility service vehicles, as that term is defined in section 395.2 of title 49, Code of Federal Regulations.

(2) Maximum daily hours of service for drivers engaged in the transportation of property or passengers to or from a motion picture or television production site located within a 100-air mile radius of the work reporting location of such drivers.

SA 1939. Mr. SHELBY (for Mr. BINGAMAN (for himself, Ms. SNOWE, Mr. SPECTER, Mr. NELSON of Nebraska, Mr. SCHUMER, Mr. JEFFORDS, Mr. PRYOR, Mr. LEAHY, Mr. DASCHLE, Mr. BAUCUS, Ms. COLLINS, Mr. GRASSLEY, Mrs. LINCOLN, Mr. HAGEL, Mrs. CLINTON, and Mr. BUNNING)) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 14, between lines 2 and 3, insert the following new section:

SEC. 105. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to establish or implement a pilot program under which not more than 10 designated essential air service communities located in proximity to hub airports are required to assume 10 percent of their essential air subsidy costs for a 4-year period, commonly referred to as the EAS local participation program.

SA 1940. Mr. SHELBY (for Mr. BAYH) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 14, between lines 2 and 3, insert the following:

SEC. 105. The Administrator of the Federal Aviation Administration may, for purposes of chapter 471 of title 49, United States Code, give priority consideration to a letter of intent application for funding submitted by the City of Gary, Indiana, or the State of Indiana, for the extension of the main runway at the Gary/Chicago Airport. The letter of intent application shall be considered upon completion of the environmental impact statement and benefit cost analysis in accordance with Federal Aviation Administration requirements. The Administrator shall consider the letter of intent application not later than 90 days after receiving it from the applicant.

SA 1941. Mr. SHELBY (for Mr. REID (for himself and Mrs. MURRAY)) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 14, after line 2 insert the following:

SEC. ____. None of the funds in this Act may be used to adopt rules or regulations concerning travel agent service fees unless the Department of Transportation publishes in the Federal Register revisions to the proposed rule and provides a period for additional public comment on such proposed rule for a period not less than 60 days.

SA 1942. Mr. SHELBY (for Mr. HOLLINGS) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

SEC. . Funds apportioned to the Charleston Area Regional Transportation Authority to carry out 49 U.S.C. 5307 may be used to lease land, equipment, or facilities used in public transportation from another governmental authority in the same geographic area: *Provided*, That the non-Federal share under section 5307 may include revenues from the sale of advertising and concessions: *Provided further*, That this provision shall remain in effect until September 30, 2004, or until the Federal interest in the land, equipment or facilities leased reaches 80 percent of its fair market value at disposition, whichever occurs first.

SA 1943. Mr. SHELBY (for Mrs. MURRAY) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

Under the heading Federal Buildings Fund, Limitations on Availability of Revenue Page 93, Lines 21 and 22: Delete the word ''(design)''

Page 95, Line 15, after the words ''increases in prospectus projects'', delete '';'' and then insert, '':*Provided further*, That the funds available herein for repairs to the Bellingham, Washington, Federal Building, shall be available for transfer to the city of Bellingham, Washington, subject to disposal of the building to the city;''

SA 1944. Mr. SHELBY (for Mr. REED) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 155, between lines 21 and 22, insert the following:

SEC. 643. (a) None of the funds appropriated or otherwise made available by this Act may be used to remove any area within a locality pay area established under section 5304 of title 5, United States Code, from coverage under that locality pay area.

(b) Subsection (a) shall not apply to the Rest of U.S. locality pay area.

SA 1945. Mr. SHELBY (for Mr. LEVIN) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

SEC. . Section 1108 of the Intermodal Surface Transportation Efficiency Act of 1991, item number 8, is amended by striking ''To relocate'' and all that follows through ''Street'' and inserting the following, ''For road improvements and non-motorized enhancements in the Detroit East Riverfront, Detroit, Michigan.''

SEC. . The funds provided under the Heading ''Transportation and Community and System Preservation Program'' in Conference Report 106–940 for the Lodge Freeway pedestrian overpass, Detroit, Michigan, shall be transferred to, and made available for, enhancements in the East Riverfront, Detroit, Michigan.

SEC. . The funds provided under the Heading ''Transportation and Community and System Preservation Program'' in Conference Report 107–308 for the Eastern Market pedestrian overpass park, shall be transferred to, and made available for, enhancements in the East Riverfront, Detroit, Michigan.

SA 1946. Mr. SHELBY (for Mr. AKAKA) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 73, between lines 9 and 10, insert the following:

SEC. 218. None of the funds appropriated or otherwise made available by this Act may be used for the Debt Indicator program announced in Internal Revenue Service Notice 99–58.

SA 1947. Mr. SHELBY (for Mr. SPECTER) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place in the bill, insert:

''SEC. . Notwithstanding any other provision of law, funds designated to the Pennsylvania Cumberland/Dauphin County Corridor

I project in committee reports accompanying this Act may be available to the recipient for any project activities authorized under 49 U.S.C. 5307 and 5309.

SA 1948. Mr. SHELBY (for Mr. CARPER (for himself and Mr. BIDEN)) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. It is the sense of the Senate that the Secretary of Transportation must, in connection with the Philadelphia International Airport Capacity Enhancement Program, consider the impact of aircraft noise on northern Delaware—

(1) within the scope of the environmental impact statement prepared in connection with the Program; and

(2) as part of any study of aircraft noise required under the National Environmental Protection Act of 1969 and conducted pursuant to part 150 of title 14, Code of Federal Regulations, or any successor regulations.

SA 1949. Mr. SHELBY (for Mr. GRASSLEY (for himself, Mrs. HUTCHISON, and Mr. DOMENICI)) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. None of the funds appropriated or made available under this Act or any other appropriations Act may be used to implement the proposed regulations of the Office of Personnel Management to add sections 300.311 through 300.316 to part 300 of title 5 of the Code of Federal Regulations, published in the Federal Register, volume 68, number 174, on September 9, 2003 (relating to the detail of executive branch employees to the legislative branch). If such proposed regulations are final regulations on the date of enactment of this Act, none of the funds appropriated or made available under this Act may be used to implement, administer, or enforce such final regulations.

SA 1950. Mr. SHELBY (for Mr. STEVENS) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place in the bill add the following new section:

''SEC. . Notwithstanding 31 U.S.C. 1346 and section 610 of this Act, the head of each Administration, with the approval of the Director of the Office of Management and Budget, funds made available by this or any other Act for the purposes described below, and shall submit budget requests for such purposes. These funds shall be administered by the Federal Aviation Administration as approved by the Director of the Office of Management and Budget, in consultation with the appropriate interagency groups designated by the Director to ensure the operation of the Midway Atoll Airfield by the Federal Aviation Administration pursuant to an operational agreement with the Department of the Interior. The total funds transferred or reimbursed shall not exceed $6,000,000 and shall not be available for activities other than the operation of the airfield. The Director of the Office of Management and Budget shall notify the Committees on Appropriations of such transfers or reimbursements within 15 days of this Act. Such transfers or reimbursements shall begin within 30 days of enactment of this Act.''

SA 1951. Mr. SHELBY (for Mr. LOTT) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 14, between lines 2 and 3, insert the following:

SEC. 105. Of the total amount appropriated under this title for the Federal Aviation Administration under the heading ''FACILITIES AND EQUIPMENT'', $2,000,000 shall be available for air traffic control facilities, John C. Stennis International Airport, Hancock County, Mississippi.

SA 1952. Mr. SHELBY (for Mr. ROBERTS) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, add the following:

SEC. ___. KANSAS RECREATION AREAS.

Any unexpended balances of the amounts made available by the Consolidated Appropriations Resolution, 2003 (Public Law 108–7) from the Federal-aid highway account for improvements to Council Grove Lake, Kansas, shall be available to make improvements to Richey Cove, Santa Fe Recreation Area, Canning Creek Recreation Area, and other areas in the State of Kansas.

SA 1953. Mr. SHELBY (for Ms. LANDRIEU) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 70, between lines 17 and 18, insert the following:

SEC. 205. STUDY ON EARNED INCOME TAX CREDIT CERTIFICATION PROGRAM.

(a) STUDY.—The Internal Revenue Service shall conduct a study, as a part of any program that requires certification (including pre-certification) in order to claim the earned income tax credit under section 32 of the Internal Revenue Code of 1986, on the following matters:

(1) The costs (in time and money) incurred by the participants in the program.

(2) The administrative costs incurred by the Internal Revenue Service in operating the program.

(3) The percentage of individuals included in the program who were not certified for the credit, including the percentage of individuals who were not certified due to—

(A) ineligibility for the credit; and

(B) failure to complete the requirements for certification.

(4) The percentage of individuals to whom paragraph (3)(B) applies who were—

(A) otherwise eligible for the credit; and

(B) otherwise ineligible for the credit.

(5) The percentage of individuals to whom paragraph (3)(B) applies who—

(A) did not respond to the request for certification; and

(B) responded to such request but otherwise failed to complete the requirements for certification.

(6) The reasons—

(A) for which individuals described in paragraph (5)(A) did not respond to requests for certification; and

(B) for which individuals described in paragraph (5)(B) had difficulty in completing the requirements for certification.

(7) The characteristics of those individuals who were denied the credit due to—

(A) failure to complete the requirements for certification; and

(B) ineligibility for the credit.

(8) The impact of the program on non-English speaking participants.

(9) The impact of the program on homeless and other highly transient individuals.

(b) REPORT.—

(1) PRELIMINARY REPORT.—Not later than July 30, 2004, the Commissioner of the Internal Revenue Service shall submit to Congress a preliminary report on the study conducted under subsection (a).

