

of this session, ending 30 years of distinguished service to his country. I can think of no more fitting way to highlight the last few months of his career than yesterday's treaty approval. Four years ago, I joined him and former majority leader George Mitchell in authoring a law phasing out American nuclear weapons testing and jump-starting international negotiations designed to achieve a permanent test ban. It is, therefore, with a great deal of pride that I herald the action of the General Assembly and look forward to the treaty signing ceremony later this month. I remind the Senate, with Senator Mitchell gone and Senator HATFIELD and myself leaving come January, the continued leadership in this area falls to Senator LEVIN and others to take up the challenge.

Mr. President, I thank the Senate and I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired. Who seeks recognition?

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mr. KERREY. Mr. President, I ask unanimous consent that the pending amendment be laid aside just for the consideration of an amendment offered by the distinguished Senator from Virginia, Senator WARNER.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 5240

Mr. WARNER. Mr. President, I thank the distinguished managers of the bill, and I thank my two colleagues who, for various reasons, at this point in time have an interest in the floor procedure and have permitted me, as a matter of Senatorial courtesy, to proceed with the following amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 5240. On page 53, beginning on line 23, strike "and in compliance with the reprogramming guidelines of the appropriate Committee of the House and Senate."

Mr. WARNER. Mr. President, first of all, I would like to commend the Ap-

propriations Committee, subcommittee Chairman SHELBY and Senator KERREY for their efforts in including funding for security requirements in both the new construction and repair and alterations categories for the Federal buildings program of the General Services Administration in the fiscal year 1997 Treasury, postal appropriations bill.

The current security environment is uncertain and variable. Unforeseen circumstances, and events can radically change the requirements for security expenditures in real time and at a moment's notice as witnessed by recent tragic events in our Nation.

Current language in the Senate appropriations bill requires compliance with formal reprogramming processes in order to use funds for security purposes. While this requirement is an appropriate check on security expenditures, and I commend my colleagues for their swift action in this area in the past, I remain concerned that during a congressional recess, a delay in the implementation of reprogramming measures for security could impede actions necessary for the immediate protection of our Federal work force.

My amendment would allow GSA to use any funds previously appropriated for repairs and alterations and building operations and rental space to meet minimum standards for security upon notification of the Appropriations Committee of the House and Senate that such a determination had been made.

I would also request that should my amendment be agreed to, clarifying report language be added stating the following:

The Committee has included requested funding for security as a line item in both New Construction and Repairs and Alterations in addition to amounts requested in Basic Repairs. A provision authorizing the use of other repair funds has also been included to ensure that the GSA can respond quickly to safety and security requirements as they are identified. Safety and security concerns are to be addressed as a top priority in using capital funds provided in the bill.

As the chairman of the Subcommittee on Transportation and Infrastructure, with oversight responsibility over the General Services Administration, I have been pleased with GSA's actions to date in meeting an enhanced level of security at GSA controlled buildings and facilities. I would like to commend the Appropriations Committee for actions taken following the Oklahoma City bombing in the fiscal year 1995 legislation, continuing reprogramming efforts approved by both the authorizers and appropriators in fiscal year 1996, and now in the Treasury, postal appropriations bill that we have before us for fiscal year 1997.

I think that all of my colleagues would agree that in light of the new threatening environment we are under, resulting from incidents of domestic terrorism like the Oklahoma City bombing, providing a safe and secure environment for our Federal work forces and visitors to our Federal

buildings should be the highest priority.

That is the intention of this amendment. I am pleased to learn from the distinguished manager, the Senator from Nebraska, it appears it is acceptable. And Senator SHELBY has, likewise, indicated that.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, both Senator SHELBY and I have looked at this amendment. We agree it is a good amendment. We appreciate the Senator from Virginia bringing it to our attention, and we are willing to accept it.

Mr. WARNER. Mr. President, I urge its adoption.

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

The amendment (No. 5240) was agreed to.

Mr. WARNER. Thank you, Mr. President.

I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. KERRY. 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. LOTT. 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

Mr. LOTT. Mr. President, I ask unanimous consent that the pending committee amendment, and the Kassebaum amendment thereto, be laid aside in status quo. In explanation of that unanimous consent request, Senator KASSEBAUM is, I believe, in a meeting having to do with the FDA reform. There has been a lot of discussion back and forth about how to handle these two amendments. The Senator from Oregon is here and is continuing to pursue his desire in this effort. He has been willing to have these set aside for now so we can take up other issues, and amendments can perhaps be agreed to, and perhaps other amendments can be debated and voted on, if necessary. We will continue to work to see how we can resolve that. I make that unanimous consent request.

