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House of Representatives

The House was not in session today. Its next meeting will be held on Wednesday, September 6, 1995, at 12 noon.

Senate

THURSDAY, AUGUST 10, 1995

(Legislative day of Monday, July 10, 1995)

The Senate met at 9:09 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord of all life, we thank You that You are concerned about all aspects of our life as a nation. Therefore, no problem we face is too big for You and no detail too small to escape Your attention. That is a great assurance, Lord. We can ask for Your wisdom for our most momentous deliberations and also receive Your guidance in the most mundane decisions. We are responsible to You for how we appropriate the money entrusted to us for the welfare and good of this Nation. You have made this Senate a steward of Your resources. Bless the Senators as they deal with practical matters of transportation—roads, airlines, and railroads, and concerns about defense. Grant them a sense of partnership with You in seeking Your best for all phases of our life. Throughout this day keep them mindful of Your presence and receptive to Your power. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, for the information of all Senators, the Senate is immediately resuming the consideration of the Transportation appropriations bill this morning.

Following 4 minutes of debate, the Senate will begin several consecutive rollcall votes on or in relation to the pending amendments to the Transportation appropriations bill. Following the disposition of the Transportation bill, it may be the intention of the majority leader to resume consideration of the DOD authorization bill. There can also be a cloture vote on the DOD authorization bill. But I will not set a time for that until I have a chance to consult with the Democratic leader. I understand they have a meeting this morning. I am certain we will work it out to everybody's satisfaction.

Senators should therefore expect further rollcall votes and a late-night session. As a reminder, a cloture motion was filed yesterday on the DOD authorization bill. Therefore, Senators may file first-degree amendments up to the hour of 1 p.m. today.

I yield 1 minute to the Senator from Alaska.

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

(The remarks of Mr. MURKOWSKI pertaining to the introduction of S. 1144 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2002, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2002) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

Pending:

(1) Jeffords-Leahy amendment No. 2337, to provide for the allocation to certain airports with respect to which commercial air service has been disrupted during the past 3 years, an annual subsidy under the essential air service program under subchapter II of chapter 417 of title 49, United States Code.

(2) Roth amendment No. 2340, to strike out sections 350 and 351, relating to waivers of the applicability of certain Federal personnel laws and procurement laws to the Federal Aviation Administration.

(3) Burns amendment No. 2341, to protect shippers in a captive shipper state.

(4) Pressler amendment No. 2345, to provide funding for rail freight infrastructure.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER (Mr. ASHCROFT). The pending question is amendment No. 2340. Two minutes to a side have been allocated for debate prior to the vote.

The yeas and nays have been ordered. Who yields time?

AMENDMENT NO. 2337 WITHDRAWN

Mr. DOLE. Mr. President, before we have the debate, I ask that the Jeffords amendment be withdrawn.

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



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

So the amendment (No. 2337) was withdrawn.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

AMENDMENT NO. 2340

Mr. ROTH. Mr. President, the Roth-Glenn amendment would strike the waiver that would free the FAA from being required to comply with Federal personnel and procurement policies. This waiver is bad policy; it sets a bad precedent; it is legislation of a most unfortunate type on an appropriation bill. With this waiver, the FAA could ignore Federal personnel and procurement policies and create whatever policies it sees fit. It could pay as little or as much as it wants; create new pensions; ignore such laws as competition in contracting.

Make no mistake, this waiver would result in serious controversy and litigation.

Mr. President, Senator GLENN and I are the ranking member and chairman of the Governmental Affairs Committee, which is the committee of jurisdiction on personnel and procurement policies. We stand ready to work with the FAA in reforming these policies, as we believe reform is necessary. But, we have received no request for any such waiver from the FAA.

In fact, last year, we gave the FAA authority to test waivers of procurement laws. But, this bill proposes a blanket exemption before we know the results of that test. Moreover, the GAO found the FAA's problems are not the procurement or personnel laws, but a lack of adequate management. The FAA cannot properly define what it wants to buy, estimate its costs, or administer its contracts.

If the Glenn-Roth amendment fails, mark my words, today is the day that the Senate gives birth to the next major procurement horror story. We are rewarding incompetent managers with more money and no accountability. We are putting both billions of dollars and lives at risk. I encourage my colleagues to defeat the motion to table this amendment.

Mr. President, I reserve the remainder of my time.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, very briefly, I would like to indicate the reason the Appropriations Committee brought this language to the floor. This was at the behest of the FAA and the administration saying we have a crisis, a very serious crisis in air safety, because the FAA, as administrators, for years have said they needed to get some kind of change in these rules. Secretary Peña and Administrator Hinson face this today.

One example: The FAA is the world's largest consumer of vacuum tubes and there is, in this bill, a requirement to use \$7 million to buy more when the

private sector has thrown this technology out 20 years ago. Consequently, we have to recognize that it is a safety factor that involves this language. We did not make up this language.

Last night, there was discussion and debate saying, well, what is the role of the administration? We ought to get a clarification. Government Operations people said they have been ready to talk. Let me give you a recitation. We have a second letter. We had a letter from OMB supporting this. Secretary Peña sends us a second letter reiterating the vital importance to give them this kind of support.

DOT says they have talked to Governmental Affairs. DOT does support the committee provision. The National Performance Review, headed by Vice President GORE, specifically called for a special exemption for the FAA given its crisis situation.

So it is a very clear picture here because of whatever—I am not making any criticism to any committee. Senator LAUTENBERG and I have been following the support and the requests of the administration to help them out of this crisis for the sake of safety of our national airlines. Therefore, we will drop this language in conference if we can work out the solution.

In the meantime, I urge that we vote to table the Roth amendment.

