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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

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

The assistant legislative clerk read as follows:

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

The PRESIDING OFFICER. The Senator from Alabama is recognized.

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Alabama.

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

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

The amendment (No. 1899) was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1900

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

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

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

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

The amendment is as follows:

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

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

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

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

The PRESIDING OFFICER. The Senator from Idaho.

AMENDMENT NO. 1901 TO AMENDMENT NO. 1900

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

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

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

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

The amendment is as follows:

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

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

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

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

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

The PRESIDING OFFICER. The Senator from North Dakota.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I mentioned Joan Slote's case.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I now yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

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

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

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

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

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

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

I urge the adoption of this amendment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Castro publicly stated:

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

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

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

Let me repeat that. He said, in 2001:

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

That is speaking as a Cuban close off our shores.

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

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

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

Mr. REID. Will the Senator withhold?

Mr. STEVENS. Yes.

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

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

The clerk will call the roll.

The legislative clerk called the roll.

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

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

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

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

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

[Rollcall Vote No. 405 Leg.]

YEAS—36

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

NAYS—59

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

NOT VOTING—5

Bond	Burns	Kerry
Boxer	Edwards	

The motion was rejected.

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

The motion to lay on the table was agreed to.

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

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

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

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

The amendment (No. 1901) was agreed to.

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

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

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

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

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

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

AMENDMENT NO. 1904

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

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

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

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

The amendment is as follows:

(Purpose: To provide that Members of Congress shall not receive a cost of living adjustment in pay during fiscal year 2003)

At the appropriate place in the bill, insert the following:

SEC. ____. Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost of living adjustments for Members of Congress) during fiscal year 2004.

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

The PRESIDING OFFICER. State your inquiry.

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

The PRESIDING OFFICER. There is.

Mr. FEINGOLD. I thank the Chair.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The 27th amendment of the Constitution states:

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

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

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

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

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

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

The PRESIDING OFFICER. The Senator from Alaska.

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

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

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

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

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

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

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

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

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

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

The assistant legislative clerk called the roll.

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

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

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

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

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

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

[Rollcall Vote No. 406 Leg.]

YEAS—60

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

NAYS—34

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

NOT VOTING—6

Boxer	Edwards	Kerry
Domenici	Ensign	Murkowski

The motion to lay on the table was agreed to.

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

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

The motion to lay on the table was agreed to.

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

AMENDMENT NO. 1905

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

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

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

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

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

The amendment is as follows:

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

At the appropriate place, insert the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,

MICHAEL W. NAYLOR,
Director of Advocacy.

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Alabama.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

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

The amendment (No. 1905) was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

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

Mr. SHELBY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1917

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

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

The legislative clerk read as follows:

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

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

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

The amendment is as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I am telling you this is terrible.

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

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

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

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

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

Let me tell you about the most heartbreaking example.

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The assistant Democratic leader.

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Ohio.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. VOINOVICH. I yield for a question.

The PRESIDING OFFICER. The Senator from Maryland.

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Does the Senator yield?

Mr. SARBANES. I certainly yield to the Senator.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

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

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

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

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Alabama.

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

Mr. REID. I understand.

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

Mr. REID. I will renew that request later.

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

Mr. REID. Absolutely right.

Ms. MIKULSKI. The Senator from Wyoming would be protected and we would be expediting the process?

Mr. REID. Yes, and the Senator is also protected.

Ms. MIKULSKI. I think that is a reasonable solution. I want to cooperate in any way I can to ensure the Senator's right to offer a second degree and to expedite the debate.

I withdraw my objection.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. I still reserve my right to object, and I would object until we clear this with Senator MCCONNELL that he is ready to proceed.

The PRESIDING OFFICER. The Senator from Nevada has the floor.

Mr. REID. I will withdraw my unanimous consent request.

The PRESIDING OFFICER. The unanimous consent request has been withdrawn.

Mr. REID. Mr. President, I will take a moment to speak in support of the Mikulski-Landrieu outsourcing amendment. This amendment would require the administration to revise the guidelines for conducting outsourcing studies, which it changed this spring. We have been hearing a lot about competition and I am all for competition. It makes our economy strong. But I have to wonder if competition is good in some cases, why isn't it good for companies like Halliburton, which receive huge contracts without submitting bids?

The administration seems to think that competition is good for the little guy, but not for big corporations that have connections to the White House. Competition should be fair. There should be an equal playing field. That means, when we are talking about the jobs of people who have given years of service to a public agency, we have to consider the value of their experience.

Experience matters. Experience is valuable. And having experienced workers in critical positions is in the public interest. The administration's changes to the rules for outsourcing studies put workers at a disadvantage, and favor contractors. For example, under the former rules, contractors were required to demonstrate a 10 percent cost savings before they could win a job competition. This ensured that we wouldn't sacrifice experience for a negligible savings. Under the administration's new rules, contractors are not even required to demonstrate a cost savings in order to receive a contract.

The administration claims that privatization is about saving money, but where is the supposed savings in that rule? In fact, it costs a lot of money just to conduct these studies—money that could be better spent on pressing needs. Recent estimates show that privatization studies at the Department of Interior cost over $5,000 for every position studied. At the National Institutes of Health, privatization studies this year cost $3,500 per position and next year NIH predicts they will cost $6,000 per position. This money is wasted because we are finding that public workers provide better service than private contractors.

In case after case, public workers have won competitions for their jobs. In Nevada, the Bureau of Land Management conducted six studies of 13 positions—at a cost of over $92,000—only to find that BLM workers are the most capable and efficient to do their jobs. That $92,000 could have been better spent on so many things. And that is the heart of the problem with these outsourcing studies.

I have heard estimates that the Interior Department could divert as much as $110 million in unauthorized funds to pay for outsourcing studies. We are finding that the supposed cost savings in privatization just aren't there and we are also finding that the experience and dedication of public workers has great value, which we simply can't afford to throw away.

The Mikulski-Landrieu amendment would require the administration to at least set fair rules for these competitions. The House of Representatives agrees with this amendment. It passed

this language by a vote of 220 to 198. I hope my colleagues in the Senate also recognize the need to correct these unfair changes the administration has made to its rules for privatization studies.

Mr. KENNEDY. I thank the Senator from Alabama. In the time agreement that they have, I will be glad to yield and cooperate.

I rise to bring to the attention of my colleagues the result of the existing OMB outsourcing proposals which have really had a very adverse impact on one of the great institutions of our Government, which is the National Institutes of Health. I will relate to that in just a moment.

I commend Senator MIKULSKI, Senator LANDRIEU, Senator SARBANES, and others who have raised this issue. I am mindful at this time that one out of every four of those who serve in the Federal Government are veterans. More than 11,000 of our activated reservists are now on active duty over in Iraq.