Mr. WYDEN. Reserving the right to object, and I do not intend to object, I just want it understood that I have spent the last couple of hours trying to work, in a bipartisan way, to address this, to address the budgetary concerns. I want the majority leader, Senator LOTT, to understand that I have no interest in prolonging this. I do want to protect the rights of these vulnerable patients and get that done today. But I have no desire to prolong this.

Mr. President, we are going to continue, as the majority leader requested,

to work to try to fashion something that is acceptable. We thought we had something a minute ago, but, apparently, we have some more work to do.

With that, I withdraw my reservation. I appreciate the majority leader trying to help us by setting that aside.

Mr. LOTT. Mr. President, was that request agreed to?

The PRESIDING OFFICER. I thought the Senator from Alabama was rising to speak on the request.

Is there objection to the request?

Without objection, it is so ordered.

Mr. THOMAS. Mr. President, I ask unanimous consent that the pending amendment be laid aside.

The PRESIDING OFFICER. That has been done.

AMENDMENT NO. 5224

(Purpose: To limit the use of funds to provide for Federal agencies to furnish commercially available property or services to other Federal agencies)

Mr. THOMAS. 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 Wyoming [Mr. THOMAS] proposes an amendment numbered 5224.

Mr. THOMAS. 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:

At the end of title VI add the following:

SEC. 646. (a) Except as provided in subsection (b), none of the funds appropriated by this or any other Act may be used by the Office of Management and Budget, or any other agency, to publish, promulgate, or enforce any policy, regulation, or circular, or any rule or authority in any other form, that would permit any Federal agency to provide a commercially available property or service to any other department or agency of government unless the policy, regulation, circular, or other rule or authority meets the requirements prescribed under subsection (b).

(b)(1) Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall prescribe regulations applicable to any policy regulation, circular, or other rule or authority referred to in subsection (a).

(2) The requirements prescribed under paragraph (1) shall include the following:

(A) A requirement for a comparison between the cost of providing the property or service concerned through the agency concerned and the cost of providing such property or service through the private sector.

(B) A requirement for cost and performance benchmarks relating to the property or service provided relative to comparable services provided by other government agencies and contractors in order to permit effective oversight of the cost and provision of such property or service by the agency concerned or the Office of Management and Budget.

AMENDMENT NO. 5224, AS MODIFIED

Mr. THOMAS. Mr. President, I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 5224), as modified, is as follows:

At the end of title VI add the following:

SEC. 646. (a) Except as provided in subsection (b), none of the funds appropriated by this or any other Act may be used by the Office of Management and Budget, or any other agency, to publish, promulgate, or enforce any policy, regulation, or circular, or any rule or authority in any other form, that would permit any Federal agency to provide a commercially available property or service to any other department or agency of government unless the policy, regulation, circular, or other rule or authority meets the requirements prescribed under subsection (b).

(b)(1) Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall prescribe regulations applicable to any policy regulation, circular, or other rule or authority referred to in subsection (a).

(2) The requirements prescribed under paragraph (1) shall include the following:

(A) A requirement for a comparison between the cost of providing the property or service concerned through the agency concerned and the cost of providing such property or service through the private sector.

(B) A requirement for cost and performance benchmarks relating to the property or service provided relative to comparable services provided by other government agencies and contractors in order to permit effective oversight of the cost and provision of such property or service by the agency concerned or the Office of Management and Budget.

(C) The regulation would not apply to contingency operations associated with a national emergency.

Mr. THOMAS. Mr. President, I want to explain the amendment, if I may, and then ask that we have a vote on it. It has to do with the Federal Government's policy of more than 40 years that the Government should not compete with the private sector in areas in which the private sector can legitimately function. In fact, the Government should rely on the private sector to supply commercially available goods and services.

However, this policy is too often ignored. For example, the Defense Science Board calculates that out of 850,000 full-time positions needed to provide commercial services for the military, 640,000 are held by Federal employees rather than private sector personnel.

I want to go back and talk about commercial services, however, because the modification that I sent to the desk exempts emergencies and exempts factors that are not routinely commercial completely from the bill. There is a new administration policy that prompts this particular amendment.

OMB has come out with a policy that grandfathers existing Interservice Support Agreements from cost-comparison requirements. In other words, it says if you have had this kind of Interservice Support Agreement, it is not even necessary to inquire as to what the cost would be if, indeed, there would be savings in the private sector.