(2) FINAL REPORT.—Not later than June 30, 2005, the Commissioner of the Internal Revenue Service shall submit to Congress a final report detailing the findings of the study conducted under subsection (a).

SA 1954. Mr. SHELBY (for Mrs. HUTCHISON (for herself and Mr. CORNYN)) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 31, between lines 13 and 14, insert the following:

SEC. 115. Of the amounts made available under this title under the heading ''FEDERAL-AID HIGHWAYS'' for Texas Statewide ITS Deployment and Integration—

(1) $500,000 shall be made available for the deployment and implementation of an Intelligent Transportation System project at Port of Galveston, Texas; and

(1) $500,000 shall be made available for the deployment and implementation of an Intelligent Transportation System project at City of Lubbock, Texas.

SA 1955. Mr. SHELBY (for Mr. THOMAS) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriation place, insert the following:

SEC. . EXTENSION OF RESEARCH PROJECTS UNDER TEA–21.

(a) For Fiscal Year 2004 only, the Federal Highway Administration is instructed to extend and fund current research projects under Title V of TEA–21 through February 29, 2004.

SA 1956. Mr. SHELBY (for Mr. THOMAS) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . JACKSON HOLE, WYOMING RADAR UNIT.

(a) Priority consideration shall be given to the Jackson Hole, Wyoming, Airport for an ASR–11 radar unit or provisions shall be made for the acquisition or transfer of a comparable radar unit.

SA 1957. Mr. SHELBY (for Mr. LAUTENBERG) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . Within the funds provided for the Federal Aviation Administration's Facilities and Equipment account, no less than $14,000,000 shall be available for the Technical Center Facilities in New Jersey.

SA 1958. Mr. SHELBY (for Mr. FRIST) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

To insert at the appropriate place.

SEC. . To the extent that funds provided by the Congress for the Memphis Medical Center light rail extension project through the Section 5309 ''new fixed guideway systems'' program remain available upon the close-out of the project, FTA is directed to permit the Memphis Area Transit Authority to use all of those funds for planning, engineering, design, construction or acquisition projects pertaining to the Memphis Regional Rail Plan. Such funds shall remain available until expended.

SA 1959. Mr. SHELBY (for Mr. WARNER (for himself and Mr. JEFFORDS) proposed and amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

Insert after section 114 the following:

SEC. 115. Of the amount appropriated or otherwise made available for Transportation, Planning, and Research, $850,000 shall be available for interior air quality demonstration activities at the Bristol, Virginia, control facility to evaluate standard industrial fuel system performance and efficiency with drive-by-wire engine management and emissions systems and $1,000,000 shall be available for the Market Street enhancement project in Burlington, VT.

SA 1960. Mr. SHELBY (for Mr. WARNER) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 17, strike line 12 and insert the following:

GMU ITS, Virginia, $1,000,000

George Washington University, Virginia Campus, $1,000,000

SA 1961. Mr. SHELBY (for Mrs. MURRAY) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place in the bill, insert:

SEC. . Of the funds made available or limited in this Act, $3,000,000 shall be available for improvements to Bowman Road and Johnnie Dodds Boulevard, Highway 17, Mt. Pleasant, SC; $1,000,000 shall be for the Arkwright connector and no funds shall be available for the Northwest Bypass project.

SA 1962. Mr. SHELBY (for Mr. FRIST) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place insert:

SEC. 361. Section 30303(d)(3) of the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended by inserting at the end:

''(D) Memphis-Shelby International Airport intermodal facility.''.

SA 1963. Mr. SHELBY (for Mr. CHAMBLISS (for himself and Mr. MILLER)) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place in the bill, insert:

''G.P. . Within available funds provided for ''Facilities and equipment,'' $1,500,000 shall be provided for a precision instrument approach landing system (ILS) at Lee Gilmer Memorial Airport, Gainesville, Georgia''.

SA 1964. Mr. MCCONNELL (for Ms. COLLINS, (for herself, Mr. KENNEDY, Ms. MIKULSKI, and Mr. CARPER)) proposed an amendment to the bill H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place insert the following:

SEC. ____. (a) None of the funds appropriated by this Act may be used for converting to contractor performance an activity or function of an executive agency that, on or after the date of the enactment of this Act, is performed by executive agency employees unless the conversion is based on the results of a public-private competition process that (1) requires a determination regarding whether, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the executive agency by an amount that equals or exceeds the lesser of (A) 10 percent of the cost of performing the activity with government personnel or, if a most efficient organization has been developed, 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees, or (B) $10,000,000. (2) With respect to the use of any funds appropriated by this Act for the Department of Defense—

(1) Subsections (a), (b), and (c) of section 2461 of title 10, United States Code) do not apply with respect to the performance of a commercial or industrial type activity or function that—

(A) is on the procurement list established under section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47); or

(B) is planned to be converted to performance by—

(i) a qualified nonprofit agency for the blind or a qualified nonprofit agency for other severely handicapped (as such terms are defined in section 5 of such Act (41 U.S.C. 48b); or

(ii) a commercial business at least 51 percent of which is owned by an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))) or a Native Hawaiian Organization (as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15))).

(2) Nothing in this section shall effect depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code.

(3) The conversion of any activity or function of an executive agency in accordance with this section shall be credited toward any competitive or outsourcing goal, target or measurement that may be established by statute, regulation or policy and shall be deemed to be awarded under the authority of and in compliance with section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) or section 2304 of title 10, United States Code, as the case may be, for the competition or outsourcing of commercial activities.

(b) In this section, the term ''executive agency'' has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(c) Nothing in this section shall be construed to effect, amend or repeal Section 8014 of the Defense Appropriations Act, 2004 (Public Law 108–87).

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I announce for the information of the Senate and the public that the following hearing has been scheduled before the subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, October 30, 2003 at 10 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills: S. 1241, to establish the Kate Mullany National Historic Site in the State of New York, and for other purposes; S. 1364, to amend the Alaska National Interest Lands Conservation Act to authorize the payment of expenses after the death of certain Federal employees in the State of Alaska; S. 1433, to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the State of New Hampshire and Vermont; S. 1462, to adjust the boundary of the Cumberland Island Wilderness, to authorize tours of the Cumberland Island National Seashore, and for other purposes.

Because of the limited time available for the hearings, witnesses may testify

by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Tom Lillie at (202) 224–5161 or Pete Lucero at (202) 224–6293.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. SHELBY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, October 23, 2003, at 10:30 a.m., in executive session to discuss pending military nominations.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. SHELBY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on October 23, 2003, at 10 a.m. to conduct a hearing on Proposals for Improving the Regulation of the Housing GSEs.

The Committee will also vote on the nominations of the Hon. Roger W. Ferguson, Jr., of Massachusetts, to be Vice Chairman of the Board of Governors of the Federal Reserve System; the Hon. Ben. S. Bernanke, of New Jersey, to be a member of the Board of Governors of the Federal Reserve System; and the Hon. Paul S. Atkins, of Virginia, to be a member of the Securities and Exchange Commission.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SHELBY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, October 23, 2003, on pending Committee business off the floor in the President's room, immediately after the first vote of the day.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. SHELBY. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, October 23 at 9:30 a.m. to consider S. 994, the Chemical Security Act of 2003, and S. 1757, the John F. Kennedy Center Act.

The business meeting will be held in SD 406.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON FINANCE

Mr. SHELBY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, October 23, 2003, at 2 p.m., to hear testimony on Company Owned Life Insurance.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SHELBY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 23, 2003, at 9:30 a.m., to hold a hearing on Post 9/11 Visa Policy.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. SHELBY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Federal and State Role in Pharmacy Compounding and Reconstitution: Exploring the Right Mix to Protect Patients during the session of the Senate on Thursday, October 23, 2003, at 10 a.m. in SD–430.

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

COMMITTEE ON THE JUDICIARY

Mr. SHELBY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, October 23, 2003, at 9:30 a.m. in Dirksen Room 226.

Agenda:

I. Nominations: Henry W. Saad to be United States Circuit Judge for the Sixth Circuit; Dora L. Irazarry to be United States District Judge for the Eastern District of New York; Dale S. Fischer to be United States District Judge for the Central District of California; Gary L. Sharpe to be United States District Judge for the Northern District of New York; and William K. Sessions III to be a Member of the U.S. Sentencing Commission.

II. Bills: S. 1545, Development, Relief, and Education for Alien Minors Act of 2003 (the DREAM Act) [Hatch, Durbin, Craig, DeWine, Feingold, Feinstein, Grassley, Kennedy, Leahy, Schumer]; S. 1720, A bill to provide for Federal court proceedings in Plano, Texas [Cornyn]; S. 1743, Private Security Officer Employment Authorization Act of 2003 [Levin, Schumer]; S. 1194, Mentally Ill Offender Treatment and Crime Reduction Act of 2003 [DeWine, Durbin, Grassley, Hatch, Leahy]; S. Res. 239, Designating November 7, 2003, as ''National Native American Veterans Day'' to honor the service of Native Americans in the United States Armed Forces and the contribution of Native Americans to the defense of the United States [Campbell]; and S. Res. 240, A resolution designating November 2003 as ''National American Indian Heritage Month'' [Campbell, Hatch].

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. SHELBY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 23, 2003, at 2:30 p.m. to hold a closed hearing.

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. SHELBY. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation and Merchant Marine be authorized to meet on Thursday, October 23, 2003, at 2:30 p.m. Railroad Shipper Issues and S. 919, Railroad Competition Act of 2003.

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

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that privilege of the floor be granted to Peter Winokur, a fellow on my staff, during consideration of this Transportation appropriations bill.