The PRESIDING OFFICER. The question is on the motion to table the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 381 Leg.]

YEAS—59

Ashcroft	Gramm	McConnell
Bennett	Grams	Mikulski
Boxer	Gregg	Moynihan
Breaux	Harkin	Murkowski
Bryan	Hatch	Murray
Burns	Hatfield	Nickles
Campbell	Helms	Packwood
Coats	Hollings	Pressler
Cochran	Hutchison	Reid
Conrad	Inhofe	Robb
Coverdell	Jeffords	Rockefeller
Craig	Johnston	Santorum
D'Amato	Kempthorne	Sarbanes
DeWine	Kerrey	Shelby
Dole	Kerry	Simon
Domenici	Lautenberg	Simpson
Feinstein	Leahy	Thomas
Frist	Lott	Thurmond
Gorton	Lugar	Warner
Graham	Mack	

NAYS—40

Abraham	Cohen	Heflin
Akaka	Daschle	Inouye
Baucus	Dodd	Kassebaum
Biden	Dorgan	Kennedy
Bingaman	Exon	Kohl
Bond	Faircloth	Kyl
Brown	Feingold	Levin
Bumpers	Ford	Lieberman
Byrd	Glenn	McCain
Chafee	Grassley	Moseley-Braun

Nunn	Smith	Thompson
Pell	Snowe	Wellstone
Pryor	Specter	
Roth	Stevens	

NOT VOTING—1

Bradley

So the motion to table the amendment (No. 2340) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2341

The PRESIDING OFFICER. On amendment No. 2341, there are now 4 minutes equally divided.

Who yields time?

The Chair informs the Senate that time is running for both sides.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BURNS. 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. BURNS. Mr. President, the next amendment is my amendment that we talked about last night.

Mr. BYRD. Mr. President, may we have order in the Senate so we can understand what the amendment is about?

May we have order?

The PRESIDING OFFICER. The Senate will suspend.

Mr. BYRD. Mr. President, I hope the Senator will not begin his explanation until we get order and we can hear what he says.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BURNS. The amendment was nothing but language that would protect those States who are captive shippers if we phase out the ICC. I understand that was the intent of the budget resolution, and that is the route that we are taking. This language does nothing but protect those States who are captive shippers because in my State of Montana, I think there is only one, or maybe two, that would fall under that definition, because right now we have a circumstance where the freight rates on wheat shipping and on agricultural commodities shipped from Montana to Portland cost more than it does to ship from Omaha to Portland—to the same point—at a longer distance.

I understand there is some confusion. I visited with the chairman of the Appropriations Committee and have been assured that there will be money enough for a transition from the ICC to the Department of Transportation. If that be the case, then I would consider withdrawing this amendment altogether.

Mr. HATFIELD. I respond to the Senator from Montana by indicating two

points: The first is the transition has yet to be blueprinted by the authorizing committee. Second, the House has \$21 billion in theirs and we have \$18 billion in ours for that orderly transition. We feel that by the time, hopefully, that we go to conference, we will have a little more clearer signal of how the transition is going to occur. We are willing to certainly have adequate figures, if that means yielding to the House for the figures for the transition.

Mr. BURNS. I think that would be the proper way, and that gives the Commerce Committee time enough. I know there is some concern by the ranking member and the chairman of the Commerce Committee. That would be the proper way to do it. I would rather do it through the authorizing committee than this way. But what I was afraid of is that I did not want to leave my farmers and people who ship agricultural commodities exposed during that transition because we are in that kind of a situation of being a captive shipper.

The PRESIDING OFFICER. Under the previous order, time for debate has expired.

AMENDMENT NO. 2341 WITHDRAWN

Mr. BURNS. Mr. President, I ask unanimous consent to withdraw this amendment.

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

So the amendment (No. 2341) was withdrawn.

Mr. BURNS. I yield the floor.

AMENDMENT NO. 2345

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota, Senator PRESSLER, No. 2345. There are 10 minutes equally divided for debate.

Who yields time?

The Senator from South Dakota.

AMENDMENT NO. 2345, AS MODIFIED

Mr. PRESSLER. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment is so modified.

The amendment (No. 2345), as modified, is as follows:

At the appropriate place in the bill insert the following:

On page 26, line 15, strike "1996." and insert "1996, except for not more than \$50,000,000 in loan guarantee commitments during such fiscal year (and \$5,000,000 is hereby made available for the cost of such loan guarantee commitments)."

On page 54, line 5, strike "\$5,000,000" and insert "\$12,500,000."

On page 54, line 8, strike "\$99,364,000" and insert "\$91,864,000".

On page 26, between lines 15 and 16, insert the following:

LOCAL RAIL FREIGHT ASSISTANCE

For necessary expenses for rail assistance under section 5(q) of the Department of Transportation Act, \$12,000,000.

On page 3, line 6, strike "\$9,710,000" and insert "\$6,336,667".

On page 6, line 13, strike "\$139,689,000" and insert "\$134,689,000".

On page 18, line 1, strike "\$5,000,000" and insert "\$9,600,000".

Mr. PRESSLER. Mr. President, I would first like to extend my appreciation to the managers of the bill, Senators HATFIELD and LAUTENBERG, for agreeing to permit me to offer this amendment. We spent a good deal of time last night working in good faith to reach an agreement on proceeding forward on my proposal. I very much appreciate their assistance and that of their staffs and the staffs of several other Senators.

My perseverance on this matter is because of its great importance to my State and almost every other State. My amendment would provide funding for the Local Rail Freight Assistance Program and the Section 511 Loan Guarantee Program. These programs are critical to addressing our Nation's rail freight infrastructure needs.