I am very mindful, having watched the agencies over a period of time, that there is some opportunity to get greater efficiency and better productivity. Excellence is demanded by many of the agencies, as well as expertise which so many of our Federal employees bring to these agencies. We are a very gifted and fortunate Nation.

The case that comes to mind and pops right out is just a recent example of these current regulations and what it is doing at the National Institutes of Health. NIH is the premier, the gold watch, in terms of basic research all over the world. They are the envy of the world at the NIH. We constantly are facing different challenges of getting the youngest, most talented, most creative, most innovative, most committed, and most hard-working researchers in the world to go to the NIH.

We have had Dr. Zerhouni, who has appeared before our HELP Committee, with Dr. Varmus and others talking about the new paths and opportunities that are out there in terms of the NIH, which are enormously exciting and challenging.

Then, what happened later this last spring? Well, there was a challenge that involved some 677 employees who were grant managers. Grant managers are the ones who review the various research possibilities that are being collected. In many instances, they have the most sensitive kinds of jobs at the NIH because we know that only about 30 to 35 percent of all of the qualified applications actually get funded. We are actually going to see a reduction this year, at a time when we have the greatest opportunities in any time in the history of the world for breakthroughs in all kinds of drugs that affect families, whether talking about cancer, about heart, or Alzheimer's. We would empty the nursing homes in this country if we had a breakthrough as a result of trying to find a prescription drug for Alzheimer's.

The grant managers are the ones who help make the judgments and the decisions in terms of prioritizing these various grants which are really the heart of the NIH programs, and they were challenged.

We had some 677 employees working for a period of weeks because the estimate that was given by OMB was that this would result in significant savings. The employees got together, they made an application, and they won the contract. They won it hands down. And it cost them $7 million. Overall, competitions at NIH will exceed $15 million.

Not only that, but the signal that it sent on through this blue ribbon agency—sure, there may be important changes that ought to be made out at the NIH; sure there may be different changes in terms of direction and what they ought to be doing on clinical trials; sure there could be better utilization of different kinds of reviews, but the fact that we are going to fine the agency which has this degree of expertise and can make the difference in terms of people's lives, being subjected to this, what I think is effectively, harassment.

As I understand the amendment of the Senator from Maryland, it is to assure that we are going to find a common playing field, and the basic rules for competition will be the standards which have been reviewed and recommended and are not the ones which have been embraced by this administration.

I know others have pointed this out. But when we see that, we are going to have competition between some contractors who are not providing the kind of protections or benefits, health benefits, when we know the benefits that exist under the Federal contractors, so that they will be able to continue the slide, in terms of meaning that more and more people are going to lose their benefits, when we find out effectively there is no opportunity for appealing the decision, not for the Federal employees, although there are appeal decisions available to contractors, when we look at the no review and following the cost and the quality of the work performed by the contractors, we have seen time in and time out—and all of us have these examples in our own States—where people bid in and they bid in cheap, they try to add onto the costs of various proposals, which then results in the work not being done, and too often the Federal Government gets stuck holding the bag.

The kinds of unfair competitions which have been reviewed to date, in terms of current conditions, I find so compelling and so unfair. What the Mikulski amendment will ensure is that we are really going to have a system that will be respected, that will be supported by those in all agencies as well as the private sector, and as a result of which we will be able to ensure greater productivity and the savings of taxpayers' money. That is the way to go, not the skewed way which is currently, I think, working to the great disadvantage of hard-working, skilled, dedicated, and committed Americans who are doing a job. Whether they are trying to work out in the immigration process with all the implications that has in homeland security, whether they are border guards trying to guard our borders, whether they are in the Customs Service and dealing with all the challenges they are facing out there, day in and day out—people who join those services need to be highly skilled and highly competent.

Maybe there are better ways of doing it, but the current proposal is not the way to go. The Mikulski amendment will change and alter that. I hope it will be accepted.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the majority leader spoke to the Democratic leader on more than one occasion following a conference between Senator BYRD and Senator STEVENS, seeing if we could move some of these appropriations bills. The sprint is now on. We on this side believe we can move them quickly. It sounds a little unusual that the minority is pushing appropriations bills, but we are doing that because we want to do everything we can to avoid this omnibus bill. Anything we can accomplish that avoids the omnibus, we are better off.

There are just a very few issues that remain. One of them is the Dodd-McConnell or McConnell-Dodd amendment. That is an important amendment. It will take a little bit of time—not a lot. We also need to finish this matter here now before the Senate. I want the record to be spread with the fact that we are doing everything on this side to move the legislation. We have agreed to set amendments aside. We have done everything within our power to move it along.

We have sent a hotline to Senators on our side to find out what amendments they have to offer. We have gotten a response back. It is not complete, but certainly it is reasonable at this stage.

Again, what I want to say is we don't want someone coming later saying we are not moving the appropriations bills because of the minority. We are willing to move these bills as quickly as possible. We have two managers here who are experienced on the bills before us. I believe they are doing everything they can.

I hope the majority leader can find out what is slowing this bill up. It is taking far too much time, in my opinion.

I have also have been told—not by the majority leader but by his floor staff—that if we finish the bill tonight there will be no votes tomorrow. I hope, with all the things we have to do, that will be some incentive.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask unanimous consent Senator CORZINE

and Senator EDWARDS be added as cosponsors to the Mikulski amendment.

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

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Ms. MIKULSKI. Mr. President, I am sponsor of the amendment that is currently pending on the Senate floor. I ask unanimous consent Senator AKAKA also be added as a cosponsor.

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

Mr. AKAKA. Mr. President, I rise in support of the Mikulksi-Landrieu amendment to the Transportation/Treasury Appropriations bill.

I believe the Administration's revision to A–76 is unfair to Federal workers and threatens cost-effective and accountable Federal contracting.

The Commercial Activities Panel, which was mandated by Congress to find ways to improve A–76, was deeply divided on this issue. In fact, the Panel was so deeply divided that it issued two proposals to fix A–76: one supported by Federal employee unions and the other by Federal contractors, the Comptroller General, and certain Administration officials.

OMB's A–76 revision is controversial. The revision allows Federal jobs to be contracted out without appreciable cost-savings. Under the revision, Federal workers could lose their jobs before they have the chance to improve efficiencies. It does not allow Federal workers to compete for work already contracted out. Nor does the revision consider measures to improve government efficiencies outside eliminating Federal jobs. Moreover, it allows contractors to appeal decisions to contract out, but not Federal workers.

The revision does not reflect the idea of fair competition, and the revision is not in the public's interest.

The Mikulski-Landrieu amendment promotes fair competition by prohibiting the Administration from using what I believe is an unfair process for determining whether government work should be contracted out. The amendment does not stop privatization, nor would it force agencies to use the old A–76 rules or prevent OMB from making changes to A–76.

As the Ranking Member of both the Senate Governmental Affairs Financial Management Subcommittee and the Armed Services Readiness and Management Support Subcommittee, I believe we should develop contracting out policies that are fair to Federal workers and achieve the best return on the dollar. These goals are complementary.