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

CAN-SPAM ACT OF 2003

On Wednesday, October 22, 2003, the Senate passed S. 877, as follows:

S. 877

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—CONTROLLING THE ASSAULT OF NON-SOLICITED PORNOGRAPHY AND MARKETING ACT OF 2003

SEC. 101. SHORT TITLE.

This title may be cited as the ''Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003'', or the ''CAN-SPAM Act of 2003''.

SEC. 102. CONGRESSIONAL FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds the following:

(1) Electronic mail has become an extremely important and popular means of communication, relied on by millions of Americans on a daily basis for personal and commercial purposes. Its low cost and global reach make it extremely convenient and efficient, and offer unique opportunities for the development and growth of frictionless commerce.

(2) The convenience and efficiency of electronic mail are threatened by the extremely rapid growth in the volume of unsolicited commercial electronic mail. Unsolicited commercial electronic mail is currently estimated to account for over 45 percent of all electronic mail traffic, up from an estimated 7 percent in 2001, and the volume continues to rise. Most of these unsolicited commercial electronic mail messages are fraudulent or deceptive in one or more respects.

(3) The receipt of unsolicited commercial electronic mail may result in costs to recipients who cannot refuse to accept such mail and who incur costs for the storage of such mail, or for the time spent accessing, reviewing, and discarding such mail, or for both.

(4) The receipt of a large number of unsolicited messages also decreases the convenience of electronic mail and creates a risk

that wanted electronic mail messages, both commercial and noncommercial, will be lost, overlooked, or discarded amidst the larger volume of unwanted messages, thus reducing the reliability and usefulness of electronic mail to the recipient.

(5) Some unsolicited commercial electronic mail contains material that many recipients may consider vulgar or pornographic in nature.

(6) The growth in unsolicited commercial electronic mail imposes significant monetary costs on providers of Internet access services, businesses, and educational and nonprofit institutions that carry and receive such mail, as there is a finite volume of mail that such providers, businesses, and institutions can handle without further investment in infrastructure.

(7) Many senders of unsolicited commercial electronic mail purposefully disguise the source of such mail.

(8) Many senders of unsolicited commercial electronic mail purposefully include misleading information in the message's subject lines in order to induce the recipients to view the messages.

(9) While some senders of unsolicited commercial electronic mail messages provide simple and reliable ways for recipients to reject (or ''opt-out'' of) receipt of unsolicited commercial electronic mail from such senders in the future, other senders provide no such ''opt-out'' mechanism, or refuse to honor the requests of recipients not to receive electronic mail from such senders in the future, or both.

(10) Many senders of bulk unsolicited commercial electronic mail use computer programs to gather large numbers of electronic mail addresses on an automated basis from Internet websites or online services where users must post their addresses in order to make full use of the website or service.

(11) Many States have enacted legislation intended to regulate or reduce unsolicited commercial electronic mail, but these statutes impose different standards and requirements. As a result, they do not appear to have been successful in addressing the problems associated with unsolicited commercial electronic mail, in part because, since an electronic mail address does not specify a geographic location, it can be extremely difficult for law-abiding businesses to know with which of these disparate statutes they are required to comply.

(12) The problems associated with the rapid growth and abuse of unsolicited commercial electronic mail cannot be solved by Federal legislation alone. The development and adoption of technological approaches and the pursuit of cooperative efforts with other countries will be necessary as well.

(b) CONGRESSIONAL DETERMINATION OF PUBLIC POLICY.—On the basis of the findings in subsection (a), the Congress determines that—

(1) there is a substantial government interest in regulation of unsolicited commercial electronic mail on a nationwide basis;

(2) senders of unsolicited commercial electronic mail should not mislead recipients as to the source or content of such mail; and

(3) recipients of unsolicited commercial electronic mail have a right to decline to receive additional unsolicited commercial electronic mail from the same source.

SEC. 103. DEFINITIONS.

In this title:

(1) AFFIRMATIVE CONSENT.—The term ''affirmative consent'', when used with respect to a commercial electronic mail message, means that—

(A) the recipient expressly consented to receive the message, either in response to a clear and conspicuous request for such consent or at the recipient's own initiative; and

(B) if the message is from a party other than the party to which the recipient communicated such consent, the recipient was given clear and conspicuous notice at the time the consent was communicated that the recipient's electronic mail address could be transferred to such other party for the purpose of initiating commercial electronic mail messages.

(2) COMMERCIAL ELECTRONIC MAIL MESSAGE.—

(A) IN GENERAL.—The term ''commercial electronic mail message'' means any electronic mail message the primary purpose of which is the commercial advertisement or promotion of a commercial product or service (including content on an Internet website operated for a commercial purpose).

(B) REFERENCE TO COMPANY OR WEBSITE.—The inclusion of a reference to a commercial entity or a link to the website of a commercial entity in an electronic mail message does not, by itself, cause such message to be treated as a commercial electronic mail message for purposes of this title if the contents or circumstances of the message indicate a primary purpose other than commercial advertisement or promotion of a commercial product or service.

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DOMAIN NAME.—The term ''domain name'' means any alphanumeric designation which is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the Internet.

(5) ELECTRONIC MAIL ADDRESS.—The term ''electronic mail address'' means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox (commonly referred to as the ''local part'') and a reference to an Internet domain (commonly referred to as the ''domain part''), whether or not displayed, to which an electronic mail message can be sent or delivered.

(6) ELECTRONIC MAIL MESSAGE.—The term ''electronic mail message'' means a message sent to a unique electronic mail address.

(7) FTC ACT.—The term ''FTC Act'' means the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(8) HEADER INFORMATION.—The term ''header information'' means the source, destination, and routing information attached to an electronic mail message, including the originating domain name and originating electronic mail address, and any other information that appears in the line identifying, or purporting to identify, a person initiating the message.

(9) IMPLIED CONSENT.—

(A) IN GENERAL.—The term ''implied consent'', when used with respect to a commercial electronic mail message, means that—

(i) within the 3-year period ending upon receipt of such message, there has been a business transaction between the sender and the recipient (including a transaction involving the provision, free of charge, of information, goods, or services requested by the recipient); and

(ii) the recipient was, at the time of such transaction or thereafter in the first electronic mail message received from the sender after the effective date of this title, provided a clear and conspicuous notice of an opportunity not to receive unsolicited commercial electronic mail messages from the sender and has not exercised such opportunity.

(B) MERE VISITATION.—A visit by a recipient to a publicly available website shall not be treated as a transaction for purposes of subparagraph (A)(i) if the recipient did not knowingly submit the recipient's electronic mail address to the operator of the website.

(C) SEPARATE LINES OF BUSINESS OR DIVISIONS.—If a sender operates through separate lines of business or divisions and holds itself out to the recipient, both at the time of the transaction described in subparagraph (A)(i) and at the time the notice under subparagraph (A)(ii) was provided to the recipient, as that particular line of business or division rather than as the entity of which such line of business or division is a part, then the line of business or the division shall be treated as the sender for purposes of this paragraph.

(10) INITIATE.—The term ''initiate'', when used with respect to a commercial electronic mail message, means to originate or transmit such message or to procure the origination or transmission of such message, but shall not include actions that constitute routine conveyance of such message. For purposes of this paragraph, more than 1 person may be considered to have initiated a message.

(11) INTERNET.—The term ''Internet'' has the meaning given that term in the Internet Tax Freedom Act (47 U.S.C. 151 nt).

(12) INTERNET ACCESS SERVICE.—The term ''Internet access service'' has the meaning given that term in section 231(e)(4) of the Communications Act of 1934 (47 U.S.C. 231(e)(4)).

(13) PROCURE.—The term ''procure'', when used with respect to the initiation of a commercial electronic mail message, means intentionally to pay or provide other consideration to, or induce, another person to initiate such a message on one's behalf, knowing, or consciously avoiding knowing, the extent to which that person intends to comply with the requirements of this title.

(14) PROTECTED COMPUTER.—The term ''protected computer'' has the meaning given that term in section 1030(e)(2)(B) of title 18, United States Code.

(15) RECIPIENT.—The term ''recipient'', when used with respect to a commercial electronic mail message, means an authorized user of the electronic mail address to which the message was sent or delivered. If a recipient of a commercial electronic mail message has 1 or more electronic mail addresses in addition to the address to which the message was sent or delivered, the recipient shall be treated as a separate recipient with respect to each such address. If an electronic mail address is reassigned to a new user, the new user shall not be treated as a recipient of any commercial electronic mail message sent or delivered to that address before it was reassigned.

(16) ROUTINE CONVEYANCE.—The term ''routine conveyance'' means the transmission, routing, relaying, handling, or storing, through an automatic technical process, of an electronic mail message for which another person has identified the recipients or provided the recipient addresses.

(17) SENDER.—The term ''sender'', when used with respect to a commercial electronic mail message, means a person who initiates such a message and whose product, service, or Internet web site is advertised or promoted by the message.

(18) TRANSACTIONAL OR RELATIONSHIP MESSAGE.—The term ''transactional or relationship message'' means an electronic mail message the primary purpose of which is—

(A) to facilitate, complete, or confirm a commercial transaction that the recipient has previously agreed to enter into with the sender;

(B) to provide warranty information, product recall information, or safety or security information with respect to a commercial product or service used or purchased by the recipient;

(C) to provide—

(i) notification concerning a change in the terms or features of;

(ii) notification of a change in the recipient's standing or status with respect to; or

(iii) at regular periodic intervals, account balance information or other type of account statement with respect to,

a subscription, membership, account, loan, or comparable ongoing commercial relationship involving the ongoing purchase or use by the recipient of products or services offered by the sender;

(D) to provide information directly related to an employment relationship or related benefit plan in which the recipient is currently involved, participating, or enrolled; or

(E) to deliver goods or services, including product updates or upgrades, that the recipient is entitled to receive under the terms of a transaction that the recipient has previously agreed to enter into with the sender.