Adequate investment in our Nation's transportation infrastructure makes for wise use of our very limited Federal resources. Therefore, as we consider this appropriations bill, we must determine funding priorities for our entire national transportation system. In that effort, we must not forget about one very critical transportation mode—rail freight service.

The appropriators were unable to fund the LRFA Program or the section 511 Loan Guarantee Program. I know they have worked hard to consider many funding requests. However, funding for these programs was not allocated. Yet these are the only Federal programs that provide for infrastructure investments in short-line and regional railroads.

As my colleagues know, H.R. 2002 provides a good deal of money to fund rail passenger service. I am proposing we not overlook the importance of rail freight service. Even limited Federal involvement will help to rebuild and improve the railines serving our smaller cities and rural areas. These secondary railines are critical to the survival of rural America's economy, but the capital to maintain them is extremely limited.

We have invested billions of dollars in Amtrak as well as high-speed rail initiatives, yet little has been invested in the rail freight lines serving our smaller communities. Federal involvement in rail service should not be limited to rail passenger transportation. Certainly, Amtrak and high-speed rail are important. However, for States like South Dakota, which has no Amtrak service and will never benefit from high-speed rail, funding for freight rail infrastructure is even more important.

The LRFA Program has proven to play a vital role in our Nation's rail transportation system. This program was created in 1973 and has helped States save railines that otherwise would be abandoned. LRFA's matching requirements enable limited Federal, State, and local resources to be leveraged. Most of LRFA's success has been due to its ability to promote invest-

ment partnerships, thus, maximizing very limited Federal assistance.

Historically, LRFA has received only a very modest level of Federal funding. Only \$17 million was provided for LRFA in fiscal year 1995, and then \$6.5 million of that amount was rescinded by Public Law 104-6. Yet, LRFA remains very popular.

In fiscal year 1995, 31 States requested LRFA assistance for 59 projects—totaling more than \$32 million in funding requests. But less than one-third of funding was available to meet these rail infrastructure needs. With continued railroad restructuring, these legitimate funding needs will only increase.

On July 20, the Senate Commerce Committee approved legislation to permanently authorize LRFA at \$25 million annually.

As my colleagues may already know, oftentimes, small railroads face unique problems and difficulties securing needed financing. Unlike other businesses that need short-term loans, smaller railroads need long-term financing for big ticket items, ranging anywhere from equipment to track rehabilitation. Yet, I understand most financial institutions will not make loans that are not repaid within 7 or 8 years. These loan arrangements simply do not work for smaller railroads. Section 511 loans were permanently authorized to address these problems and should be funded.

In this era of significant budgetary pressures, the 511 Program provides a cost effective method of ensuring modest infrastructure investment on a repayable basis. We should support programs like the 511 Program and LRFA that provide excellent leverage of our limited Federal dollars.

The 511 Railroad Loan Guarantee program is permanently authorized at \$1 billion, of which approximately \$980 million currently is available for commitment. The Credit Reform Act rules require an appropriation for the 511 Loan Program to cover the anticipated loss to the Government over the life of each loan. Based on a fiscal year 1994 appropriation for a 511 project in New York State—the first 511 application processed under the rules of the Credit Reform Act—5 percent of the total loan obligation level must be appropriated.

Several regional and short-line railroads are ready to submit loan applications as soon as the program is appropriated funding. My amendment provides \$10 million to enable up to \$100 million in loans.

I have worked to find the least painful offset possible. The managers and their staffs, as well as the staffs of several other Senators, helped me in that effort. These programs would be offset by reductions in administrative expenses. I believe we have accomplished a reasoned approach.

Mr. President, LRFA and the 511 Program are worthy programs and should be funded. I urge my colleagues to support my amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. HATFIELD. Mr. President, as much as I would like to respond to the request of the Senator from South Dakota, I have to report to the body of the Senate this account has expired. It is not authorized.

The authorization in the Amtrak bill that was reported ordered out of the Commerce Committee in July has not been filed with any report, so consequently we cannot say it is authorized.

We rescinded the 1995 amount left in their unexpended budget in the rescissions package.

The budget resolution terminated the program in the assumptions of the budget resolution.

So consequently, as much as we might be prone to help, we are doing this within that kind of a framework and therefore, as the Committee on Appropriations tries to follow the authorizers and tries to accommodate to the authorizers, this does not really authorize the program.

So I would move to table the Pressler amendment under those circumstances, unless there is someone else who wants to use some of my time to make further comment.

I might also say it offsets some very vital programs of the next generation of rail and similar such programs in which we have already made commitments in this budget in allocating money for those programs.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Pressler amendment 2345, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

The PRESIDING OFFICER (Mr. INHOFE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 382 Leg.]

YEAS—56

Bennett	Hatfield	McCain
Biden	Heflin	Mikulski
Boxer	Helms	Moseley-Braun
Breaux	Hollings	Moynihan
Brown	Hutchison	Murkowski
Bryan	Inhofe	Nickles
Chafee	Inouye	Nunn
Coats	Jeffords	Packwood
DeWine	Johnston	Pell
Dodd	Kennedy	Pryor
Domenici	Kerry	Reid
Feinstein	Kohl	Robb
Ford	Kyl	Roth
Frist	Lautenberg	Santorum
Gorton	Levin	Sarbanes
Graham	Lieberman	Shelby
Gramm	Mack	

Simon
Simpson

Smith
Thomas

Thompson
Warner

NAYS—43

Abraham
Akaka
Ashcroft
Baucus
Bingaman
Bond
Bumpers
Burns
Byrd
Campbell
Cochran
Cohen
Conrad
Coverdell
Craig

D'Amato
Daschle
Dole
Dorgan
Exon
Faircloth
Feingold
Glenn
Grams
Grassley
Gregg
Harkin
Hatch
Kassebaum
Kempthorne

Kerrey
Leahy
Lott
Lugar
McConnell
Murray
Pressler
Rockefeller
Snowe
Specter
Stevens
Thurmond
Wellstone

NOT VOTING—1

Bradley

The motion to table the amendment (No. 2345) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I ask unanimous consent that two letters from Alice Rivlin relating to the issue we have voted on on the Roth amendment be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, August 10, 1995.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATFIELD: I understand concerns have been raised about language in the Department of Transportation appropriations bill that would exempt the Federal Aviation Administration from federal personnel and procurement rules, outside the context of the Administration's proposal to make the FAA a government corporation. The Administration is on record as supporting personnel, procurement, and budget reform in the FAA.