The Interservice Support Agreements permit one Federal agency to provide goods or services to another agency.

This new policy gives agencies until October 1, 1997, to go out and recruit business from other agencies, without performing any cost analysis.

The administration implicitly argues that this entrepreneurial approach to Government will save the taxpayers money—and they don't even know what the cost comparisons are. Some examples of existing ISSAs are: Aerial photography, mapping services, laboratory services, printing services. Other specific examples are: A U.S. Geological Survey was hired by the Bureau of Reclamation to participate in the High Plains Groundwater Recharge Program. The project took twice as long and cost three times as much as the private sector standard.

In Jacksonville, FL, the Navy Public Works Division recently completed a state-of-the-art environmental lab to provide routine hazardous waste characterization. These services are already available from the private sector, and the Navy intends to offer these services now to other Government agencies.

Mr. President, this is not the concept that most of us have for Government. It is common sense, I think, that activities that are integral to Government, activities for emergencies, for defense, activities such as plane wrecks and all these things, those things, of course, are excluded under the bill. But when we are talking about routine services that can be provided commercially in the private sector, then they should be.

There are a few examples of direct Government competition with the private sector. So there is a new policy that encourages the Federal Government to compete with the private sector. I think that is philosophically wrong. Certainly, it hurts small business. There isn't even competition for projects—no public solicitation—the private sector never knows if there is a need that they could fulfill.

We did this, by the way, in the Wyoming legislature when I was there. We had a bill that said that in those areas where the function can be commercially carried out, there ought not to be competition by the Government, that there ought to be at least an analysis of the cost, and a fair analysis, so these things can be done, to the extent that it is possible, to save the taxpayers money and do it in the private sector. Numerous studies have shown that outsourcing can save the Government \$9 billion to \$10 billion annually.

Further, it seems to me that this process of having extra commercial activities carried on by Government agencies circumvents the appropriations process. If an agency is able to do the work for another agency, it is likely to have more resources and employees than it really needs to fulfill its primary mission. It may be wasting taxpayers' resources and may need to be cut back. If an agency appropriations is cut and it recruits business, it is circumventing the appropriations

process. The amendment that we have simply indicates that none of the dollars in this particular appropriations can be used unless, and the rule says:

A requirement for a comparison between the cost of providing the property or service concerned through the agency concerned and the cost of providing such property or service through the private sector.

It is very simple. It simply says that you have to take a look at letting the private sector do this and get the cost of that before one agency provides it to the Government sector for another agency.

I emphasize that we have been doing it for 40 years. This is a new OMB policy. It is a rule for the supplemental handbook. By the way, as to the handbook itself, I think we are going to hear—and we have heard from one agency, the Defense Department specifically—“Well, we will be curtailed on a number of these essential support emergency activities.”

Let me give you the modification first of all. It makes it clear that the amendment does not apply to national security. Furthermore, this OMB rule has an exemption. Nothing in this amendment would change advanced planning for contingencies; therefore, contingencies or emergencies, such as the Value Jet crash in the Everglades. There are two protections from that kind of thing. One is the rule itself, and the other as the amendment to this bill.

So it just seems to me that if you believe in the idea that the Government ought to be contained to those things that are uniquely Government activities and that beyond that we ought to go to the private sector, we have a broader bill that we have had for some time. We intended to have hearings on it. The hearings have been postponed twice—once at the request of the minority. So we have been prepared to have hearings on the broader bill. This one simply deals with the newest OMB supplemental handbook proposition. It says that you have to continue to do what you have been doing; and that is consider the cost of doing it in the private sector.

It is hard for me to imagine that anyone can object to the difficulty of doing things that can be done in the private sector, and doing them in the private sector if they are going to save us money. The idea that you can't do it in an emergency is not a valid one. It is not valid because of the handbook exemption. It is not valid because of the modification that we have put on the bill. This kind of thing, of course, simply expands Government.

I mentioned that we introduced S. 1724, the Freedom From Government Competition Act. It causes the Government to go outside. It causes OMB to study those things that are inherently governmental functions.

Senator STEVENS plans to hold a hearing on this bill in September. The Small Business Committee in the House has already held several hear-

ings. But this is a smaller issue. While I am delighted that Senator STEVENS will be holding hearings on the broader bill, there is really no reason for small businesses to be caught under this Clinton administration ISSA policy, the Interservice Support Agreement policy. The amendment is very simple. It merely reaffirms existing law. It would prohibit the appropriation of funds of one agency to provide commercially available goods and services for another agency unless the cost comparison is done and more oversight is conducted on the agreement to provide more information about what we are doing. The amendment will create private-sector jobs, which is what we talk about all the time on both sides of the aisle. It will help small businesses. It will save taxpayer dollars and make Government smaller and more efficient.