(19) UNSOLICITED COMMERCIAL ELECTRONIC MAIL MESSAGE.—The term ''unsolicited commercial electronic mail message'' means any commercial electronic mail message that—

(A) is not a transactional or relationship message; and

(B) is sent to a recipient without the recipient's prior affirmative or implied consent.

SEC. 104. PROHIBITION AGAINST PREDATORY AND ABUSIVE COMMERCIAL E-MAIL.

(a) OFFENSE.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 1037. Fraud and related activity in connection with electronic mail

''(a) IN GENERAL.—Whoever, in or affecting interstate or foreign commerce, knowingly—

''(1) accesses a protected computer without authorization, and intentionally initiates the transmission of multiple commercial electronic mail messages from or through such computer,

''(2) uses a protected computer to relay or retransmit multiple commercial electronic mail messages, with the intent to deceive or mislead recipients, or any Internet access service, as to the origin of such messages,

''(3) falsifies header information in multiple commercial electronic mail messages and intentionally initiates the transmission of such messages,

''(4) registers, using information that falsifies the identity of the actual registrant, for 5 or more electronic mail accounts or online user accounts or 2 or more domain names, and intentionally initiates the transmission of multiple commercial electronic mail messages from any combination of such accounts or domain names, or

''(5) falsely represents the right to use 5 or more Internet protocol addresses, and intentionally initiates the transmission of multiple commercial electronic mail messages from such addresses,

or conspires to do so, shall be punished as provided in subsection (b).

''(b) PENALTIES.—The punishment for an offense under subsection (a) is—

''(1) a fine under this title, imprisonment for not more than 5 years, or both, if—

''(A) the offense is committed in furtherance of any felony under the laws of the United States or of any State; or

''(B) the defendant has previously been convicted under this section or section 1030, or under the law of any State for conduct involving the transmission of multiple commercial electronic mail messages or unauthorized access to a computer system;

''(2) a fine under this title, imprisonment for not more than 3 years, or both, if—

''(A) the offense is an offense under subsection (a)(1);

''(B) the offense is an offense under subsection (a)(4) and involved 20 or more falsified electronic mail or online user account registrations, or 10 or more falsified domain name registrations;

''(C) the volume of electronic mail messages transmitted in furtherance of the offense exceeded 2,500 during any 24-hour period, 25,000 during any 30-day period, or 250,000 during any 1-year period;

''(D) the offense caused loss to 1 or more persons aggregating $5,000 or more in value during any 1-year period;

''(E) as a result of the offense any individual committing the offense obtained anything of value aggregating $5,000 or more during any 1-year period; or

''(F) the offense was undertaken by the defendant in concert with 3 or more other persons with respect to whom the defendant occupied a position of organizer or leader; and

''(3) a fine under this title or imprisonment for not more than 1 year, or both, in any other case.

''(c) FORFEITURE.—

''(1) IN GENERAL.—The court, in imposing sentence on a person who is convicted of an offense under this section, shall order that the defendant forfeit to the United States—

''(A) any property, real or personal, constituting or traceable to gross proceeds obtained from such offense; and

''(B) any equipment, software, or other technology used or intended to be used to commit or to facilitate the commission of such offense.

''(2) PROCEDURES.—The procedures set forth in section 413 of the Controlled Substances Act (21 U.S.C. 853), other than subsection (d) of that section, and in Rule 32.2 of the Federal Rules of Criminal Procedure, shall apply to all stages of a criminal forfeiture proceeding under this section.

''(d) DEFINITIONS.—In this section:

''(1) LOSS.—The term 'loss' has the meaning given that term in section 1030(e) of this title.

''(2) MULTIPLE.—The term 'multiple' means more than 100 electronic mail messages during a 24-hour period, more than 1,000 electronic mail messages during a 30-day period, or more than 10,000 electronic mail messages during a 1-year period.

''(3) OTHER TERMS.—Any other term has the meaning given that term by section 3 of the CAN-SPAM Act of 2003.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''Sec.
''1037. Fraud and related activity in connection with electronic mail.''.

(b) UNITED STATES SENTENCING COMMISSION.—

(1) DIRECTIVE.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the sentencing guidelines and policy statements to provide appropriate penalties for violations of section 1037 of title 18, United States Code, as added by this section, and other offenses that may be facilitated by the sending of large quantities of unsolicited electronic mail.

(2) REQUIREMENTS.—In carrying out this subsection, the Sentencing Commission shall consider providing sentencing enhancements for—

(A) those convicted under section 1037 of title 18, United States Code, who—

(i) obtained electronic mail addresses through improper means, including—

(I) harvesting electronic mail addresses of the users of a website, proprietary service, or other online public forum operated by another person, without the authorization of such person; and

(II) randomly generating electronic mail addresses by computer; or

(ii) knew that the commercial electronic mail messages involved in the offense contained or advertised an Internet domain for which the registrant of the domain had provided false registration information; and

(B) those convicted of other offenses, including offenses involving fraud, identity theft, obscenity, child pornography, and the sexual exploitation of children, if such offenses involved the sending of large quantities of unsolicited electronic mail.

(c) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Spam has become the method of choice for those who distribute pornography, perpetrate fraudulent schemes, and introduce viruses, worms, and Trojan horses into personal and business computer systems; and

(2) the Department of Justice should use all existing law enforcement tools to investigate and prosecute those who send bulk commercial e-mail to facilitate the commission of Federal crimes, including the tools contained in chapters 47 and 63 of title 18, United States Code (relating to fraud and false statements); chapter 71 of title 18, United States Code (relating to obscenity); chapter 110 of title 18, United States Code (relating to the sexual exploitation of children); and chapter 95 of title 18, United States Code (relating to racketeering), as appropriate.

SEC. 105. OTHER PROTECTIONS FOR USERS OF COMMERCIAL ELECTRONIC MAIL.

(a) REQUIREMENTS FOR TRANSMISSION OF MESSAGES.—

(1) PROHIBITION OF FALSE OR MISLEADING TRANSMISSION INFORMATION.—It is unlawful for any person to initiate the transmission, to a protected computer, of a commercial electronic mail message that contains, or is accompanied by, header information that is materially false or materially misleading. For purposes of this paragraph—

(A) header information that is technically accurate but includes an originating electronic mail address the access to which for purposes of initiating the message was obtained by means of false or fraudulent pretenses or representations shall be considered materially misleading;

(B) a ''from'' line that accurately identifies any person who initiated the message shall not be considered materially false or materially misleading; and

(C) if header information attached to a message fails to identify a protected computer used to initiate the message because the person initiating the message knowingly uses another protected computer to relay or retransmit the message for purposes of disguising its origin, then such header information shall be considered materially misleading.

(2) PROHIBITION OF DECEPTIVE SUBJECT HEADINGS.—It is unlawful for any person to initiate the transmission to a protected computer of a commercial electronic mail message with a subject heading that such person knows would be likely to mislead a recipient, acting reasonably under the circumstances, about a material fact regarding the contents or subject matter of the message.

(3) INCLUSION OF RETURN ADDRESS OR COMPARABLE MECHANISM IN COMMERCIAL ELECTRONIC MAIL.—

(A) IN GENERAL.—It is unlawful for any person to initiate the transmission to a protected computer of a commercial electronic mail message that does not contain a functioning return electronic mail address or

other Internet-based mechanism, clearly and conspicuously displayed, that—

(i) a recipient may use to submit, in a manner specified in the message, a reply electronic mail message or other form of Internet-based communication requesting not to receive future commercial electronic mail messages from that sender at the electronic mail address where the message was received; and

(ii) remains capable of receiving such messages or communications for no less than 30 days after the transmission of the original message.

(B) MORE DETAILED OPTIONS POSSIBLE.—The person initiating a commercial electronic mail message may comply with subparagraph (A)(i) by providing the recipient a list or menu from which the recipient may choose the specific types of commercial electronic mail messages the recipient wants to receive or does not want to receive from the sender, if the list or menu includes an option under which the recipient may choose not to receive any unsolicited commercial electronic mail messages from the sender.

(C) TEMPORARY INABILITY TO RECEIVE MESSAGES OR PROCESS REQUESTS.—A return electronic mail address or other mechanism does not fail to satisfy the requirements of subparagraph (A) if it is unexpectedly and temporarily unable to receive messages or process requests due to technical or capacity problems, if the technical or capacity problems were not reasonably foreseeable in light of the potential volume of response messages or requests, and if the problem with receiving messages or processing requests is corrected within a reasonable time period.

(D) EXCEPTION.—The requirements of this paragraph shall not apply to a message that is a transactional or relationship message.

(4) PROHIBITION OF TRANSMISSION OF UNSOLICITED COMMERCIAL ELECTRONIC MAIL AFTER OBJECTION.—If a recipient makes a request using a mechanism provided pursuant to paragraph (3) not to receive some or any unsolicited commercial electronic mail messages from such sender, then it is unlawful—

(A) for the sender to initiate the transmission to the recipient, more than 10 business days after the receipt of such request, of an unsolicited commercial electronic mail message that falls within the scope of the request;

(B) for any person acting on behalf of the sender to initiate the transmission to the recipient, more than 10 business days after the receipt of such request, of an unsolicited commercial electronic mail message that such person knows or consciously avoids knowing falls within the scope of the request;

(C) for any person acting on behalf of the sender to assist in initiating the transmission to the recipient, through the provision or selection of addresses to which the message will be sent, of an unsolicited commercial electronic mail message that the person knows, or consciously avoids knowing, would violate subparagraph (A) or (B); or

(D) for the sender, or any other person who knows that the recipient has made such a request, to sell, lease, exchange, or otherwise transfer or release the electronic mail address of the recipient (including through any transaction or other transfer involving mailing lists bearing the electronic mail address of the recipient) for any purpose other than compliance with this title or other provision of law.