The Administration's view is that the FAA has a special situation in terms of personnel, procurement, and budget laws, due to its operating demands. The Administration's views should not be considered as a precedent for our views on other possible proposals to exempt government organizations from personnel and procurement rules.

Sincerely,

ALICE M. RIVLIN.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, August 10, 1995.

Hon. MARK HATFIELD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Administration strongly supports reform of the personnel and procurement practices of the Federal Aviation Administration.

The Administration called for such reforms in the comprehensive FAA reform legislation submitted on March 30, 1995, to create an Air Traffic Control Corporation. Air traffic control is unlike any other government function, in that it is the only 24-hour-a-day, 365-days-a-week government operation that activities of an entire industry. Moreover, the

budget constraints we face in the coming years requires that we take actions now to give the Department and the FAA the flexibility it needs to staff and operate critical safety functions. There are urgent needs for ensuring the safety and effectiveness of our air traffic control system as we move into the next century. We greatly appreciate your attention and the attention of the Senate Commerce Committee to this central issue.

Sincerely,

ALICE M. RIVLIN.

COMMITTEE RECOMMENDATION FOR TRANSIT

Mr. DOMENICI. Mr. President, I seek recognition to engage in a colloquy with the distinguished chairman and ranking member of the Appropriations Committee regarding the funding provided through the Federal Transit Administration for section 3 projects.

Mr. HATFIELD. I will be pleased to discuss this matter with the Senator from New Mexico.

Mr. LAUTENBERG. I am pleased to join in the colloquy.

Mr. DOMENICI. Mr. President, the State of New Mexico, like many of our Western States, has more highway transportation than rail or transit. Very seldom do I receive a request for assistance from a town or city for assistance with their local transit systems.

However, after the Senate Appropriations Committee considered this bill, I did receive a request from the city of Taos, NM for funding through the section 3 program of the Federal Transit Administration for a small amount to support maintenance facilities and ADA-equipped buses.

As the chairman knows, the retrofitting requirements for buses and other transportation systems under the Americans With Disabilities Act is very costly for small jurisdictions in particular.

I realize that the committee has fully subscribed the section 3 program in the bill. I would hope, however, that should the full amount currently in the bill not be utilized in conference, that the committee might give this important request its consideration for inclusion in the final bill.

Mr. HATFIELD. Although it is difficult to anticipate the disposition of the section 3 funding in conference, I believe the conferees would be willing to consider this request at the appropriate time.

Mr. LAUTENBERG. I, too, think the conferees could consider this request when it considers the section 3 funding.

Mr. DOMENICI. I would appreciate review and consideration of this matter in conference. I thank the distinguished chairman and ranking member for their time.

ESSENTIAL AIR SERVICE

Mr. DASCHLE. Mr. President, Senator PRESSLER and I would like to engage the distinguished chairman of the Appropriations Subcommittee on Transportation, Senator HATFIELD, and the distinguished ranking member of the subcommittee, Senator LAUTENBERG, in a colloquy on H.R. 2002, the

fiscal year 1996 transportation appropriations bill and essential air service [EAS].

Mr. HATFIELD. Mr. President, Senator LAUTENBERG and I would be happy to discuss the EAS provisions in the appropriations bill with the Democratic leader, Senator DASCHLE, and the distinguished chairman of the Commerce Committee, Senator PRESSLER.

Mr. PRESSLER. Mr. President, before discussing the EAS provisions in the bill, I would like to take this opportunity to commend the chairman and the ranking member on the Transportation Appropriations Subcommittee for the fine work they did on this bill. As chairman of the Commerce Committee, I understand the difficult choices they had to make and the limited resources they had at their disposal.

Mr. HATFIELD. Mr. President, I thank the distinguished chairman of the Commerce Committee for his kind remarks.

Mr. DASCHLE. Mr. President, Senator PRESSLER and I understand the fiscal year 1996 transportation appropriations bill, as approved by the Appropriations Committee, limits EAS subsidies for those communities that, first, are located fewer than 75 highway miles from the nearest large, medium, or small hub airport; and, second, require a rate of subsidy per passenger in excess of \$200, when that community is less than 200 miles from a large or medium hub.

Mr. LAUTENBERG. Mr. President, the Senator is correct.

Mr. HATFIELD. Mr. President, that is also my understanding.

Mr. DASCHLE. Mr. President, under those restrictions using 1993 data, it is our understanding that Brookings, SD and Mitchell, SD would no longer be eligible for EAS subsidies because they are located more than 75 miles from the Sioux Falls airport. As my colleagues on the Appropriations Subcommittee on Transportation know, under data compiled by the Department of Transportation in 1993, the Sioux Falls airport was determined to be a small hub.

Mr. HATFIELD. Mr. President, the Senator is correct. The Department of Transportation determined that the Sioux Falls airport was a small hub in 1993.

Mr. LAUTENBERG. Mr. President, that is also my understanding.