Mr. President, the bottom line is we want Government to cost less. This is a way to do that.

So I urge my colleagues to support this amendment. It is a commonsense amendment, a good-government amendment, and a pro taxpayer reform amendment.

Mr. President, I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I would like to call up amendment No. 5237 and offer it as a second-degree amendment to the pending committee amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMS. Mr. President, this is a simple and straightforward amendment.

Mr. GLENN. I object.

The PRESIDING OFFICER. If the Senator will suspend. Is there objection?

Mr. GLENN. Mr. President, I object, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Minnesota has the floor. Is there objection to the unanimous-consent request?

Mr. GLENN. Yes. There is objection.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. The Senator from Minnesota has the floor. The objection is heard. The Senator from Minnesota has the floor.

Mr. GRAMS. 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. GLENN. 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. GLENN. Mr. President, I must oppose the amendment offered by my

colleague from Wyoming, Senator THOMAS. The amendment would require cost comparisons and cost and performance benchmarks before any Federal agency can provide any other Federal agency with property or services.

I am a very strong supporter of increasing the efficiency of Government. Much of my effort over the last few years has been devoted to exactly that—passing the Chief Financial Officer Act, expanding inspectors general, and with the new procurement legislation we passed that was the work of not only the White House in the last administration but this administration and our Governmental Affairs Committee, as well as people in the Pentagon. So we have a track record of working in these areas of increasing the efficiency of Government and along with it of having a greater reliance on the private sector which we have provided in some of the new procurement legislation for providing goods and services to the Government.

In spite of that, I have difficulty supporting this amendment. Its impact, I do not think, has been completely reviewed and I think it is unnecessary and perhaps too broad. Let me go into some of that in a little more detail.

First, I must oppose the amendment because a floor amendment on an appropriations bill does not provide an adequate opportunity in which to consider this far-reaching proposal, and it is, indeed, a far-reaching proposal. The Governmental Affairs Committee, as I think the proponent has already mentioned, actually has a hearing scheduled for next week, September 19, on Senator THOMAS' related bill, S. 1724. I know we have had several hearings put off, and I understand that, and I understand the frustrations of people when they do not get appropriate hearings in committee to go ahead and opt for direct floor action. But consideration in committee will consider that legislation that also addresses Government and private sector issues. Consideration by the committee with substantive jurisdiction is needed before this proposal should be considered on the Senate floor. To bring the amendment to the floor when the sponsor has a hearing in only 1 week before the appropriate committee I do not feel is the best way to proceed, the best informed way to proceed on this issue.

Second, it is my feeling, having been into some of these things over the last several years, the amendment is unnecessary. The economy act at section 1535 of title XXXI of the United States Code already requires that an agency head determine that goods or services cannot be provided as conveniently or cheaply by a commercial enterprise before going to another agency for those goods or services. The cost and performance requirement of the present amendment would on their face have basically the same result as the economy act.

The relation of the amendment to the current law is exactly the sort of

issue that should be discussed at a committee hearing. I think we also need to examine the relation of the OMB regulations required by the amendment to OMB's circular A-76 that currently governs agency cost comparisons with private sector goods and services. To accept an amendment in the Chamber that on its face largely duplicates existing law and regulation is not the best way to proceed.

This overlap also concerns me with regard to the franchise fund pilots created by the Government Management Reform Act, GMRA, of 1994, which is Public Law 103-356. That act was a bipartisan effort of the Governmental Affairs Committee, and it passed unanimously in the Senate. The GMRA, the Government Management Reform Act, franchise fund pilots open up competition between agency service providers and the private sector for common administrative services. This program uses basic market force principles to search for better, quicker, and cheaper services. OMB is currently overseeing this program, and we should not enact new legislation that would affect it until we hear from OMB as to how this competition project is working.

My third objection to the amendment is that it is too broad. For example, in its original version it had no exemption for national security emergencies or danger to public health or safety.

Let me say right there that we had a letter from the Under Secretary of the Navy, John Hamre, who is working in these areas of better efficiency over in the Defense Department, and he felt it really gave a lot of trouble in this particular area.

I ask unanimous consent that his letter be printed in the RECORD.

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

UNDER SECRETARY OF DEFENSE,
Washington DC, September 11, 1996.