(5) INCLUSION OF IDENTIFIER, OPT-OUT, AND PHYSICAL ADDRESS IN UNSOLICITED COMMERCIAL ELECTRONIC MAIL.—It is unlawful for any person to initiate the transmission of any unsolicited commercial electronic mail message to a protected computer unless the message provides—

(A) clear and conspicuous identification that the message is an advertisement or solicitation;

(B) clear and conspicuous notice of the opportunity under paragraph (3) to decline to receive further unsolicited commercial electronic mail messages from the sender; and

(C) a valid physical postal address of the sender.

(6) MATERIALITY DEFINED.—For purposes of paragraph (1), an inaccuracy or omission in header information is material if it would materially impede the ability of a party seeking to allege a violation of this title to locate the person who initiated the message or to investigate the alleged violation.

(b) AGGRAVATED VIOLATIONS RELATING TO UNSOLICITED COMMERCIAL ELECTRONIC MAIL.—

(1) ADDRESS HARVESTING AND DICTIONARY ATTACKS.—

(A) IN GENERAL.—It is unlawful for any person to initiate the transmission, to a protected computer, of an unsolicited commercial electronic mail message that is unlawful under subsection (a), or to assist in the origination of such message through the provision or selection of addresses to which the message will be transmitted, if such person knows, should have known, or consciously avoids knowing that—

(i) the electronic mail address of the recipient was obtained using an automated means from an Internet website or proprietary online service operated by another person, and such website or online service included, at the time the address was obtained, a notice stating that the operator of such website or online service will not give, sell, or otherwise transfer addresses maintained by such website or online service to any other party for the purposes of initiating, or enabling others to initiate, unsolicited electronic mail messages; or

(ii) the electronic mail address of the recipient was obtained using an automated means that generates possible electronic mail addresses by combining names, letters, or numbers into numerous permutations.

(B) DISCLAIMER.—Nothing in this paragraph creates an ownership or proprietary interest in such electronic mail addresses.

(2) AUTOMATED CREATION OF MULTIPLE ELECTRONIC MAIL ACCOUNTS.—It is unlawful for any person to use scripts or other automated means to register for multiple electronic mail accounts or online user accounts from which to transmit to a protected computer, or enable another person to transmit to a protected computer, an unsolicited commercial electronic mail message that is unlawful under subsection (a).

(3) RELAY OR RETRANSMISSION THROUGH UNAUTHORIZED ACCESS.—It is unlawful for any person knowingly to relay or retransmit an unsolicited commercial electronic mail message that is unlawful under subsection (a) from a protected computer or computer network that such person has accessed without authorization.

(c) COMPLIANCE PROCEDURES.—An action for violation of paragraph (2), (3), (4), or (5) of subsection (a) may not proceed if the person against whom the action is brought demonstrates that —

(1) the person has established and implemented, with due care, reasonable practices and procedures to effectively prevent violations of such paragraph; and

(2) the violation occurred despite good faith efforts to maintain compliance with such practices and procedures.

(d) SUPPLEMENTARY RULEMAKING AUTHORITY.—The Commission may by rule—

(1) modify the 10-business-day period under subsection (a)(4)(A) or subsection (a)(4)(B), or both, if the Commission determines that a different period would be more reasonable after taking into account—

(A) the purposes of subsection (a);

(B) the interests of recipients of commercial electronic mail; and

(C) the burdens imposed on senders of lawful commercial electronic mail; and

(2) specify additional activities or practices to which subsection (b) applies if the Commission determines that those activities or practices are contributing substantially to the proliferation of commercial electronic mail messages that are unlawful under subsection (a).

(e) REQUIREMENT TO PLACE WARNING LABELS ON COMMERCIAL ELECTRONIC MAIL CONTAINING SEXUALLY ORIENTED MATERIAL.—

(1) IN GENERAL.—No person may initiate in or affecting interstate commerce the transmission, to a protected computer, of any unsolicited commercial electronic mail message that includes sexually oriented material and—

(A) fail to include in subject heading for the electronic mail message the marks or notices prescribed by the Commission under this subsection; or

(B) fail to provide that the matter in the message that is initially viewable to the recipient, when the message is opened by any recipient and absent any further actions by the recipient, includes only—

(i) to the extent required or authorized pursuant to paragraph (2), any such marks or notices;

(ii) the information required to be included in the message pursuant to subsection (a)(5); and

(iii) instructions on how to access, or a mechanism to access, the sexually oriented material.

(2) PRESCRIPTION OF MARKS AND NOTICES.—Not later than 120 days after the date of the enactment of this title, the Commission in consultation with the Attorney General shall prescribe clearly identifiable marks or notices to be included in or associated with unsolicited commercial electronic mail that contains sexually oriented material, in order to inform the recipient of that fact and to facilitate filtering of such electronic mail. The Commission shall publish in the Federal Register and provide notice to the public of the marks or notices prescribed under this paragraph.

(3) DEFINITION.—In this subsection, the term ''sexually oriented material'' means any material that depicts sexually explicit conduct (as that term is defined in section 2256 of title 18, United States Code), unless the depiction constitutes a small and insignificant part of the whole, the remainder of which is not primarily devoted to sexual matters.

(4) PENALTY.—A violation of paragraph (1) is punishable as if it were a violation of section 1037(a) of title 18, United States Code.

SEC. 106. BUSINESSES KNOWINGLY PROMOTED BY ELECTRONIC MAIL WITH FALSE OR MISLEADING TRANSMISSION INFORMATION.

(a) IN GENERAL.—It is unlawful for a person to promote, or allow the promotion of, that person's trade or business, or goods, products, property, or services sold, offered for sale, leased or offered for lease, or otherwise made available through that trade or business, in a commercial electronic mail message the transmission of which is in violation of section 105(a)(1) if that person—

(1) knows, or should have known in ordinary course of that person's trade or business, that the goods, products, property, or services sold, offered for sale, leased or offered for lease, or otherwise made available through that trade or business were being promoted in such a message;

(2) received or expected to receive an economic benefit from such promotion; and

(3) took no reasonable action—

(A) to prevent the transmission; or

(B) to detect the transmission and report it to the Commission.

(b) LIMITED ENFORCEMENT AGAINST THIRD PARTIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), a person (hereinafter referred to as the ''third party'') that provides goods, products, property, or services to another person that violates subsection (a) shall not be held liable for such violation.

(2) EXCEPTION.—Liability for a violation of subsection (a) shall be imputed to a third party that provides goods, products, property, or services to another person that violates subsection (a) if that third party—

(A) owns, or has a greater than 50 percent ownership or economic interest in, the trade or business of the person that violated subsection (a); or

(B)(i) has actual knowledge that goods, products, property, or services are promoted in a commercial electronic mail message the transmission of which is in violation of section 105(a)(1); and

(ii) receives, or expects to receive, an economic benefit from such promotion.

(c) EXCLUSIVE ENFORCEMENT BY FTC.—Subsections (e) and (f) of section 107 do not apply to violations of this section.

SEC. 107. ENFORCEMENT BY FEDERAL TRADE COMMISSION.

(a) VIOLATION IS UNFAIR OR DECEPTIVE ACT OR PRACTICE.—Except as provided in subsection (b), this title shall be enforced by the Commission as if the violation of this title were an unfair or deceptive act or practice proscribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) ENFORCEMENT BY CERTAIN OTHER AGENCIES.—Compliance with this title shall be enforced—

(1) under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers), by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 and 611), and bank holding companies and their nonbank subsidiaries or affiliates (except brokers, dealers, persons providing insurance, investment companies, and investment advisers), by the Board;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) insured State branches of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers), by the Board of Directors of the Federal Deposit Insurance Corporation; and

(D) savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation, and any subsidiaries of such savings associations (except brokers, dealers, persons providing insurance, investment companies, and investment advisers), by the Director of the Office of Thrift Supervision;

(2) under the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the Board of the National Credit Union Administration with respect to any Federally insured credit union, and any subsidiaries of such a credit union;

(3) under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) by the Securities and Exchange Commission with respect to any broker or dealer;

(4) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) by the Securities and Exchange Commission with respect to investment companies;

(5) under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) by the Securities and Exchange Commission with respect to investment advisers registered under that Act;

(6) under State insurance law in the case of any person engaged in providing insurance, by the applicable State insurance authority of the State in which the person is domiciled, subject to section 104 of the Gramm-Bliley-Leach Act (15 U.S.C. 6701);

(7) under part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(8) under the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act;

(9) under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association; and

(10) under the Communications Act of 1934 (47 U.S.C. 151 et seq.) by the Federal Communications Commission with respect to any person subject to the provisions of that Act.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of this title is deemed to be a violation of a Federal Trade Commission trade regulation rule. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates any provision of that subtitle is subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of that subtitle.

(e) ENFORCEMENT BY STATES.—

(1) CIVIL ACTION.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by any person engaging in a practice that violates section 105 of this title, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction—

(A) to enjoin further violation of section 105 of this title by the defendant; or

(B) to obtain damages on behalf of residents of the State, in an amount equal to the greater of—

(i) the actual monetary loss suffered by such residents; or

(ii) the amount determined under paragraph (2).