Mr. PRESSLER. Mr. President, Senator DASCHLE and I also understand that preliminary data compiled by the Department of Transportation for 1994 indicates that enplanements have declined at the Sioux Falls airport to such an extent that it will no longer be considered a small hub.

Mr. LAUTENBERG. Mr. President, it is our understanding that the Sioux Falls airport, in fact, will no longer be considered a small hub according to preliminary data compiled by the Department of Transportation for 1994.

Mr. PRESSLER. Mr. President, it is our understanding that since the Sioux

Falls airport will not be considered a small hub, Brookings and Mitchell, SD will be further than 75 miles from a large, medium, or small hub and, consequently, will continue to be eligible for EAS subsidies.

Mr. HATFIELD. Mr. President, the Senator is correct. The administration will be using the most current data that they have available when administering the program in fiscal year 1996.

Mr. LAUTENBERG. Mr. President, that is also my understanding.

Mr. PRESSLER. I want to thank the chairman and the ranking member of the Appropriations Subcommittee on Transportation for their clarification and assurance.

Mr. DASCHLE. Mr. President, I, too, would like to thank my distinguished colleagues for this clarification.

Mr. WARNER. Mr. President, I rise to discuss my concerns with some legislative provisions in this appropriations bill and to pledge to continue working with my colleagues on the Appropriations Committee to correct these deficiencies.

First, I must state that I regret that the committee recommends \$1 billion less for highway programs than Congress approved in 1995. These funds are available in the highway trust fund and must be fully utilized so that our States can maintain an efficient transportation system, one able to compete in a global marketplace.

This bill also contains legislative provisions that are under the purview of the Committee on Environment and Public Works. I concur with the committee's recommendation, with some technical adjustments, to provide States with increased flexibility to address the section 1003 provision in ISTEA which could result in a 13-percent reduction in State apportionments in Federal-aid highway funds in 1996. This fix will allow States to trade in unobligated balances from prior years to restore fiscal year 1996 apportionments.

As the chairman of the Environment and Public Works Subcommittee on Transportation and Infrastructure, I can assure my colleagues that we have been working on a resolution to this situation for the past several months. When the Senate was considering S. 440 to designate the National Highway System, there was no consensus among the States and the Department of Transportation on how best to fix the section 1003 problem. This compromise clearly addresses a critical problem the States will be facing at the beginning of the new fiscal year, on October 1. For this reason, I support its addition to the appropriations bill.

However, I do not support the provision which provides for regional infrastructure banks as currently drafted. No emergency situation exists which requires the Congress to prematurely adopt this proposal. I am generally favorable to innovative finance solutions which would allow States to leverage their funds to address the backlog of

infrastructure needs. Several provisions were incorporated into the National Highway System legislation to grant States new authority in this area.

The regional infrastructure bank proposal put forth in this legislation is unworkable for our States and unlikely to achieve its intended purpose. Primarily, I strongly oppose the requirement that State infrastructure banks be regional before a State can have access to airport funds. The Federal Highway Administration advises me that their interpretation of this provision requires that there be multistate banks before any of these funds could be utilized.

While I believe there is merit to voluntary State infrastructure banks where States determine if their highway funds should be used for this purpose, I fundamentally reject the comingling of airport and highway funds as permitted in this proposal. Highway trust fund dollars are collected by a tax motorists pay on gasoline for the direct purpose of constructing and maintaining our surface transportation system. We would be breaking faith with our citizens each time they buy a gallon of gasoline if we allow these funds to be used for airport purposes.

As I have previously mentioned, it appears that this provision will be very difficult for our States to implement. There are only a few large States that currently have the ability to take advantage of this provision. Many States would have to change their State constitutions or State laws to create these regional infrastructure banks to allow the mixing of multistate funds.

Mr. President, it is my hope that the chairman of the Appropriations Committee will continue to work with us on this very complex and important matter which could change the direction of financing our Nation's infrastructure needs. When the Senate goes to conference on the National Highway System legislation, it is my intention to address the need for voluntary State infrastructure banks, in cooperation with State departments of transportation and other users of our surface transportation system.

Mr. BINGAMAN. Mr. President, I rise today to commend the two floor managers of the bill, the distinguished Senator from Oregon, Senator HATFIELD, and the distinguished Senator from New Jersey, Senator LAUTENBERG, and their staff, for their excellent and efficient management of the fiscal year 1996 Appropriations Act for the Department of Transportation.

I would like to take a few moments to discuss an amendment I offered last night, which passed by voice vote without objection. My amendment encourages agencies funded under the bill to become more energy efficient and directs them to reduce facility energy costs by 5 percent. The agencies will report to the Congress at the end of the year on their efforts to conserve energy and will make recommendations for

further conservation efforts. I have offered this amendment to every appropriations bill that has come before the Senate this year, and it has been accepted to each one.

I believe this is a common-sense amendment: The Federal Government spends nearly \$4 billion annually to heat, cool, and power its 500,000 buildings. The Office of Technology Assistance and the Alliance to Save Energy, a nonprofit group which I chair with Senator JEFFORDS, estimate that Federal agencies could save \$1 billion annually if they would make an effort to become more efficient and conserve energy.

Mr. President, I hope this amendment will encourage agencies to use new energy savings technologies when making building improvements in insulation building controls, lighting, heating, and air-conditioning. The Department of Energy has made available for government-wide agency use streamlined energy saving performance contracts procedures, modeled after private sector initiatives. Unfortunately, most agencies have made little progress in this area. This amendment is an attempt to get Federal agencies to devote more attention to energy efficiency, with the goal of lowering overall costs and conserving energy.