I urge my colleagues to support this amendment.

Mr. LAUTENBERG. Mr. President, I rise to support the Mikulski-Landrieu amendment. This is a very important amendment. It overturns the newly revised guidelines—known as OMB A–76—for the ''competitive outsourcing'' of government jobs.

This A–76 process the administration has proposed isn't about saving money or promoting efficiency. It implements a rabid anti-government ideology by stacking the deck against Federal employees; there's nothing fair about it.

As a member of the Governmental Affairs Committee, which has had hearings on this issue, I have had an opportunity to hear OMB officials try to justify the new rules. To put it bluntly, they haven't succeeded.

This administration's desire to privatize vast swaths of the Federal workforce needs a lot more scrutiny from Congress.

Ultimately, the outsourcing of jobs is about people—the people who work for our Government and the people who pay taxes.

Civil servants are the backbone of our government and we should remember that the skills, talent, and professionalism of the men and women in the Federal workplace are the best in the world.

The overwhelming majority of civil servants are dedicated to their jobs. Many of them could make more money in the private sector but they work in the government because they see public service as a higher calling.

Many of us here in Congress strongly disagree with the administration's privatization agenda. For instance, it struck me as ludicrous that we would federalize baggage screening at airports and then turn air traffic control over to the lowest bidder. So I offered an amendment to the FAA reauthorization bill to prevent that. Eleven of my Republican colleagues voted for that amendment, which the Senate adopted, 56–41.

People correctly point out that taxpayers are the owners of the Federal Government and deserve the most effective and efficient government possible.

I agree, but I would also point out that Federal employees are taxpayers, too, and they have ''invested'' even more than their taxes—they have invested their working lives. They deserve to be treated fairly and with respect.

Mr. HARKIN. Mr. President, I rise today to support my friends from Maryland and Louisiana, who have offered an important amendment to get rid of unfair rules that disadvantage Federal Workers. I want to talk about one group of Federal Workers in particular—those with mental disabilities who are at risk of losing their jobs if these outsourcing rules are allowed to stand. I joined both of my colleagues from Maryland in sending a letter to Mr. Bolten, the Director of OMB, and to Defense Secretary Rumsfeld, expressing our outrage about workers at one workplace in Maryland, and urging them to adopt a government-wide policy protecting these workers and others like them from losing their jobs.

Senator MIKULSKI has spoken about employees with mental disabilities working at the Naval Medical Center in Bethesda, mentioned in a Washington Post article earlier this month. These 22 workers in the hospital kitchen are providing dependable and reliable service in very hard-to-fill positions. In return, the Navy provided them with a steady paycheck and the ability to lead independent, productive lives. This relationship is mutually beneficial, but it is being jeopardized by outsourcing. And these workers could lose much more than their jobs. They could lose their independence. That is what is at stake for these workers.

As the author of the ADA and longstanding advocate for the rights of people with disabilities, I am shocked that the administration would consider outsourcing these jobs and reversing decades of Federal policy protecting people with disabilities from discrimination and ensuring that the Federal Government serve as a model employer.

These workers have been hired under a longstanding program that encourages the employment of individuals with mental disabilities. The program has operated under presidents from both parties and has been well implemented. No one has ever thought to attack it, until now. In 2000, the government employed 1,734 workers with mental retardation, about 1/10 of 1 percent of the 1.8 million Federal workers. If this outsourcing is allowed to continue, that number could shrink dramatically.

Our Senate report on committee-passage of the ADA in 1989 noted this sad truth ''According to a recent Louis Harris poll not working is perhaps definition of what it means to be disabled in America.'' Thirty-two percent of people with disabilities are working full or part time compared to 81 percent of people who don't have a disability. The administration ought to be doing more to increase the number of workers with disabilities, not outsourcing the jobs of the few who are employed.

I am proud to support the amendment of the Senators from Maryland and Louisiana.

Ms. MIKULSKI. Mr. President, we are looking forward to moving this bill. I know the Senator from Wyoming wishes to offer a second degree. I note that he is on the floor.

I also note that the Senator from Ohio has done a great deal of work on the Civil Service. He has some very interesting ideas.

I wish we could continue the debate on these amendments. The Senator from Ohio will be offering an amendment. We are ready to debate and discuss it.

If we all work together, I think we can finish the bill in the interest of the

American public, the integrity of the Civil Service, and the taxpayer.

I will save my rebuttal until the pertinent parties are on the floor.

I am ready to go. If we could have the second degree, we are ready to debate it.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SHELBY. Mr. President, I ask unanimous consent that Senator THOMAS be recognized to offer a first-degree amendment on the issue of competitive sourcing; I further ask consent that there be 40 minutes of total debate equally divided in the usual form relative to both the Thomas and Mikulski amendments; I further ask consent that following the use or yielding back of time, the Senate proceed to a vote in relation to the Thomas amendment, to be followed by a vote in relation to the Mikulski amendment, with no amendments in order to the amendments prior to the vote and 2 minutes equally divided prior to the second vote.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I ask the Senator's request be modified to have 10 minutes on the second vote rather than the usual 15 minutes.

The PRESIDING OFFICER. Is there an objection to the modification? Without objection, it is agreed to.

Is there an objection to the unanimous consent request?

Mr. BYRD. Reserving the right to object—I withdraw my reservation.

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

Mr. REID. We are going to have a vote at approximately 4:25. Senator DODD has been here since 11 o'clock this morning to offer an amendment. He and Senator MCCONNELL are working on this now. I ask consent they come up next, but Senator SHELBY is not in a position to approve that. We are going to do everything we can so they come up after the next vote. It is probably the most important amendment to the whole bill. We hope we can dispose of that as soon as possible.

AMENDMENT NO. 1923

The PRESIDING OFFICER. The Senator from Wyoming is recognized for a first-degree amendment.

The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. THOMAS], for himself and Mr. VOINOVICH, proposes an amendment numbered 1923.

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

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

The amendment is as follows:

AMENDMENT NO. 1923

(Purpose: To substitute a requirement for an annual report on competitive sourcing activities on lists required under the Federal Activities Inventory Reform Act of 1998 that are performed for executive agencies by Federal Government sources, and for other purposes)

At the appropriate place, insert the following:

SEC. . (a) Not later than December 31 of each year, the head of each executive agency shall submit to Congress (instead of the report required by section 642) a report on the competitive sourcing activities on the list required under the Federal Activities Inventory Reform Act of 1998 (Public Law 105-270; 31 U.S.C. 501 note) that were performed for such executive agency during the previous fiscal year by Federal Government sources. The report shall include—

(1) the total number of competitions completed;

(2) the total number of competitions announced, together with a list of the activities covered by such competitions;

(3) the total number (expressed as a full-time employee equivalent number) of the Federal employees studied under completed competitions;

(4) the total number (expressed as a full-time employee equivalent number) of the Federal employees that are being studied under competitions announced but not completed;

(5) the incremental cost directly attributable to conducting the competitions identified under paragraphs (1) and (2), including costs attributable to paying outside consultants and contractors;

(6) an estimate of the total anticipated savings, or a quantifiable —description of improvements in service or performance, derived from completed competitions;

(7) actual savings, or a quantifiable description of improvements in —service or performance, derived from the implementation of competitions completed after May 29, 2003;

(8) the total projected number (expressed as a full-time employee equivalent number) of the Federal employees that are to be covered by competitions scheduled to be announced in the fiscal year covered by the next report required under this section; and

(9) a general description of how the competitive sourcing decisionmaking processes of the executive agency are aligned with the strategic workforce plan of that executive agency.