Hon. RICHARD C. SHELBY,
Chairman, Subcommittee on Treasury, Postal Service and General Government, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I have just learned of an amendment that Senator Thomas is proposing to offer on the Appropriations Bill for the Treasury, Postal Service and General Government. The amendment would require that before one federal agency can provide a service to another agency a cost comparison for providing the service would have to be made between the private sector and the government agency.

I recognize that the motivations behind this amendment are very worthwhile. We should use the private sector as much as possible for providing services; however, the unintended consequences of this amendment would be devastating to many of the cross agency operations that are now being conducted.

In its current form, this amendment could cost lives and delay essential support that has to occur immediately in time of emergency. Had this amendment been in place in the past, the Department of Defense (DOD) could not have transported equipment and material immediately for such catastrophes as Hurricane Andrew, the Oklahoma City

bombing, the search for survivors and aircraft parts following the explosion of TWA 800, and numerous earthquake, fire and flood demands that are placed on the Department. These are extensive inter-agency arrangements for DOD support in times of emergency that are totally undermined by this amendment.

I strongly urge you to defer action on the amendment being offered by Senator Thomas until you have had an opportunity to hold a hearing on the implications of the amendment. This proposal while well intended, has far reaching consequences which must be studied and understood.

JOHN J. HAMRE.

Mr. GLENN. I understand though that this will be modified to accommodate that problem. I have not seen the modification yet specifically, but I understand that Senator THOMAS has modified his amendment to address concerns raised by the Department of Defense concerning national emergencies and that was one of the problems. I understand the amendment will provide an exemption for national security contingencies. Maybe that will solve the problem, maybe it will not, but that is a concern about the amendment, and I think the scope of it is still unclear.

If enacted into law in its original version, the amendment would appear to prohibit, for instance, some other things, and I do not know whether these are covered under contingencies or not. It would appear to prohibit the CIA from contracting with NSA or DIA, the National Security Agency or the Defense Intelligence Agency, for classified goods or services—for example, a spy satellite or equipment—without performing cost comparisons and benchmarks. While OMB might try to provide for such exemptions in the regulations required by the amendment, the amendment, as I understood it, provides no limitations on its comprehensive scope.

I am also concerned about the amendment's references to "enforcing any policy or any authority in any other form." I put that in quotes, concerned about the amendment's reference to "enforcing any policy or any authority in any other form."

I am not certain what this might include. It could be interpreted to cover the budget. It would seem even to cover apportionment of funds. After all, when OMB apportions funds, it conveys an authority to outlay funds. How would this impact on interagency activities? I am not sure. Maybe it would be good. Maybe it would be bad. But these terms do concern me. I do not believe we should enact into law such an overarching requirement, a very major piece of legislation, without careful consideration of its scope and necessary exemptions.

The broad language of the amendment might also cover FFRDC's. Many times agencies contract with another agency such as DOE for goods or services to be provided by FFRDC, and this arrangement would seem to be covered by the amendment. I do not believe the

Senate has sufficiently considered this proposal in order to subject the National Labs, the Center for Naval Analysis, and other FFRDC's with the blanket requirements of this amendment, and they would be affected by it. They could not help but be affected by it.

Finally, I am concerned that there could be other situations that this amendment would needlessly burden with reporting and study requirements. There could be instances in which an agency contracts for goods or services that another agency procures from other sources, even the private sector. There are also revolving funds and many interagency reimbursable activities that would appear to be covered by the amendment. And to subject all such activities to the terms of this amendment, without certainty about the impact, concerns me very much.

Again, the sponsors of the amendment may hope that OMB will provide the right exemptions for the right cases. But the text of the amendment is very, very comprehensive. Again, this is just another reason why I think we should not enact into law legislative language of such broad scope—not today, anyway.

Next week, OMB's Deputy Director for Management, John Koskinen, will testify before the Governmental Affairs Committee on various OMB and other agency initiatives to increase agency reliance on the private sector. That is one of the subjects of the hearing, and to create incentives for agencies to search for more economical ways to procure goods and services. That hearing will be very informative as to this debate. It should include this amendment, and that is where I think we should consider this amendment, not here on the appropriations legislation.

So I think I do not see any problem with recommending to my colleagues, with something of this broad a scope—and this is not an insignificant amendment, this is a major step in whatever direction it would be leading and is very, very far-reaching—I think, to wait 1 week until the head of OMB can give his testimony and give his opinion on this and indicate to us how this would operate at the executive branch level. It seems to me, that is not a delay that is intolerable.