(2) STATUTORY DAMAGES.—

(A) IN GENERAL.—For purposes of paragraph (1)(B)(ii), the amount determined under this paragraph is the amount calculated by multiplying the number of violations (with each separately addressed unlawful message received by or addressed to such residents treated as a separate violation) by—

(i) up to $100, in the case of a violation of section 105(a)(1); or

(ii) $25, in the case of any other violation of section 105.

(B) LIMITATION.—For any violation of section 105 (other than section 105(a)(1)), the amount determined under subparagraph (A) may not exceed $1,000,000.

(C) AGGRAVATED DAMAGES.—The court may increase a damage award to an amount equal to not more than three times the amount otherwise available under this paragraph if—

(i) the court determines that the defendant committed the violation willfully and knowingly; or

(ii) the defendant's unlawful activity included one or more of the aggravating violations set forth in section 105(b).

(3) ATTORNEY FEES.—In the case of any successful action under paragraph (1), the State shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

(4) RIGHTS OF FEDERAL REGULATORS.—The State shall serve prior written notice of any action under paragraph (1) upon the Federal Trade Commission or the appropriate Federal regulator determined under subsection (b) and provide the Commission or appropriate Federal regulator with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Federal Trade Commission or appropriate Federal regulator shall have the right—

(A) to intervene in the action;

(B) upon so intervening, to be heard on all matters arising therein;

(C) to remove the action to the appropriate United States district court; and

(D) to file petitions for appeal.

(5) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths or affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under paragraph (1) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) maintains a physical place of business.

(7) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Commission or other appropriate Federal agency under subsection (b) has instituted a civil action or an administrative action for violation of this

title, no State attorney general may bring an action under this subsection during the pendency of that action against any defendant named in the complaint of the Commission or the other agency for any violation of this title alleged in the complaint.

(f) ACTION BY PROVIDER OF INTERNET ACCESS SERVICE.—

(1) ACTION AUTHORIZED.—A provider of Internet access service adversely affected by a violation of section 105 may bring a civil action in any district court of the United States with jurisdiction over the defendant—

(A) enjoin further violation by the defendant; or

(B) recover damages in an amount equal to the greater of—

(i) actual monetary loss incurred by the provider of Internet access service as a result of such violation; or

(ii) the amount determined under paragraph (2).

(2) STATUTORY DAMAGES.—

(A) IN GENERAL.—For purposes of paragraph (1)(B)(ii), the amount determined under this paragraph is the amount calculated by multiplying the number of violations (with each separately addressed unlawful message that is transmitted or attempted to be transmitted over the facilities of the provider of Internet access service, or that is transmitted or attempted to be transmitted to an electronic mail address obtained from the provider of Internet access service in violation of section 105(b)(1)(A)(i), treated as a separate violation) by—

(i) up to $100, in the case of a violation of section 105(a)(1); or

(ii) $25, in the case of any other violation of section 105.

(B) LIMITATION.—For any violation of section 105 (other than section 105(a)(1)), the amount determined under subparagraph (A) may not exceed $1,000,000.

(C) AGGRAVATED DAMAGES.—The court may increase a damage award to an amount equal to not more than three times the amount otherwise available under this paragraph if—

(i) the court determines that the defendant committed the violation willfully and knowingly; or

(ii) the defendant's unlawful activity included one or more of the aggravated violations set forth in section 105(b).

(3) ATTORNEY FEES.—In any action brought pursuant to paragraph (1), the court may, in its discretion, require an undertaking for the payment of the costs of such action, and assess reasonable costs, including reasonable attorneys' fees, against any party.

SEC. 108. EFFECT ON OTHER LAWS.

(a) FEDERAL LAW.—

(1) Nothing in this title shall be construed to impair the enforcement of section 223 or 231 of the Communications Act of 1934 (47 U.S.C. 223 or 231, respectively), chapter 71 (relating to obscenity) or 110 (relating to sexual exploitation of children) of title 18, United States Code, or any other Federal criminal statute.

(2) Nothing in this title shall be construed to affect in any way the Commission's authority to bring enforcement actions under FTC Act for materially false or deceptive representations or unfair practices in commercial electronic mail messages.

(b) STATE LAW.—

(1) IN GENERAL.—This title supersedes any statute, regulation, or rule of a State or political subdivision of a State that expressly regulates the use of electronic mail to send commercial messages, except to the extent that any such statute, regulation, or rule prohibits falsity or deception in any portion of a commercial electronic mail message or information attached thereto.

(2) STATE LAW NOT SPECIFIC TO ELECTRONIC MAIL.—This title shall not be construed to preempt the applicability of State laws that are not specific to electronic mail, including State trespass, contract, or tort law, and other State laws to the extent that those laws relate to acts of fraud or computer crime.

(c) NO EFFECT ON POLICIES OF PROVIDERS OF INTERNET ACCESS SERVICE.—Nothing in this title shall be construed to have any effect on the lawfulness or unlawfulness, under any other provision of law, of the adoption, implementation, or enforcement by a provider of Internet access service of a policy of declining to transmit, route, relay, handle, or store certain types of electronic mail messages.

SEC. 109. DO-NOT-E-MAIL REGISTRY.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this title, the Commission shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce a report that—

(1) sets forth a plan and timetable for establishing a nationwide marketing Do-Not-E-mail registry;

(2) includes an explanation of any practical, technical, security, privacy, enforceability, or other concerns that the Commission has regarding such a registry; and

(3) includes an explanation of how the registry would be applied with respect to children with e-mail accounts.

(b) AUTHORIZATION TO IMPLEMENT.—The Commission may establish and implement the plan, but not earlier than 9 months after the date of enactment of this title.

SEC. 110. STUDY OF EFFECTS OF UNSOLICITED COMMERCIAL ELECTRONIC MAIL.

(a) IN GENERAL.—Not later than 24 months after the date of the enactment of this title, the Commission, in consultation with the Department of Justice and other appropriate agencies, shall submit a report to the Congress that provides a detailed analysis of the effectiveness and enforcement of the provisions of this title and the need (if any) for the Congress to modify such provisions.

(b) REQUIRED ANALYSIS.—The Commission shall include in the report required by subsection (a)—

(1) an analysis of the extent to which technological and marketplace developments, including changes in the nature of the devices through which consumers access their electronic mail messages, may affect the practicality and effectiveness of the provisions of this title;

(2) analysis and recommendations concerning how to address unsolicited commercial electronic mail that originates in or is transmitted through or to facilities or computers in other nations, including initiatives or policy positions that the Federal government could pursue through international negotiations, fora, organizations, or institutions; and

(3) analysis and recommendations concerning options for protecting consumers, including children, from the receipt and viewing of unsolicited commercial electronic mail that is obscene or pornographic.

SEC. 111. IMPROVING ENFORCEMENT BY PROVIDING REWARDS FOR INFORMATION ABOUT VIOLATIONS; LABELING.

(a) IN GENERAL.—The Commission shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce—

(1) a report, within 9 months after the date of enactment of this title, that sets forth a system for rewarding those who supply information about violations of this title, including—

(A) procedures for the Commission to grant a reward of not less than 20 percent of the total civil penalty collected for a violation of this title to the first person that—

(i) identifies the person in violation of this title; and

(ii) supplies information that leads to the successful collection of a civil penalty by the Commission; and

(B) procedures to minimize the burden of submitting a complaint to the Commission concerning violations of this title, including procedures to allow the electronic submission of complaints to the Commission; and

(2) a report, within 18 months after the date of enactment of this title, that sets forth a plan for requiring unsolicited commercial electronic mail to be identifiable from its subject line, by means of compliance with Internet Engineering Task Force Standards, the use of the characters ''ADV'' in the subject line, or other comparable identifier, or an explanation of any concerns the Commission has that cause the Commission to recommend against the plan.

(b) IMPLEMENTATION OF REWARD SYSTEM.—The Commission may establish and implement the plan under subsection (a)(1), but not earlier than 12 months after the date of enactment of this title.

SEC. 112. SEPARABILITY.

If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected.

SEC. 113. EFFECTIVE DATE.

The provisions of this title other than section 109, shall take effect 120 days after the date of the enactment of this title.

TITLE II—REALTIME WRITERS ACT

SEC. 201. SHORT TITLE.

This title may be cited as the ''Training for Realtime Writers Act of 2003''.

SEC. 202. FINDINGS.

Congress makes the following findings:

(1) As directed by Congress in section 723 of the Communications Act of 1934 (47 U.S.C. 613), as added by section 305 of the Telecommunications Act of 1996 (Public Law 104–104; 110 Stat. 126), the Federal Communications Commission adopted rules requiring closed captioning of most television programming, which gradually require new video programming to be fully captioned beginning in 2006.

(2) More than 28,000,000 Americans, or 8 percent of the population, are considered deaf or hard of hearing, and many require captioning services to participate in mainstream activities.

(3) More than 24,000 children are born in the United States each year with some form of hearing loss.

(4) According to the Department of Health and Human Services and a study done by the National Council on Aging—

(A) 25 percent of Americans over 65 years old are hearing impaired;

(B) 33 percent of Americans over 70 years old are hearing impaired; and

(C) 41 percent of Americans over 75 years old are hearing impaired.

(5) The National Council on Aging study also found that depression in older adults may be directly related to hearing loss and disconnection with the spoken word.

(6) Empirical research demonstrates that captions improve the performance of individuals learning to read English and, according to numerous Federal agency statistics, could benefit—

(A) 3,700,000 remedial readers;

(B) 12,000,000 young children learning to read;

(C) 27,000,000 illiterate adults; and

(D) 30,000,000 people for whom English is a second language.