(b) The head of an executive agency may not be required, under Office of Management and Budget Circular A–76 or any other policy, directive, or regulation, to conduct a follow-on public-private competition to a prior public-private competition conducted under such circular within five years of the prior public-private competition if the activity or function covered by the prior public-private competition was performed by Federal Government employees as a result of the prior public-private competition.

(c) Hereafter, the head of an executive agency may expend funds appropriated or otherwise made available for any purpose to the executive agency under this or any other Act to monitor (in the administration of responsibilities under Office of Management and Budget Circular A–76 or any related policy, directive, or regulation) the performance of an activity or function of the executive agency that has previously been subjected to a public-private competition under such circular.

(d) For the purposes of subchapter V of chapter 35 of title 31, United States Code—

(1) the person designated to represent employees of the Federal Government in a public-private competition regarding the performance of an executive agency activity or function under Office of Management and Budget Circular A–76—

(A) shall be treated as an interested party on behalf of such employees; and

(B) may submit a protest with respect to such public-private competition on behalf of such employees; and

(2) the Comptroller General shall dispose of such a protest in accordance with the policies and procedures applicable to protests described in section 3551(1) of such title under the procurement protest system provided under such subchapter.

(e) An activity or function of an executive agency that is converted to contractor performance under Office of Management and Budget Circular A–76 may not be performed by the contractor at a location outside the United States except to the extent that such activity or function was previously been performed by Federal Government employees outside the United States.

(f) The process that applies to the selection of architects and engineers for meeting the requirements of an executive agency for architectural and engineering services under chapter 11 of title 40, United States Code, shall apply to a public-private competition for the performance of architectural and engineering services for an executive agency.

(g) In this section, the term ''executive agency'' has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

Mr. THOMAS. This is a Thomas-Voinovich amendment. We worked on this together. I will cover a little bit about what it does.

This is a reporting requirement addressing a number of the concerns various Senators have had about competitive sourcing. The amendment does the following:

It requires the Secretary of Interior to annually report on its competitive sourcing efforts, including the list of the total number of competitions completed, the list of the total number of competitions announced, the activities covered, the total number of full-time equivalent Federal employees studied under the completed competition, the total number of full-time equivalent Federal employees being studied but not completed. It also asks for the incremental costs directly attributable to conducting the competitions, including the costs to paying outside consultants and estimated total anticipated savings or description of the improvements and service or performance derived from the competitions. Also, actual savings and improvements in our services or performance derived from the competition, the total projected number of full-time equivalent Federal employees covered by competitions scheduled to be announced for the next fiscal year.

It requires a general description of how the competitive sourcing decisionmaking process of the Department of Interior is aligned with the strategic workforce plan of the Department.

The amendment is a responsible measurement to allow additional accountability and transparency to public-private competitions. That is really what we have been concerned about.

Two weeks ago the House overwhelmingly adopted a similar reporting requirement during consideration of the Treasury-Transportation appropriations bill. This amendment will give Congress additional oversight of competitive sourcing, unlike the Reid amendment that stopped it altogether. Competitive sourcing allows for tax dollars to be used more efficiently and improves agency efficiency. The provision would apply to all Federal agencies and not simply Interior.

This is something we need. We talked a little bit about the changes brought about in the past. The fact is in the past there was nothing done to implement A–76. Now there is a plan. The plan will be reported. The plan will be transparent. I certainly urge all Senators to give it some consideration and hopefully to vote in favor of continuing to have competitive sourcing, continuing to strengthen the efficiency of the Government, continuing to give a chance for the private sector to participate.

I yield now to my friend from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I would like to save my remarks. I am waiting for something to come from my office that I can share with the Members of the Senate from the chairman of the Commercial Activities Panel I made reference to in my remarks earlier. I will let the other side continue with their remarks.

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. Mr. President, I feel at a bit of a disadvantage. I am all set to debate, but we keep waiting. We waited for the amendment. Now we have to wait for the Senator from Ohio to make his points in the argument and then he tells me to go ahead and make the argument. My argument is to rebut their amendment. So I am waiting for the Senator from Ohio to make his argument.

I have great admiration for the Senator from Ohio, particularly in the area of Civil Service. I know he has put in countless hours in terms of the Civil Service. Perhaps if he could explain his amendment. I listened carefully to Senator THOMAS, but I am not sure I grasped the full extent of the amendment. There are many elements about the amendment I find attractive and I would like to comment on those. Those I find deficient I would like to identify.

I do want the Senator from Ohio to know I think you are an expert on Civil Service. I have great admiration for you.

Mr. VOINOVICH. Mr. President, in my previous remarks in opposition to the Senator's amendment, I went into the details of the amendment we presented to the floor. So those five provisions I just mentioned—and they were reiterated by the Senator from Wyoming—basically constitute the amendment. I think that lays it out. I am more than happy to hear the Senator's thoughts in regard to that.

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, first, again I wish to make clear what I said about my two colleagues and my great respect for them. And I know of their work on civil service. I am particularly aware of the work of the Senator from Ohio. But I must say, the Thomas-Voinovich amendment proves my point that the May 29 A–76 circular on the new framework for contracting out is deficient. And it is deficient because it is unfair. It absolutely tilts the bidding process, to almost rig it to the fact that private contractors would win the bid. Their corrections of the A–76 that they offer in their amendment point out how deficient May 29 was. So they make my point.

No. 2, I note also that they call for more reporting and more accountability. I think that is great, but, guess what, we are going to contract out Federal employees like the fire department at NIH, like the people with mental disabilities in the kitchen at the Bethesda Naval Hospital, and then we are going to hire people to watch the contracts.

Why are we contracting people out and then hiring people to watch the contracts that we have contracted out? Where are we going? What is the point? Where is the management reform in that?

So I respect the need for greater accountability and oversight. In fact, I think it is called for. Know that I know that the old A–76 also had some potholes in it.

What my amendment does is it says: You cannot implement May 29. Go back to the drawing boards. Work with the Commission that the Senator from Ohio described. But let's implement all of the recommendations, not only the selective ones that tilt the playing field to the contracting out. So that is where my amendment is.