For these reasons, I urge my colleagues to oppose the amendment. I think it is very far-reaching. It is not an innocuous little amendment; it is one that is very far-reaching, and after we know the scope of it better, it might be something I could well support. But I would like to have Mr. Koskinen's testimony on it and have it before the committee so we could explore, in a little bit more detail, the ramifications of this or the implications of it before we vote on it in an appropriations bill acting on the floor today.

Mr. President, for all those reasons, I oppose the legislation and hope my colleagues support that position. I yield the floor.

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

Mr. THOMAS. Mr. President, I appreciate the comments of my colleague from Ohio. Let me see if I cannot respond to some of them.

First of all, they talk about a hearing. We have delayed hearings twice now. We have asked for hearings, had them set up, they have been delayed—once at Senator GLENN's request. I think it is time we move forward with this proposition.

It is a narrow amendment. It is not a broad amendment. It is not a wide-reaching amendment. As a matter of fact, it deals only with circular No. A-76 and the language there where OMB has said, effective October 1997, "The cost comparison requirements of this supplemental handbook will not apply to existing or renewed ISSA or consolidation of commercial services."

This is not the broad bill that we have asked for a hearing on. It is not nearly as broad as I think it ought to be to effect this idea that we ought to be doing these things in the private sector. This notion that somehow we are going to get more efficiency out of doing it out of Government is one, I think, we have gotten long past. So we will be doing that, and we will be going further. This one only has to do with the changes that have been made by OMB.

The idea, of course, that it will affect the letter that the Senator read from the Department of Defense probably is not applicable in the first place. However, we have, in order to make sure that is not the case, amended and changed—modified the amendment with the language that "the regulations would not apply to contingency operations associated with a national emergency." Clearly, I think that does that.

I want to interject here to ask unanimous consent that Senator STEVENS, the chairman of the Governmental Affairs Committee, and Senator FRAHM be added as cosponsors to this amendment.

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

Mr. THOMAS. The idea that is far-sweeping and far-ranging is that this has been in place for all these years until now. OMB simply changed it. It puts it back where it was, before OMB changed this. So the idea that it is an unknown is simply not true. It is simply not the case. It simply says to OMB, you cannot enforce these new rules that you put out that have changed what we have been doing now forever. So that is really what it amounts to.

I think it is very important that we move on these. We have had some other debates today about whether there have been hearings or whether there have not been hearings. It depends on which side you are on as to whether that is important. But the fact is, this is a relatively minor change and one

that simply puts us back to where it is. If, in the hearings that subsequently occur, there is evidence that the OMB change is appropriate, then I urge the committee to authorize, in committee, them to do that. In the meantime, I think we ought not remove the requirements, the simple requirements that if you are going to offer a service to another agency—not services for yourself, offer them for another agency, which is a growing tendency within Government—that, first of all, you have to consider the outrageous notion of seeing if there is an alternative that is less expensive. That is really not very difficult. It is really not a new idea. Most people who do significant work contracting try to get more than one idea of what it costs. That is what we are talking about here.

As a matter of fact, I mentioned the idea that the statute on efficiency continues to exist. The problem is OMB is not abiding by it. That is the problem. It does continue to exist. It does say, yet, in the statute, that we ought to be doing this stuff in the private sector. The problem is, it is not being adhered to. The procurement act provides that an agency "can provide another agency with goods and services if the goods and services cannot be provided by contract as conveniently or cheaply as a commercial enterprise." That is the law, but the rule negates that. That is what we are talking about. It is not a widespread change, not an unknown. It simply says we ought to go by what it says in the economy act, and not change it by OMB.

So, I suppose if we are going to deal with a broader bill, which I hope we do—I hope we make some conversions more to private sector use—then I agree we ought to take a look at it in the committee. This part of it, however, simply says, live under the law. It simply says, do not change the law. Go ahead and ask that, when you want to provide services to another agency, that the private sector ought to be examined first to see if, indeed, that is a more efficient and more effective way to provide those services.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment, there is not a sufficient second.

Mr. THOMAS. We will ask when there are more people here.

Mr. LOTT. Mr. President, will the distinguished Senator from Wyoming yield?