(7) Over the past 5 years, student enrollment in programs that train court reporters to become realtime writers has decreased significantly, causing such programs to close on many campuses.

SEC. 203. AUTHORIZATION OF GRANT PROGRAM TO PROMOTE TRAINING AND JOB PLACEMENT OF REALTIME WRITERS.

(a) IN GENERAL.—The National Telecommunications and Information Administration shall make competitive grants to eligible entities under subsection (b) to promote training and placement of individuals, including individuals who have completed a court reporting training program, as realtime writers in order to meet the requirements for closed captioning of video programming set forth in section 723 of the Communications Act of 1934 (47 U.S.C. 613) and the rules prescribed thereunder.

(b) ELIGIBLE ENTITIES.—For purposes of this title, an eligible entity is a court reporting program that—

(1) can document and demonstrate to the Secretary of Commerce that it meets minimum standards of educational and financial accountability, with a curriculum capable of training realtime writers qualified to provide captioning services;

(2) is accredited by an accrediting agency recognized by the Department of Education; and

(3) is participating in student aid programs under title IV of the Higher Education Act of 1965.

(c) PRIORITY IN GRANTS.—In determining whether to make grants under this section, the Secretary of Commerce shall give a priority to eligible entities that, as determined by the Secretary of Commerce—

(1) possess the most substantial capability to increase their capacity to train realtime writers;

(2) demonstrate the most promising collaboration with local educational institutions, businesses, labor organizations, or other community groups having the potential to train or provide job placement assistance to realtime writers; or

(3) propose the most promising and innovative approaches for initiating or expanding training and job placement assistance efforts with respect to realtime writers.

(d) DURATION OF GRANT.—A grant under this section shall be for a period of two years.

(e) MAXIMUM AMOUNT OF GRANT.—The amount of a grant provided under subsection (a) to an entity eligible may not exceed $1,500,000 for the two-year period of the grant under subsection (d).

SEC. 204. APPLICATION.

(a) IN GENERAL.—To receive a grant under section 203, an eligible entity shall submit an application to the National Telecommunications and Information Administration at such time and in such manner as the Administration may require. The application shall contain the information set forth under subsection (b).

(b) INFORMATION.—Information in the application of an eligible entity under subsection (a) for a grant under section 203 shall include the following:

(1) A description of the training and assistance to be funded using the grant amount, including how such training and assistance will increase the number of realtime writers.

(2) A description of performance measures to be utilized to evaluate the progress of individuals receiving such training and assistance in matters relating to enrollment, completion of training, and job placement and retention.

(3) A description of the manner in which the eligible entity will ensure that recipients of scholarships, if any, funded by the grant will be employed and retained as realtime writers.

(4) A description of the manner in which the eligible entity intends to continue providing the training and assistance to be funded by the grant after the end of the grant period, including any partnerships or arrangements established for that purpose.

(5) A description of how the eligible entity will work with local workforce investment boards to ensure that training and assistance to be funded with the grant will further local workforce goals, including the creation of educational opportunities for individuals who are from economically disadvantaged backgrounds or are displaced workers.

(6) Additional information, if any, of the eligibility of the eligible entity for priority in the making of grants under section 203(c).

(7) Such other information as the Administration may require.

SEC. 205. USE OF FUNDS.

(a) IN GENERAL.—An eligible entity receiving a grant under section 203 shall use the grant amount for purposes relating to the recruitment, training and assistance, and job placement of individuals, including individuals who have completed a court reporting training program, as realtime writers, including—

(1) recruitment;

(2) subject to subsection (b), the provision of scholarships;

(3) distance learning;

(4) development of curriculum to more effectively train realtime writing skills, and education in the knowledge necessary for the delivery of high-quality closed captioning services;

(5) assistance in job placement for upcoming and recent graduates with all types of captioning employers;

(6) encouragement of individuals with disabilities to pursue a career in realtime writing; and

(7) the employment and payment of personnel for such purposes.

(b) SCHOLARSHIPS.—

(1) AMOUNT.—The amount of a scholarship under subsection (a)(2) shall be based on the amount of need of the recipient of the scholarship for financial assistance, as determined in accordance with part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk).

(2) AGREEMENT.—Each recipient of a scholarship under subsection (a)(2) shall enter into an agreement with the National Telecommunications and Information Administration to provide realtime writing services for a period of time (as determined by the Administration) that is appropriate (as so determined) for the amount of the scholarship received.

(3) COURSEWORK AND EMPLOYMENT.—The Administration shall establish requirements for coursework and employment for recipients of scholarships under subsection (a)(2), including requirements for repayment of scholarship amounts in the event of failure to meet such requirements for coursework and employment. Requirements for repayment of scholarship amounts shall take into account the effect of economic conditions on the capacity of scholarship recipients to find work as realtime writers.

(c) ADMINISTRATIVE COSTS.—The recipient of a grant under section 203 may not use more than 5 percent of the grant amount to pay administrative costs associated with activities funded by the grant.

(d) SUPPLEMENT NOT SUPPLANT.—Grants amounts under this title shall supplement and not supplant other Federal or non-Federal funds of the grant recipient for purposes of promoting the training and placement of individuals as realtime writers

SEC. 206. REPORTS.

(a) ANNUAL REPORTS.—Each eligible entity receiving a grant under section 203 shall submit to the National Telecommunications and Information Administration, at the end of each year of the grant period, a report on the activities of such entity with respect to the use of grant amounts during such year.

(b) REPORT INFORMATION.—

(1) IN GENERAL.—Each report of an entity for a year under subsection (a) shall include a description of the use of grant amounts by the entity during such year, including an assessment by the entity of the effectiveness of activities carried out using such funds in increasing the number of realtime writers. The assessment shall utilize the performance measures submitted by the entity in the application for the grant under section 204(b).

(2) FINAL REPORT.—The final report of an entity on a grant under subsection (a) shall include a description of the best practices identified by the entity as a result of the grant for increasing the number of individuals who are trained, employed, and retained in employment as realtime writers.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title, amounts as follows:

(1) $20,000,000 for each of fiscal years 2004, 2005, and 2006.

(2) Such sums as may be necessary for fiscal year 2007.

EXECUTIVE SESSION

NOMINATION OF MICHAEL O. LEAVITT TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to executive session to consider Executive Calendar No. 405, the nomination of Michael O. Leavitt, of Utah, to be Administrator of the Environmental Protection Agency.

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

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion on the pending nomination to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 405, the nomination of Michael O. Leavitt, to be administrator of the Environmental Protection Agency.

Bill Frist, James M. Inhofe, Orrin G. Hatch, Conrad Burns, Judd Gregg, Ben Nighthorse Campbell, Michael B. Enzi, Wayne Allard, George Allen, Don Nickles, John Sununu, Lamar Alexander, John Warner, Robert F. Bennett, Mitch McConnell, Jeff Sessions, and Lindsey Graham.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the cloture vote occur at 5:30 p.m., Monday, October 27; further, that the live

quorum, as required under rule XXII, be waived.

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

LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

DESIGNATING OCTOBER 27, 2003, AS ''INTERNATIONAL RELIGIOUS FREEDOM DAY''

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 251, which was introduced by Senator BROWNBACK earlier today.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 251) designating October 27, 2003, as ''International Religious Freedom Day.''

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

Mr. BROWNBACK. Mr. President, I rise to urge my colleagues and the American people to seriously consider the state of religious freedom around the globe.

Exactly 5 years ago we passed groundbreaking legislation aimed at combating international religious persecution. The International Religious Freedom Act of 1998 only established the U.S. Commission on Religious Freedom and the International Religious Freedom Office at the Department of State, but it brought the issue of the religious persecution to the forefront of foreign policy initiatives. Religious persecution remains one of the leading violations of human rights in our world today. It is particularly important that on the 5 year anniversary of the passage of this bill, we remind the world of our commitment to promote religious liberty for all people.

This Nation, founded by those seeking to adopt, believe, worship, observe, teach, and practice their religion, has declared in the first amendment that, ''Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . .'' And over time, the United States was joined by other countries in signing numerous declaration and international agreements specifically acknowledging the universal human right to freedom of religion.

Despite the great achievements we have made concerning religious liberty, we can not close the book on the millions that still suffer persecution. I remind my colleagues that persecution often includes imprisonment, torture, forced conversion, rape and even death. In Vietnam, Christians are forced to drink the blood of animals and denounce their faith. In Uzbekistan, Muslims who do not conform to the government-prescribed ideas are imprisoned and often tortured. Thousands of religious minorities in India have been killed by extremist majority groups because of their faith. We continue to hear stories from China, North Korea, Sudan, Indonesia, Laos, Pakistan, Turkmenistan, Egypt, Saudi Arabia, Burma, Tibet, and the list goes on.

The people of Afghanistan and Iraq are currently faced with the challenge of incorporating religious freedom into the drafting of their new constitutions. As I have said before, religious freedom is the bedrock upon which democracy, hope and progress rest. Additionally, religious freedom is more than just the ability to practice one's faith, but it is central to other rights and freedoms, including a free press, public assembly, freedom of speech or the right to petition the government. All of these freedoms will be circumscribed if religious freedom is not part of the new constitutions being drafted in Afghanistan and Iraq. The time is ripe to unite and continue our work on behalf of the millions that have endured their own plight from religious persecution.