As I mentioned, Mr. President, this amendment has been accepted to every appropriations bill the Senate has passed this year. I am pleased my colleagues support it, and again, I thank the floor managers for their assistance. Thank you.

TERMINAL DOPPLER WEATHER RADAR (TDWR)

Mr. JOHNSTON. Mr. President, windshear remains the primary weather-related threat to airline safety. The FAA originally established a requirement for 102 TDWR systems for the U.S. airports that have significant risks from windshear—severe weather exposure. To date, 47 TDWR systems have been purchased; 55 systems remain to be acquired and installed.

The Senate Appropriations Committee was under severe budget restrictions, but did add funding of \$2,500,000 above the FAA request for the installation of a previously purchased TDWR at Las Vegas and for the environmental impact statement process in New York. The House added funding for five new TDWR's.

Baton Rouge and Shreveport have been identified as airports in need of TDWR systems to identify windshear. Both the chairman and ranking Member spoke of the need for additional funding for worthy projects. While I fully understand the budget constraints on all of the appropriations bills, I would encourage the conferees to review the potential for saving lives that these systems bring to those of us who travel, or have loved ones who travel by air.

LOW ROLLING RESISTANCE AND TIRE GRADING STANDARDS

Mr. GLENN. Mr. President, I rise today to address a question raised by

the committee during its consideration.

A provision included in the House passed bill provides that none of the funds appropriated by the 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, already in effect.

The Senate subsequently struck this provision. While I appreciate the committee's position on this provision and understand the difficulty faced by the committee as it deals with the regulatory process, I wanted to make clear my concerns about the proposed regulations regarding tire grading standards.

As part of a response to the President's Climate Change Action Plan, the National Highway Traffic Safety Administration [NHTSA] has issued a notice of proposed rulemaking to amend the uniform tire quality grading standards [UTQS] to replace the temperature resistance grade with a rolling resistance/fuel economy standard.

This proposal is currently under consideration by NHTSA and if implemented, tire manufacturers are required to add a new rolling resistance grading standard whose value I believe is questionable.

The proposed regulation assumes that lower rolling resistance will reduce fuel consumption. While there is some validity to the premise, in practice it is uncertain and other factors beyond rolling resistance contribute. If low rolling resistance does not effectively reduce fuel consumption then any demonstrated environmental impact is diminished.

Tire design is a matter of tradeoffs. For every positive feature some allowance may be made for a reduction in other characteristics. Lower rolling resistance can compromise traction or treadwear and therefore safety. I believe that these tradeoffs have not been adequately reviewed.

I am concerned that the cost to both industry and the consumer will outweigh any benefit. I understand that the additional cost of each tire is estimated to be \$22 and that even after potential fuel savings are included, the consumer will not pay for the investment.

Tire manufacturing is already a globally competitive industry. Additional costs could impact that competitiveness. This rule would also raise a question regarding nontariff trade barriers.

I raise these concerns so that the committee will be fully aware of these issues as it proceeds to conference and that these questions can be considered as it continues its work on this bill.

Mrs. BOXER. Mr. President, this appropriations bill providing funds for the agencies of the Department of Transportation is truly bittersweet for this Senator from California.

Although there is much in this bill that will benefit my State, however, the budget cuts are deeply disturbing. The bill is \$1 billion less in total spending for transportation over funding for the current fiscal year. These cuts were foreseen when the Senate voted for the Republican budget resolution. I opposed the budget resolution, in part because of how these drastically lower budget levels would block our progress in repairing and improving our infrastructure and reinvigorating our economy. This is a budget largely in retreat from the challenges ahead.

Our air traffic control system is in crisis. Wednesday's power failure of two of the three power generators—while the third was off line for maintenance—at the Air Route Traffic Control Center at Oakland, CA, was only the latest failure of our aging, 1950's and 1960's era air traffic control system. The Oakland center lost all radar, flight data processing and communications system power. Power was restored in just over an hour but only after causing serious disruptions and threats to air safety for about 60 to 70 aircraft in the area.

Sufficient funding for critical air traffic control improvements must be a priority. The bill provides \$8 million for air traffic management technology which was not funded by the House. This funding is key to avoid delays in the development of new traffic flow management capabilities for the air traffic control system. At \$12 million, the bill maintains the current year's level of funding for system capacity, planning and improvements, but it is double the House level. Air safety technology is increased overall from \$30 million by the House to \$40.5 million in the Senate.

However, I am concerned that neither the House nor the Senate funded the administration's request for \$1 million in cabin safety technology research. As the former chair of the House Government Activities and Transportation Subcommittee, I can attest to the ongoing need for Federal efforts for improved cabin safety, particularly in reducing flammability and improved exiting.

I also join with the ranking member, Senator LAUTENBERG, in deploring the cuts in incentive pay for our overworked air traffic controllers. I support his efforts to try and restore some of these funds in conference with the House.

Despite tough budget cuts, we have cause to praise other elements of this bill that deserve recognition. In recognizing the scarcity of transportation project funds, the committee crafted an innovative financing plan based on the administration proposals. Although the plan is not as well funded from the Federal side as I had hoped, it will permit California to obtain attractive, private sector financing for major infrastructure improvements.

The bill creates State and regional infrastructure banks, providing \$250

million in Federal general revenue funds and permitting States to allocate up to 10 percent of their Federal highway dollars. Funds deposited in these banks will capitalize a revolving loan program and enable the States to obtain a substantial line of credit. The infrastructure banks will assist a variety of projects, including freight rail, aviation and highway projects. This assistance would be in the form of financing for construction loans, pooling bond issues, refinancing outstanding debt and other forms of credit enhancement.

California will receive \$21 million for this purpose, the highest of any State.