Mr. THOMAS. Yes, I yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, after consultation with the Democratic leader and with the hope we can get a finite list and begin to work through these amendments, as we have done over the past couple of weeks, so we can get an agreement on amendments that we must, in fact, have votes on, I ask unanimous consent that the following be the only first-degree amendments

remaining in order to the Treasury-Postal Service appropriations bill; that they be subject to second-degree amendments which are relevant to the first-degree amendment; that they may be offered in the first degree or in the second degree to a committee amendment; that the committee amendments be subject to second-degree amendments which are either on the list or relevant to an amendment on the list, if that amendment has been offered to the committee amendment; that no motions to recommit be in order and that upon the disposition of these amendments and the committee amendments the bill be read for a third time.

Mr. President, I submit for the RECORD the list. It is at the desk. The distinguished Democratic leader has a copy of this list.

The list is as follows:

REPUBLICAN AMENDMENTS TO H.R. 3756, THE TREASURY-POSTAL APPROPRIATIONS BILL
 Abraham—Relevant.
 Shelby—Managers amendments.
 Shelby—Authority for GSA to work with Smithsonian to determine office space.
 Stevens—Relevant.
 Stevens—(1) Allow ACIR to use non-appropriated funds; (2) IRS commission.
 Stevens—(1) Kodiak, Alaska Port of Entry Designation; (2) FOIA/privacy.
 Grassley—Add \$28 million to USCS; REDUCE TSM.
 Inhofe—Strike Section 404(FPS position repeal).
 Thomas—Inter-service Support Agreement.
 Hatfield—Localflex pilot program.
 Hatfield—Provide \$1,450,000 for renovation of Pioneer Courthouse in Portland, Oregon.
 Faircloth—(1) Prohibit IRS from using color printing except when describing tax law changes; (2) Social Security Administration.
 Helms—Health care provider incentive plans.
 Brown—Financial Management Bill.
 Grams—Improve IRS telephone service.
 Hutchison—Border Stations.
 Kassebaum—(1) Job Training; (2) Relevant.
 Lott—(1) Education; Relevant.
 Lott—(1) Terrorism; Relevant.
 Lott—(1) Drugs; Relevant.
 Lott—(1) IRS; Relevant.
 Nickles—re: Welfare.
 Nickles—Workers rights.
 Nickles—Presidential immunities.
 Nickles—Relevant.
 Hatch—Relevant.
 Hatch—Relevant.
 McCain—HIDTA Funding.
 McCain—Federal overtime pay.
 McCain—Udall Foundation.
 McCain—Relevant.
 Jeffords—Relevant.
 Domenici—Relevant.
 Ashcroft—Working flexibility.
 Ashcroft—Relevant.
 Thomas—Limit fund for Fed. Agencies to furnish commercially available services to other Fed. Agencies.
 Coverdell—Relevant.
 Coverdell—Relevant.
 Gramm—Border stations.
 Thompson—GSA telephone pilot project.
 D'Amato—TWA crash.
 D'Amato—Commemorative coin.
 Warner—GSA building security.
 Inhofe—Sec. 404.
 Lott—Relevant.
 Lott—Relevant.
 TPO AMENDMENTS
 Biden—(1) Drugs; (2) Drugs.

Bingaman—Energy savings.

Boxer—(1) Junk guns; (2) Pensions.

Bryan—(1) COLA for judges; (2) White House Travel (w/Levin/Reid); (3) Congressional pension.

Byrd—(1) Telecommuting center/W.VA; (2) Relevant.

Daschle—(1) Congressional employees health insurance; (2) Education; (3) Arson & Explosive repository; (4) Relevant; (5) Relevant; (6) Presidential immunities; (7) Welfare.

Dorgan—Indian Housing.

Feingold—Committee amdt p 129.

Feinstein—(1) Hate crimes (w/Wyden); (2) Relevant; (3) Tagents.

Graham—(1) Medicare receipts using emergency care; (2) Welfare formula fairness.

Hollings—Death benefits.

Kennedy—(1) Physicians gag (w/Wyden); (2) Education; (3) Workers protection; (4) Legal services.

Kerrey—(1) Managers package; (2) IRS review; (3) Relevant.

Kerry-Feinstein—(1) Relevant; (2) Tagents.

Kohl—Gun free school zones.

Lautenberg—Domestic abusers guns.

Levin—(1) White House travel (w/Reid); (2) SoS U.S./Japan auto.

Moseley-Braun—Age discrimination.

Reid—(1) White House Travel (w/Levin); (2) Judges' pay.

Simon—(1) Desalinization; (2) Pension auditing.

Wyden—Physician's gag (W/Kennedy).

Mr. LOTT. Mr. President, I would like to say right here that if there are any additions made to this list, it will be only after consultation and agreement between the two leaders.