I ask my colleague from Ohio and my colleague from Wyoming, am I right in saying that your amendment would want more accountability; it would allow an appeals process, which now they do not have; that they would not bid every 5 years; and they cannot contract overseas?

I ask either the Senator from Wyoming or the Senator from Ohio, have I grasped your amendment? Have I? What are your five points? I will repeat it: Greater accountability; reporting requirements; the right for Federal employees to have an appeal, just like the private contractors; that they would not have to compete every 5 years; and this wonderful one that says they cannot contract out to move jobs overseas.

Is that what I understand your amendment to be?

Well, I salute you. I think those are excellent improvements, but they are not a substitute for my amendment because even if your amendment goes through, I identified 15 things that were wrong with A–76.

Now, you are willing to correct five. I was not as prescriptive. But you are willing to correct five. There are 10 others that need correcting. And I am just going to give a few, as I hear your arguments.

When I look at the ones that are not in there, the ones that are not included: One, it does not require appreciable cost savings. A contract out does not have to show that it is saving money. The other one is it does not end the unfair advantage given to contractors who provide their employees with inferior health benefits. So when there is a competition between the Federal employees and this so-called private contractor, the Federal employee's health benefits will count in the contract but not for the contractor.

Also, what it does is it does not consider alternatives to privatization; in other words, to give them the chance to reorganize and to streamline. That has been done at NIH. It has been done at other agencies.

It also encourages the privatization of inherently Government work. This is a big sticking point.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Ms. MIKULSKI. Mr. President, I yield 2 minutes of my time to my colleague from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I simply make the observation that the offering of this amendment by the Senators from Wyoming and Ohio clearly admits and sends the signal that the OMB circular issued on May 29 was grossly deficient.

Now, they are addressing it in certain limited respects. And to the extent that is the case, so be it. But it does not really solve the basic problem which we confront, and that is that OMB handed down this circular which grossly tilts the playing field and which structures an unfair competition.

It seems to me the best way to resolve this situation is to adopt the amendment offered by my colleague from Maryland, Senator MIKULSKI, which in effect would hold the May 29 OMB circular. We could then revisit this question and address the range of the deficiencies that are in that circular. My own view is, if people of good will undertake that enterprise, we will be able, I hope, to reach a consensus and have a better product as a consequence.

I think this is, in a sense, elemental fairness for the Federal employee and for the Federal taxpayer. This issue is always portrayed as though contracting out to the private sector is beneficial to the Federal taxpayer. That is clearly not the case. In fact, there has been instance after instance in which Federal employees win competitions, therefore validating the argument that they are better for the

taxpayer than putting it out into the private sector.

Now, OMB, because it is not meeting its targets—these ideological targets that have been placed upon them, which they in turn are imposing upon the agencies because they cannot get the outcome they seek—has come in with a new circular, of May 29, which tilts the playing field in an unfair way. That really cries out for the passage of the very well considered amendment of my colleague from Maryland.

I strongly urge my colleagues to support the Mikulski amendment.

The PRESIDING OFFICER. The 2 minutes have expired.

Who yields time?

Mr. VOINOVICH addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Ohio?

Mr. THOMAS. Mr. President, I yield to the Senator.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, could the Chair inform me when I have used 5 minutes?

The PRESIDING OFFICER. The Senator will be notified.

Mr. VOINOVICH. Mr. President, I would just like to clarify something for my colleagues in the Senate. First of all, the A–76 old rule was considered to be broken. Congress recognized the problem, and they established a Commercial Activities Panel as part of the 2001 Defense Authorization Act. The panel was convened specifically to consider revisions to the A–76 competition. It was led by Comptroller David Walker, the head of the General Accounting Office.

Now, there have been some allegations here that the circular that was put out by the Bush administration was not reflective of the panel's decision.

First of all, the recommendations coming from the panel were either agreed to unanimously or by a supermajority of the public and private representatives.

I will say, in all candor, I correct my earlier statements. They were not supported by Bob Tobias. They were not supported by Colleen Kelley. And they were not supported by Bobby Harnage. So let's clarify that. The union representatives did not like it that much.

So the question is, Is the new A–76 better than the old one that the Senators from Maryland want us to adopt?

As I noted earlier, the A–76, the new regulation, quoting David Walker:

. . . is generally consistent with the commercial activities panel's sourcing principles and recommendations and, as such, provides improved and foundation for competitive sourcing decisions in the Federal Government. In particular, the new circular permits . . .

Then he goes on to talk about the new circular.

He goes on to say:

If effectively implemented, the new Circular should result in . . . [greater credibility] and greater accountability regardless of the service provider selected.

As part of an executive session at Harvard University that was convened by Dean Nye, in which I participated, I got to know several members of the Clinton administration. One of those members of the administration was Steve Kelman, administrator of the Office for Federal Procurement Policy at OMB. He had the job of Ms. Styles who has left the administration. I asked Steve what he thought about the new A–76 circular and he said that overall it was better than the old A–76 and that the only problem he had with it was this recompete after 5 years for those people in the public sector who won the competition.

What I am saying is that the A–76 circular that was submitted by the Bush administration is not perfect. There are differences of opinion about it, but it is a far cry better than the old A–76 circular.

What we are saying today is that we should not go back to that, that the new circular is better. Our amendment enhances the playing field for our Federal workforce in that it requires certain reporting requirements that say this competition is not going to be done willy-nilly, that it is going to be done as part of their workforce shaping.

By the way, I would like to correct one Senator from Maryland who said the administration has given the charge to go out and do this arbitrarily. They did that initially. I blew a gasket. I blew a fuse. Senator DURBIN and I had a hearing on that. We had a second hearing on it and the administration has backed off from the quotas. So there is not going to be a rush out there to do competitive bidding. We are going to require them to have reporting requirements, letting people know beforehand that they are going to go to competition.

Once they go to competition and if the private sector wins, they are going to have to report whether they are getting the money efficiencies and whether they are getting the other efficiencies they thought they were going to get.

The PRESIDING OFFICER (Mrs. DOLE). The Senator has used 5 minutes.

Mr. THOMAS. Madam President, I yield 2 more minutes.

Mr. VOINOVICH. It provides that if the Government employees lose the competition, they will have a right to appeal, just as the private sector has a right of appeal. So we are giving them that opportunity. We are eliminating the every 5-year competition if it is won in-house.

It also provides that if the private sector gets the work, it has to go to American people and not be farmed out overseas.

I believe this amendment, plus the revised A–76 regulation, is a far better system than going back to something that we acknowledged back in 2001 was not working. We fixed it. It may not be perfect. I am not saying it is. I am not saying that everybody agrees with it. But it is a far cry better than to go back to what we had before.

Fundamentally, I think the other side wants to go back there because there are many people who are opposed to competitive bidding. I want everyone to know, competitive bidding ought to be something that is available to the administrative branch of Government, but it ought to be something that is carefully considered before they go forward and do it.