I am pleased that the Senate unanimously accepted my amendment to ensure that California, and other States which already have authorized State infrastructure banks, could participate and not be required to form multi-State compacts as provided in the bill. This will help the State move quickly on a financing program.

I am also pleased that the committee, at my request, cited in its report the Alameda Transportation Corridor project to improve the rail and highway access to the Port of Los Angeles and Long Beach as a fine example of a project that could benefit from this financing. I hope that the State will decide to use this option to help the Alameda Corridor project. This financing could also benefit the efforts in San Diego to reopen the 108-mile San Diego and Arizona Eastern Railway, providing San Diego companies direct access to El Centro-based rail networks to the Eastern United States and the interior of Mexico.

These are important infrastructure projects of both State and national significance and will help expand trade and create jobs.

California benefitted from several individual projects in this bill.

In particular, I had personally urged members to support the President's request for \$22.6 million for the bay area rail program. This funding is vital for the airport expansion project of the Bay Area Rapid Transit District and the light rail program along the Tasman Corridor in Santa Clara. Not only did the Senate more than double the level provided by the House, but the funding is directed for the bay area program and not limited to BART. This is an important distinction. The bay area program is a careful regional compromise to provide needed passenger rail transportation improvements. The House funding directed only to BART is an inappropriate interference with this local program.

Unfortunately, the bill also severely under funds the Metro Red Line [MOS-3] extension in Los Angeles. The \$45 million is drastically below the \$159 million requested by the President and \$125 million set by the House.

However, despite my urging for the committee to approve the President's request, I am not surprised by the cut. The problems in subway construction,

particularly the lack of adequate oversight and maintenance of construction standards, combined with the disunity among local officials resulted in this severe cut. I am hopeful that we can persuade the House and Senate conferees to at least meet halfway to provide \$85 million for the program.

Despite this cut, the committee nearly doubled the House level for the Gateway Intermodal Center in Los Angeles, providing \$12 million to complete the facility which will house the central connections for the subway, commuter rail and interstate passenger rail traffic.

I am also pleased at the \$8 million set aside for the Advanced Technology Transit Bus, the so-called stealth bus that uses the expertise that Northrop developed for the stealth fighter into a high-tech urban transit bus for the next century. This funding—above the President's request—will ensure that we will have prototypes ready to roll in the fall of 1996.

The bill includes my request for \$4.5 million to the bay area transit systems to help them implement the Americans with Disability Act requirements. These improvements include fixed-route improvements for the Contra Costa Transit District, a replacement van for Western Contra Costa County Transit Authority, 25 vans for San Francisco Muni, and 20 paratransit vehicles, signs and bus stop improvements for the Santa Clara County Transit District.

There is \$10 million that I requested for a San Diego-Mexico border bus/highway center. The San Ysidro Intermodal Transportation Center operated by the Metropolitan Transit District Board will provide improved traffic circulation improvements at this major United States-Mexico border crossing.

There is \$10.56 million that I requested for the San Joaquin Rapid Transit District in Stockton. The district has an extensive bus replacement program for this rapidly growing area with serious air quality problems. Funding will help provide seven replacement and 10 expansion buses using Compressed Natural Gas technology. Another 17 replacement and 6 expansion buses are needed for demand response services and 25 vans for alternative transportation services.

The bill also provides \$3 million to the Long Beach Transit District for its bus replacement and parts program.

Mr. President, although this bill hardly provides everything we need in California to erase our infrastructure deficit, at least California received a fair share of the funds provided and provides tools for leveraging scarce Federal dollars.

Mr. MCCAIN. Mr. President, I want to applaud the Appropriations Subcommittee on Transportation for its good work on the fiscal year 1996 transportation appropriations bill. They produced a relatively pork-free bill and for that they deserve much credit.

I did want to specifically note two provisions in the bill which do cause me concern.

The bill mandates that \$15,000,000 for debt retirement of the Port of Portland, OR. I strongly object to this earmark being included in the bill.

There are many communities around the country which have outstanding bonds and debt which they must pay. Those cities and localities are working hard to better their fiscal condition. But they are doing it on their own initiative. They are not receiving a Federal bailout. And, Mr. President, that is exactly what this provision is: a Federal bailout.

It is unfair to those many communities that we are using the Federal largesse to help one specific city on the basis of less than compelling factors.

Additionally, the bailout is not truly necessary.

Proponents of the bailout claim the port is owed this money because a proposed change in law included in the Alaska Power Administration Sale Act which is pending in Congress, will adversely affect the port's financial viability and alter a longstanding Federal-State agreement. While it is true that we are proposing to change the law, such a change, I believe will not adversely affect the Port of Portland in the long run.

Under current law, Alaskan oil is carried by U.S.-flag ships from Alaska to the Port of Portland. Because of the large amount of ship traffic, the port has stayed relatively busy. Port officials are concerned, however, that if these same ships are allowed to carry this oil across the Pacific that they will have their repairs done in Asia, which will result in a loss of business for the Port of Portland.

I believe this fear to be unfounded and thus the bailout not truly necessary. United States law requires that Alaskan oil must be carried in U.S.-flag ships. Additionally, these tankers must pay a 50-percent duty for any repairs made in a foreign port. This is a strong disincentive for such operators to have repair done outside the United States. As a matter of fact, the additional wear and tear on these ships generated by their extensive travel may result in an even greater use of the Port of Portland in the long run.

Additionally, close examination of the port's financial reports show that the shipyard's fiscal strength began to decline in the mid-1980's. Therefore, it is hard to believe passage of any legislation in 1995 would be responsible for a 10-year slow decline of the port's business.