That is the request.

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

Mr. LOTT. Mr. President, I thank the leader for his cooperation. It is a rather lengthy list, unfortunately, but now we have, at least, a list we can work on. Hopefully, we will both be able to work through getting these amendments removed if they are not really relevant to this bill.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, let me just say, the majority leader and I have had the opportunity in the last couple hours to talk to our Members and to urge their cooperation in coming forth with prospective amendments. I would emphasize that they are prospective. I hope that in many cases Senators would not feel compelled to offer them. Our hope is that we can resolve this bill some time in the not-too-distant future.

I hope that all of our colleagues can work with us to limit the list of amendments, to limit the debate on the amendments, once they are called up, and to see if we cannot complete our work. I have asked Members of our leadership to work with our caucus in order to put this list together now in a realistic fashion. And I hope that only in those cases where Senators truly felt that it was essential that the amendment be offered on this bill, that it be done so.

So I am urging cooperation, in concert with the majority leader, in the hope that we can come to some comple-

tion successfully on this bill some time in the not-too-distant future.

Mr. LOTT. Mr. President, did we get unanimous consent agreement on that? The PRESIDING OFFICER. Yes.

UNANIMOUS CONSENT AGREEMENT—H.R. 3662

Mr. LOTT. Mr. President, I have another one. Showing full faith and effort to be accommodating to the Senators, and to get agreements that they really desire, I ask unanimous consent that during the Senate's consideration of the Interior appropriations bill, that it not be in order to consider any amendment relative to Ward Valley prior to Tuesday, September 17, 1996. This has been requested by the Senator from California, Senator BOXER. We would like to accommodate that request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LOTT. Mr. President, I yield the floor.

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

Mr. THOMAS. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued to call the roll.

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

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 5224, AS MODIFIED

Mr. GLENN. Mr. President, it is my understanding we will each use about 5 minutes, and then I think the two leaders want to propose a unanimous-consent request after that. So if we can proceed on that basis, would that be satisfactory with my colleague?

Mr. THOMAS. That is fine.

Mr. GLENN. I ask unanimous consent that we have 5 minutes on a side to wrap this up, and then we will probably go to a vote after that.

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

Mr. GLENN. Mr. President, I want to respond briefly to the comments my colleague made a moment ago. This is a broad act. He said the Economy Act of 1982 is really not working and that is one reason we are putting this in. I don't like putting other legislation that might not work on top of legisla-

tion he says is already not working. Let's make work the legislation that is in law now. I am all for that.

Basically, it does what we are proposing here. In fact, I have a copy of that Economy Act of 1982 here, and one of the things provided under section 1335 under "agency agreements," part 4 of paragraph (A) says: "The head of the agency decides ordered goods or services cannot be provided as conveniently or cheaply by a commercial enterprise already required."

I agree that should be lived up to. So then we come in with the legislation that my colleague and friend, Senator THOMAS, says is not as broad as I am interpreting it to be, and yet the words in it say that "except as provided in subsection (B)"—which I will get to in a moment—"none of the funds appropriated under any other act may be used by OMB or any other agency to publish, promulgate or enforce any policy, regulation, circular or any rule or authority in any other form that would permit any Federal agency to provide a commercially available property or service to any other Department of Government unless the policy, regulation, circular or other rule meets the requirements in subsection (B)."

Subsection (B) says 120 days after this OMB will prescribe regulations as required, subject to the following, which shall include the following: A requirement for comparison between the costs of providing the property or service concerned through the agency concerned and the cost of providing such property or service through the private sector.

That is a mammoth requirement for any law or regulation to come out under. The (B) part of that, which is the last part, is a requirement for cost and performance benchmarks relating to the property or service provided relative to comparable services provided by other Government agencies and contractors permitting the oversight of this—and so on—agency concerned with the Office of Management and Budget.

That is a very, very broad-reaching, extremely broad-reaching, amendment.

I would say it is true, it is already covered under the Economy Act of 1982, as I quoted just a moment ago, and the best thing I would advise is we bring this to the attention of Mr. Koskinen, who is going to appear before the committee next week, that we ask his opinion about how broad-gauged this is and why he is not already enforcing the Economy Act of 1982. That is the way to proceed, as I see it, in good Government, not just to automatically pass something that does the same thing that is not being adhered to in earlier legislation.

Mr. President, I suggest we have that as our method of procedure. I am all for efficiency in Government, but I am not just for passing one law and covering up deficiencies in carrying out a law that is already on the books and should be adhered to.