My feeling always is, I would rather stay with the people who are working in the Federal Government and give them the training, the empowerment, and tools to get the job done. We have leveled the playing field. We slowed down the process.

I believe with Clay Johnson over there at OMB and with Kay James over at OPM, we have two outstanding people. That is what it is about, the integrity of the people. They are not going to go forward and do some of the things that the folks on the other side of the aisle think they are going to do.

I am staying on top of this issue. I am going to monitor this issue to make sure they continue to do what they have represented that they are going to do to me and so many other members of the Governmental Affairs Committee.

The PRESIDING OFFICER. Who yields time?

The Senator from Maryland.

Ms. MIKULSKI. Madam President, how much time remains on my side?

The PRESIDING OFFICER. Nine minutes thirty-five seconds.

Ms. MIKULSKI. I yield myself 5 minutes and withhold 4 to see if Senator KENNEDY or another Senator wishes to speak. Right now I would like to yield myself 5 minutes. I ask the Chair to confirm, as I get a little excited when I am talking about this.

The PRESIDING OFFICER. The Chair will notify the Senator when 5 minutes have expired.

Ms. MIKULSKI. Madam President, what I want to say in response to what my colleague has said is, No. 1, he says the May 29 circular is better. There is a fundamental difference between us on that. I don't believe it is better. I stand with the way the National Treasury Union Workers feel about it and the way the other Federal employees feel about it.

If you are on the side of the companies that are going to benefit from privatization, you like it. If you are the ones who are on the firing line or the chopping block, you don't like it.

What I do acknowledge is that the amendment offered by my two colleagues from the other side of the aisle does improve the A–76 process.

I also acknowledge that I know the Senator from Ohio did go ballistic. I am glad that he went ballistic. I thank him for standing sentry down in the Government Affairs Committee against bounty hunting, against quotas, and against sending jobs overseas. I salute him on that. But he is one man against

a whole tide here. This is why I think his amendment has merit.

But I tell you, deep down to my toes, I believe they want to privatize most of the Federal Government, and I do believe that deep down inside they want quotas to privatize. I don't believe that about him.

When we look at this whole issue that he raised about private sector contractors moving jobs overseas, the Senator knows they have already done it. If the call center at the Census Bureau is now in India, Hello? The United States of America calling India to find out about census?

I could go on with other examples. The time is late. I appreciate the fact that the Senator gives Federal employees a right to appeal when they lose a competition which they now don't have. I also acknowledge that his amendment removes the 5-year recompete competition, and I salute him on that, and also ensures contract oversight.

In other words, you have some good ideas here. But in my comments, I say, you can vote for both. I want my colleagues to know they can vote for both. They can vote for Voinovich-Thomas and they can vote for Mikulski. Voinovich-Thomas has ideas of merit. Theirs is a modest improvement.

My amendment improves it all. They improve five things about this. I have identified 15. If you want 15, you vote for Mikulski. But you can vote for them and you can vote for me.

The other thing I want to say is that the Mikulski amendment does not stop contracting out. It simply stops the May 29 circular, which is harsh, punitive, and unfair to Federal employees.

I said to the administration, back to the drawing boards, work with VOINOVICH and THOMAS and COLLINS, and work with MIKULSKI, KENNEDY, and SARBANES, and make sure our Federal workforce keeps on working.

The PRESIDING OFFICER. Who yields time?

Mr. VOINOVICH. Madam President, I need 2 minutes.

I appreciate the kind words from the Senator of Maryland with regard to our amendment. But I think that to go back to the old A–76 circular after the commercial panels spent so much time on it would not be in the best interest of our Government.

I am going to quote from David Walker, who is chairman of that panel, to clarify the fact that the new circular is better than the old system, and that we would be better off having our amendment attached to the new circular rather than to the old rules and old circular. He says:

As I noted previously, the new Circular A–76 is generally consistent with the Commercial Activities Panel's sourcing principles and recommendations and, as such, provides an improved foundation for competitive sourcing decisions in the Federal Government. In particular, the new Circular permits: greater reliance on procedures contained in the FAR, which should result in more transparent, simpler, and consistently applied competitive process, and source selection decisions based on tradeoffs between technical factors and cost.

The new Circular also suggests the potential use of alternatives to the competitive sourcing process, such as public-private and public-public partnerships and high-performing organizations. It does not, however, specifically address how these alternatives might be used.

That is an improvement.

If effectively implemented, the new Circular should result in increased savings, improved performance, and greater accountability, regardless of the service provider selected.

That is why the amendment is so important.

However, this competitive sourcing initiative is a major change in the way Government agencies operate, and successful implementation of the Circular's provisions will require that adequate support be made available to Federal agencies and employees, especially if the timeframes called for in the new Circular are to be achieved.

The point I am making today—one of the reasons we have one of our amendments—is that we are requiring the Federal agencies to have the capacity to properly go through this competitive sourcing. That is what our amendment says. In addition, it says that once the competitive sourcing has been—if the outsiders win, we are going to monitor their performance to make sure we are going to get the savings and the efficiencies we are supposed to get. If we are not, that would mean our workers in the Federal Government would get another shot at what had been farmed out to the private sector.

I know there have been instances in the Defense Department where things have been farmed out and then they have been brought back into the Federal Government.

The PRESIDING OFFICER. Who yields time.

Mr. SHELBY. Madam President, I rise in support of the Thomas amendment. I believe competitive sourcing is an important process for the Federal Government. I believe it will help to improve the overall performance and efficiency of certain activities carried out by the Federal Government.

Allowing these competitions to move forward is important to improve the value of service provided by the Federal Government to all Americans. Whether the contract is won by the incumbent Federal workers or private sector bidders, the Federal Government wins by encouraging greater efficiency and a more focused workforce. That improves service.

I believe we must be careful to clarify that competitive sourcing, as proposed, doesn't apply to those activities considered inherently governmental. Those jobs will be reserved solely for the Federal workforce, and no one is proposing otherwise.

Our goal is clear. What we are trying to do is make the Federal workforce more efficient and competitive. At some point, the Federal Government is going to have to demand that it get a greater return on its investment. I believe that allowing public-private competitive sourcing is a step in that direction. At the proper time, I will urge adoption of the Thomas amendment.

The PRESIDING OFFICER. Who yields time?

Mr. THOMAS. Madam President, I have a couple of points I had intended to make. It was brought up before that this system, as it exists now, doesn't require savings. That is not the case. You don't grant a contract unless there are going to be savings.

They talked about no alternatives. That is what competition is all about, to take advantage of the alternatives.

Someone mentioned management of contracts. That is not a brand new idea. A lot of contracting goes on around the world, particularly in the private sector, and you always have to manage those.

So we have a real opportunity to strengthen competitive outsourcing here. That is what our amendment does. It doesn't go back to zero, but it strengthens it from where we are.