Further, while the shipyard has been in decline, other assets held by the port have been rapidly growing. The Port of Portland controls and operates a seaport, Portland International Airport, and several real estate holdings in the Portland area. Portland International Airport is one of the fastest growing airports in the Nation. In 1994, the number of passengers using the airport

increased by 16 percent and the amount of freight increased 14 percent. The shipping activities of the seaport have also been growing—outpacing the growth of all other seaports on the west coast. There is no reason to believe that this growth will not continue to occur.

These booming holdings of the Port of Portland should be more than able to help the port during any further economic decline, and thus there is no need for Federal assistance to this local—not Federal—entity.

I also want to note my dismay over a provision added to the bill that would mandate that the General Services Administration and the Department of Agriculture transfer Federal land to the city of Hoboken, NJ.

Mr. President, I raise this not to debate whether the land in Hoboken should or should not be transferred to the city. I am told by GSA that they would not oppose such a transfer and that the Federal Government has no further use for the land.

I raise this issue because there is an administrative procedure in place that governs the disposal of excess or unneeded Federal property. That administrative procedure is designed to ensure that all parties are treated fairly, and that the Government's—and the taxpayer's—best interests are paramount. By adding a provision to this bill to mandate the immediate disposal of this Federal land, the proper process is being circumvented. Elected officials, and the public, have no way to know if we are doing the right thing when the proper, open process is circumvented. We can only speculate that this transfer is truly in the public's interest, not to mention that bypassing appropriate procedures invites others to do the same which is neither fair nor in the public interest.

Both of the provisions I have mentioned should not be in this bill and I would hope they would both be dropped in conference.

I yield the floor.

Mr. HATFIELD. I believe the Senator from Arizona, [Mr. McCAIN], desires to have a brief colloquy before we go to final passage.

Mr. McCAIN. Mr. President, I will say to the Senator from Oregon, the distinguished chairman, in light of the failure of the tabling motion of this language concerning the FAA procurement and personnel reform, I ask unanimous consent that there be language inserted that that would not take effect until the 1st of April, as we have discussed before, in order that the authorizing committees might have an opportunity to act in an overall broad reformation of the FAA and the funding.

I seek that unanimous-consent request from the chairman of the Appropriations Committee.

Mr. HATFIELD. Mr. President, the Senator is correct. This was a discussion yesterday and last evening as well. We are very happy to join in that unanimous-consent request.

Mr. LAUTENBERG. Mr. President, I agree. I think it is a wise decision and I appreciate the fact that the Senator from Arizona recommended it. It will give the committees an opportunity to do what we wanted them to do in the first place, very frankly, and the reason for the language in the bill. So I think it is a good idea.

Mr. McCAIN. Mr. President, I ask unanimous consent that language be inserted at the appropriate point in a technical fashion, a technical amendment, in order to make the effective date of procurement reform, personnel reform of the FAA effective as of April 1.

The PRESIDING OFFICER. Is there objection? Will the Senator send his amendment to the desk?

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

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

UNANIMOUS-CONSENT AGREEMENT—S. 1087

Mr. DOLE. Mr. President, while we are waiting, I ask unanimous consent that upon disposition of H.R. 2002, the Department of Transportation and related agencies appropriations bill, the Senate turn to consideration of S. 1087, the DOD appropriations bill. This has been cleared on the other side.

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

Mr. DOLE. Mr. President, let me just say for the information of all Senators, the Senate will begin consideration of the DOD appropriations bill after disposition of the pending matter. In the meantime, various Senators are still negotiating ABM language that has blocked the Senate from concluding action on the DOD authorization bill.

As soon as that language has been agreed to on both sides, if agreed to, it will be my intention to call for the regular order with respect to the DOD authorization bill and complete action on that very necessary authorization bill. Once that has been completed, the Senate will resume the DOD appropriations bill and remain on that item until disposed of. If they do not get an agreement, we will finish the DOD appropriations bill.

There are also a number of nominations we have had a number of inquiries about. Depending on what else happens, we may be able to accommodate some of those requests. I know the Secretary of the Treasury, Secretary Rubin, is very, very concerned about Larry Summers, a Treasury Department nominee. As I understand, there are at least 25 holds on that nomination. I am not certain we will be able to accommodate Secretary Rubin. We

will be checking on this side of the aisle to see if there is any opportunity.

Mr. STEVENS. Will the leader yield? I wonder if we can get an agreement that there will be no amendment in order on the Defense appropriations bill dealing with the controversy that surrounds the authorization bill, the ABM Treaty. It makes no sense to go on the appropriations bill if we are going to bring to the floor the people who are negotiating to finally resolve the problem on the authorization bill. I hope there will be an agreement our bill will not have any amendment pertaining to the ABM controversy.

Mr. DOLE. I think we will wait until we get to the bill first.

Mr. STEVENS. I just want everyone to know that while they are here. I am reluctant to take up the bill and get involved in the ABM controversy. As I said, it will bring the people out of the office who are hoping to get that resolved. I will wait, however.

Mr. DOLE. We will wait until we get to the bill.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, we did not object to going to Defense appropriations since it is understood that we can come back to the Defense authorization bill, which we really ought to pass before we pass Defense appropriations.

As I understand it, we will come back to it just as soon as resolution is reached on the question of ABM. Senator NUNN of Georgia, the ranking member, I believe is working hard on that, and others are working from our side. We hope to be able to reach an agreement on that.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2348

Mr. McCAIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 2348.

Mr. McCAIN. 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:

On page 72, after line 15, insert: "(c) This section shall take effect on April 1, 1996."

On page 73, after line 24, insert: "(c) This section shall take effect on April 1, 1996."

The PRESIDING OFFICER. Is there objection to the amendment? Without objection, the amendment is agreed to.

So the amendment (No. 2348) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.