As we remember our victory 5 years ago, let us not forget the crucial work on religious liberty that remains at the forefront of foreign policy today. I hope that this resolution calling for the designation of ''International Religious Freedom Day'' on October 27, 2003 can be quickly considered and approved by my colleagues.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, 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. 251) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 251

Whereas the people of the United States enjoy and respect the freedom of religion and believe that the fundamental rights of all individuals shall be recognized;

Whereas fundamental human rights, including the right to freedom of thought, conscience, and religion, are protected in numerous international agreements and declarations;

Whereas religious freedom is an absolute human right and all people are entitled to do with their own souls as they choose;

Whereas the right to freedom of religion is expressed in the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, adopted and proclaimed by the United Nations General Assembly Resolution 36/55 of November 22, 1981; the Helsinki Accords; the International Covenant on Civil and Political Rights, done at New York on December 16, 1966, and entered into force March 23, 1976; the United Nations Charter; and the Universal Declaration of Human Rights, adopted and proclaimed by the United Nations General Assembly Resolution 217(A)(III) of December 10, 1984;

Whereas the freedom for all individuals to adopt, believe, worship, observe, teach, and practice a religion individually or collectively has been explicitly articulated in Article 18 of the Universal Declaration of Human Rights and Article 18(1) of the International Covenant on Civil and Political Rights;

Whereas religious persecution is not confined to a country, a region, or a regime; but whereas all governments should provide and protect religious liberty;

Whereas nearly half of the people in the world are continually denied or restricted in the right to believe or practice their faith;

Whereas religious persecution often includes confinement, separation, humiliation, rape, enslavement, forced conversion, imprisonment, torture, and death;

Whereas October 27, 2003, marks the 5th anniversary of the signing of the International Religious Freedom Act of 1998 (22 U.S.C. 6401 et seq.), creating the Office of International Religious Freedom in the Department of State and the United States Commission on International Religious Freedom and resulting in a greater awareness of religious persecution both in the United States and abroad; and

Whereas the United States recognizes the need for additional domestic and international attention and action to promote religious liberty: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 27, 2003, as ''International Religious Freedom Day''; and

(2) requests that the President issue a proclamation—

(A) calling for a renewed commitment to eliminating violations of the internationally recognized right to freedom of religion and protecting fundamental human rights; and

(B) calling upon the people of the United States and interested groups and organizations to observe International Religious Freedom Day with appropriate ceremonies and activities.

RECOGNIZING THE DR. SAMUEL D. HARRIS NATIONAL MUSEUM OF DENTISTRY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.J. Res. 52, which is at the desk.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 52) recognizing the Dr. Samuel D. Harris National Museum of Dentistry, an affiliate of the Smithsonian Institution in Baltimore, Maryland, as the official national museum of dentistry in the United States.

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

Mr. SARBANES. Mr. President, H.J. Res. 52 recognizes the Dr. Samuel D. Harris National Museum of Dentistry in Baltimore as the official national museum of dentistry in the United States. It passed the House unanimously and is a companion measure to legislation I introduced in the Senate, together with Senator MIKULSKI, S.J. Res. 12.

The principal purpose of this legislation is to help educate the public about the critical importance of oral health

to the overall health of all Americans. Three years ago, U.S. Surgeon General David Satcher issued a comprehensive report entitled ''Oral Health in America,'' which identified the problem of dental and oral disease as a ''silent epidemic'' facing the country. The report called for the development of a National Oral Health Plan, and recommended that actions be taken to ''change perceptions regarding oral health and disease so that oral health becomes an accepted component of general health.'' By designating an official national museum and learning center dedicated to dentistry, this legislation takes an important step toward the achievement of this goal.

The Dr. Samuel D. Harris National Museum of Dentistry is the largest and most comprehensive museum of dentistry in this country, and, indeed, the world. An affiliate of the Smithsonian Institution, the Museum sits on the grounds of the Baltimore College of Dental Surgery, founded in 1840 as the world's first dental college. With over 7,000 square feet of exhibit space, the Museum showcases the people, objects, and events that created and defined the dental profession, including one of George Washington's famed ivory dentures. The Museum's vast archives also act as an important resource for research and serious academic study of dentistry's past, with a unique collection of historical dental journals and other one-of-a-kind documents.

By designating the Samuel D. Harris National Museum of Dentistry as the official national museum of dentistry, we will not only recognize the critical role that dentists and oral health professionals have played in the history of our Nation's health care system, but enhance awareness and understanding of the importance of dentistry to public health.

I urge adoption of the legislation.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution be read three times and passed; that the preamble be agreed to; that the motion to reconsider be laid upon the table, all with no intervening action or debate; and that any statements relating to this measure be printed in the RECORD.

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

The joint resolution (H.J. Res. 52) was read three times and passed.

The preamble was agreed to.

NATIONAL CANCER PREVENTION MONTH

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 252, submitted earlier today by Senator HOLLINGS.

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

The legislative clerk read as follows:

A resolution (S. Res. 252) designating the month of February 2004 as ''National Cancer Prevention Month.''

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

Mr. HOLLINGS. Mr. President, cancer is a disease that affects families of all backgrounds in all parts of the country. This year over 550,000 individuals will lose their life due to this terrible illness. While we must continue to pursue promising avenues of research that will hopefully lead to a cure, individuals can take a number steps to reduce their risk of acquiring cancer.

Research shows that proper nutrition, adequate physical activity, smoking cessation, and receiving timely screening procedures can all reduce cancer occurrences. Unfortunately, many Americans do not take this advice and many others are unaware of the steps they can to help prevent cancer. The American Cancer Society estimates that nutritional factors and tobacco use contribute to approximately two-thirds of cancer deaths. In addition many individuals neglect early detection procedures. Only 50 percent of individuals receive the recommended screening for colon cancer, only 60 percent of men receive a timely prostate-specific antigen test, and 70 percent of women receive recommended mammographies.

Today I submitted a resolution to declare February 2004 as National Cancer Prevention Month. It is my hope that communities across the country will take this opportunity to educate one another on the steps they can take to prevent cancer.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to en bloc; that the motions to reconsider be laid upon the table, without any 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. 252) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 252

Whereas cancer is one of the most prevalent and devastating diseases to face society in the United States, taking over 550,000 lives in the United States every year;

Whereas early detection of some cancers can prevent the disease from reaching an advanced, potentially fatal stage;

Whereas recent advances in molecular biology have begun to explain the basic origins of cancer;

Whereas these research advances have opened new opportunities for cancer prevention research, giving increased optimism for effective cancer control;

Whereas the people of the United States need to be aware of these research advances and early detection opportunities so that they can better understand how to prevent cancer in themselves and their families; and

Whereas the people of the United States also need to recognize and be reminded that they can help prevent cancer through lifestyle changes, including modification of diet, cessation of smoking, and regular exercise: Now, therefore, be it

Resolved, That the Senate—

(1) designates February 2004 as ''National Cancer Prevention Month''; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

MEASURE READ THE FIRST TIME—S. 1781

Mr. MCCONNELL. Mr. President, I understand that S. 1781, introduced earlier today by Senators Dorgan, Snowe, and others, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 1781) to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes.

Mr. MCCONNELL. Mr. President, I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will receive its second reading on the next legislative day.

ORDERS FOR FRIDAY, OCTOBER 24, 2003

Mr. MCCONNELL. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 tomorrow morning on Friday, October 24. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business until 10 a.m., with the time equally divided between Senator HUTCHISON or her designee and the minority leader or his designee.

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

PROGRAM

Mr. MCCONNELL. For the information of all Senators, following morning business, it is the hope of the majority leader to proceed to the consideration of Calendar No. 227, H.R. 2800, the foreign operations appropriations bill. There will be no rollcall votes during tomorrow's session. As a reminder, a cloture motion was filed today on the Leavitt nomination to be Administrator of EPA. That vote will be the first vote on Monday and will occur at 5:30 p.m.

Mr. REID. Mr. President, if I could briefly respond to my dear friend from Kentucky, I think today is an example of a very productive day in the Senate. Not only were we able to complete an important appropriations bill but we were also able to get to some other matters that have been in the works for some time, such as fair credit reporting. It was very difficult to get it

in its present position. I think we are in a position now where that bill can be completed. It will not be easy, but I think with a lot of very heavy lifting, we can complete that most important legislation. The vast majority of Senators on this side certainly want to move forward.

On behalf of the Democratic leader, I say we should use this as a guide to having a smaller omnibus bill. There are appropriations bills that we can complete. We have done some very good work. There are five remaining appropriations bills. The leader is moving to one of them tomorrow. I think we can complete that in a relatively short period of time.

Usually we are moaning about how little we have gotten done, how slow things have gone, but when one comes to the Senate, they do not enter a drag race. It is more of a long race every day. I think we were able to accomplish a great deal in the race we had today.

As I said before, it is an example of how we can have a smaller omnibus bill and complete some other important issues in the few remaining days of this year.

Mr. MCCONNELL. I certainly agree with my friend from Nevada. We had a productive day. Let's hope we can do that again each day next week and make further progress for completing our work for the year.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MCCONNELL. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:22 p.m., adjourned until Friday, October 24, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 23, 2003:

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

CAROL KINSLEY, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2006, VICE TONI G. FAY.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 531 AND 1211:

To be lieutenant colonel

GARY H. SHARP, 0000

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 531 AND 1552:

To be lieutenant colonel

JEFFREY N. LEKNES, 0000

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 531 AND 1552:

To be colonel

SAMUEL B. ECHAURE, 0000

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be major

THOMAS E. JAHN, 0000
RODNEY D. LEWIS, 0000

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant colonel

SAMUEL C. FIELDS, 0000
ANTHONY A. GUSSMAN, 0000
ERIC C. JESSEN, 0000
JEFFREY J. MOYER, 0000
KEVIN C. ZEECK, 0000