We had a similar one before that the Senate rejected. I urge the Senate to reject this one as well.

Whenever the other side is ready, we will yield back our time.

Ms. MIKULSKI. Madam President, how much time do I have?

The PRESIDING OFFICER. The Senator has 5 minutes 28 seconds remaining.

Ms. MIKULSKI. Madam President, I wish to notify the Chair that other Senators are on the way. I will speak for 2 minutes and then I hope they are here.

Again, I reiterate, the Thomas amendment has some good points. You can vote for both. My amendment does not stop privatization; it just makes it fair. I say something and they something back. But I am telling you, they don't mandate cost savings in this A–76.

Let me tell you a boondoggle. Defense Finance Accounting Service—this is finance accounting—contracted out 650 jobs to a private computer company. Guess what. The DOD inspector general found out that it cost the taxpayers $25 million more than it would cost under Federal employees. Take the call center. They won the competition, and they won it by sending it to India. Lower wages, no health care. Let's ship those jobs overseas.

My gosh, what are we doing? This May 29 circular is despicable, it is unfair, it is harsh, it is punitive, and it will cost taxpayer dollars to do studies, and it is costing morale. If we want people to work for the Federal Government and be enthusiastic and put their best energies forth and put America first, we cannot keep Tinkertoying with them. I hope you can vote for their amendment, but, please, in the interest of the vitality and integrity of the Federal workforce, please vote for the Mikulski amendment.

I yield 1 minute to the Senator from Louisiana.

Ms. LANDRIEU. Madam President, I am pleased to join my colleagues from Maryland to oppose this rule change. Let me say quickly, because I know the time is short, we have tried this in Louisiana at Fort Polk, in Leesville, to be exact—1,500 Federal jobs, people not overly paid, but well paid with good health benefits, and others.

Needless to say, the base plays a vital role in the economy of central Louisiana and is by far the single largest employer in the area. The secondary employment impact on the State is even more significant with Fort Polk accounting for millions of dollars in payroll annually.

The workers at Fort Polk are patriots. They work hard, they stay longer, they get the job done. I heard that not from the unions, not from the workers, not from some local politician—I heard that from the military commanders at Fort Polk who just did not want to see their workforce contracted out.

They already had experience with contractors at Fort Polk, and, frankly, they didn't like it. Base operations were bogged down by the refusal of contractors to take the little steps that improve quality of life, improve the aesthetics at the base, and go that extra mile when troops were deploying or coming home.

It is not that the contractors were not willing to take the work, it is that they wanted to charge the Government more to do it. Despite these objections, the workforce at Fort Polk was subject to the A–76 process. It has been an embarrassment and totally unworthy of the way this Government should treat it workers.

To boil the controversy down to its bare essentials, contractors bidding on the Fort Polk work were made aware of what the DoD civilian bid would be. Now the OMB wants to take this process even further.

Now the OMB says contractors don't have to prove they would save any money. They only have to show they would provide some ''financial benefit.'' Now the OMB says that workers can't include in their bids proposed reorganizations to make themselves more efficient. Now outside contractors will not have to figure in any health care benefits to their workers into these packages.

Good jobs are simply too hard to come by in Louisiana for me to allow this to go forward without a fight.

We know what A–76 really means in Louisiana. It means that workers that are paid a reasonable wage, including real health benefits and a pension, will be replaced. They will be replaced, frequently by the same people, but this time, they won't have health benefits or pensions. The difference will be the profit that corporations will pocket.

Our Armed Forces deserve better than to be supported by civilians who are underpaid, understaffed, and overstretched so that contractors can pocket a few extra dollars per hour. That is not a savings to the American people. It is pennywise and pound foolish.

With this experience, I simply cannot endorse broadening a system that I consider already broken.

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

Ms. LANDRIEU. I thank the Senator from Maryland for her fight and strong advocacy on this issue.

Ms. MIKULSKI. Madam President, how much time remains?

The PRESIDING OFFICER. Two minutes.

Ms. MIKULSKI. I reserve 2 minutes, waiting for Senators BYRD and LAUTENBERG. Does the Senator from Wyoming wish to speak?

Mr. THOMAS. Pardon me, I did not hear the Senator.

Ms. MIKULSKI. I said I reserve 2 minutes to allow Senator BYRD and Senator LAUTENBERG to speak. Does the Senator wish to speak any longer?

Mr. THOMAS. No, we are ready to vote.

Ms. MIKULSKI. I am going to wrap up. Remember, there are 15 reasons why the new public-private competition is unfair.

It does not allow Federal employees to submit their best bids.

It fails to end the unfair advantage given to contractors who provide their employees with inferior health benefits.

It allows the use of quotes instead of actually soliciting bids from contractors.

It doesn't consider alternatives to privatization giving Federal employees the right to come up with streamlining.

It is very bad for diversity in the Federal workplace. Many of these jobs are clerical. I have already gotten feedback from constituents who refer to the clerical workers as ''let's get rid of them; they will be low-hanging fruit.'' Is that the way we refer to the clerical people who are willing to work 24/7 in keeping the FBI or keeping the DOD going? And guess what. Once it goes, it does not allow the Federal workers to rebid to get it back.

All I am saying is, stop the implementation of the May 29 circular. Let's have a better process. Let's have a better plan. I am not opposed to privatization, but I am opposed to this May 29 circular.

I yield back such time as we may have remaining, and I am ready to vote.

The PRESIDING OFFICER. If all time is yielded back, there will now be a vote with respect to amendment No. 1923. The Senator from Wyoming.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 1923. The clerk will call the roll.

Mr. MCCONNELL. I announce that the Senator from Nevada (Mr. ENSIGN) is necessarily absent.

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

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

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

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

The result was announced—yeas 95, nays 1, as follows:

[Rollcall Vote No. 407 Leg.]

YEAS—95

Akaka	Dole	Lugar
Alexander	Domenici	McCain
Allard	Dorgan	McConnell
Allen	Durbin	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham (FL)	Nickles
Breaux	Graham (SC)	Pryor
Brownback	Grassley	Reed
Bunning	Gregg	Reid
Burns	Hagel	Roberts
Campbell	Harkin	Rockefeller
Cantwell	Hatch	Santorum
Carper	Hollings	Sarbanes
Chafee	Hutchison	Schumer
Chambliss	Inhofe	Sessions
Clinton	Inouye	Shelby
Cochran	Jeffords	Smith
Coleman	Johnson	Snowe
Collins	Kennedy	Specter
Conrad	Kohl	Stabenow
Cornyn	Kyl	Stevens
Corzine	Landrieu	Sununu
Craig	Lautenberg	Talent
Crapo	Leahy	Thomas
Daschle	Levin	Voinovich
Dayton	Lieberman	Warner
DeWine	Lincoln	Wyden
Dodd	Lott	

NAYS—1

Byrd

NOT VOTING—4

Boxer	Ensign
Edwards	Kerry

The amendment (No. 1923) was agreed to.

AMENDMENT NO. 1917

The PRESIDING OFFICER. The Senate will come to order.

There are now 2 minutes evenly divided before a vote with respect to the Mikulski amendment.

Ms. MIKULSKI. Madam President, we now come to the Mikulski amendment. Know that the amendment that just passed with the support of my side of the aisle corrects 5 and only 5 of 15 egregious problems with the May 29 circular. That amendment was a downpayment. But if you want to correct all the grievances, vote for the Mikulski amendment. It does not end privatization. It ends the harsh, punitive, and egregious problems with the May 29 circular.

Stand up for America, stand up for the Federal employees, stand up for the Mikulski amendment and vote aye.

Mr. THOMAS. Madam President, the Senate has just adopted an amendment

which approves congressional oversight of public-private. It is a good thing for us to do.

We urge the Senate to oppose the Mikulski amendment because it attempts to amend the problem by going back to the old A–76 process that we all agree was broken.

I urge my colleagues to oppose the amendment that is before us.

The PRESIDING OFFICER. If all time is yielded, the question is on agreeing to the amendment.

Ms. MIKULSKI. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID (after having voted in the affirmative). Mr. President, I have a pair with the Senator from Nevada, Mr. ENSIGN. If he were present and voting, the Senator from Nevada, Mr. ENSIGN, would vote ''no.'' If I were permitted to vote, I would vote ''yea.'' I therefore withhold my vote.

Mr. President, I withdraw my pair.

The PRESIDING OFFICER. The pair is withdrawn.

Mr. REID. Mr. President, I ask that my pair be reinstated.

The PRESIDING OFFICER. The pair is reinstated.

Mr. MCCONNELL. I announce that the Senator from Nevada (Mr. ENSIGN) is necessarily absent.

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

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

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

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

The result was announced—yeas 47, nays 48, as follows:

[Rollcall Vote No. 408 Leg.]

YEAS—47

Akaka	Dorgan	Lieberman
Baucus	Durbin	Lincoln
Bayh	Feingold	Mikulski
Biden	Feinstein	Murray
Bingaman	Graham (FL)	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Pryor
Campbell	Inouye	Reed
Cantwell	Jeffords	Rockefeller
Carper	Johnson	Sarbanes
Clinton	Kennedy	Schumer
Conrad	Kohl	Snowe
Corzine	Landrieu	Specter
Daschle	Lautenberg	Stabenow
Dayton	Leahy	Wyden
Dodd	Levin	

NAYS—48

Alexander	Brownback	Cochran
Allard	Bunning	Coleman
Allen	Burns	Collins
Bennett	Chafee	Cornyn
Bond	Chambliss	Craig
Crapo	Hatch	Roberts
DeWine	Hutchison	Santorum
Dole	Inhofe	Sessions
Domenici	Kyl	Shelby
Enzi	Lott	Smith
Fitzgerald	Lugar	Stevens
Frist	McCain	Sununu
Graham (SC)	McConnell	Talent
Grassley	Miller	Thomas
Gregg	Murkowski	Voinovich
Hagel	Nickles	Warner

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Reid, for

NOT VOTING—4

Boxer	Ensign
Edwards	Kerry

The amendment (No. 1917) was rejected.

Mr. SHELBY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, a mass liquidation of the Government is underway. U.S. corporations and industry entrepreneurs are salivating at this administration's effort to open at least 850,000 Federal jobs to private contractors.

If this administration has its way, the most basic services of the Federal Government—from national security to tax collection to air traffic control to the maintenance of our national parks—will be handed over to private contractors like birthday party favors.

And to expedite the process the administration has rewritten the Federal Government's A–76 contracting rules for the entire Federal Government, opening each agency and department to a host of potential abuses. The President's proposal has political disaster written all over it.

I voted in favor of the Mikulski amendment to block this egregious scheme from going into effect.

Also, the record should reflect the fact that the Thomas amendment would allow executive agencies to use funds appropriated for other purposes to monitor the performance of an activity or function that has been subjected to public-private competition. Such a provision is a preemption of the appropriations powers of Congress. The Congress should not be handing over such broad spending authority to executive agencies.

I voted to protect congressional prerogatives and against the Thomas amendment.

AMENDMENT NO. 1928

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. MCCONNELL, Mr. DASCHLE, and Mr. REID, proposes an amendment numbered 1928.

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

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

The amendment is as follows:

(Purpose: To fund the Election Assistance Commission for fiscal year 2004)

On page 85, strike lines 20 through 25, and insert the following:

Commission, $1,500,000,000, for providing grants to assist State and local efforts to improve election technology and the administration of Federal elections, as authorized by the Help America Vote Act of 2002: *Provided*, That no more than 1/10 of 1 per-

Mr. DODD. Mr. President, I offer this amendment on behalf of myself, Senator DASCHLE, Senator REID, and, of course, on behalf of my colleague from Kentucky, Senator MCCONNELL, as well, to address this matter. I do not want to take a lot of time on this amendment. There are other Members who have obligations they want to meet.

This amendment is pretty straightforward. Let me begin by thanking my colleague from Kentucky, my colleague from Missouri, and others with whom, over the last several years, we have worked to create and pass the Help America Vote Act, which was signed into law by the President 1 year ago next week.

This is a law, of course, to try to improve the conduct of Federal elections across the country. I need not remind my colleagues, of course, of the condition of the Federal election system based on the results we saw in the national elections in the year 2000.

The piece of legislation that authorized these funds was adopted 98 to 2 by this body, and almost by a similar percentage of votes in the other body.

Last week, Senator MCCONNELL and I came to the floor. I was going to suggest we offer an additional appropriation on the $87 billion package for Iraq. But, rightly, as my colleague from Kentucky pointed out, that was not the appropriate place to do this. We agreed in a colloquy that we would try to find an opportunity to provide the additional resources necessary so the State and local officials across this country could meet the obligations of doing these elections in a proper way.

I point out to my colleagues that the sense of timing is important. In the Federal elections in 2004, the first primary of which is in the District of Columbia on January 13—less than 3 months away—all States and localities must provide provisional ballots to any voter who is challenged. Those provisional ballots must be verified, according to State law, in 2004. Also, in 2004, all States and localities must be prepared to implement the anti-fraud provisions that the Senator from Missouri, Mr. BOND, fought so diligently and hard for as part of the Help America Vote Act which affect first-time voters who register by mail. There are other requirements, of course, by 2004, and a whole series of things that must be done by 2006.

Needless to say, as the State and local officials will tell you, getting mechanisms in place to get it done requires advanced timing. This cannot

just happen in the last few months before the elections occur.

I also point out to my colleagues that, obviously, the States are facing tremendous budget constraints themselves. This is not the ideal way we would like to do this, but we have no other choice but to be part of this budgetary cycle and to include these dollars in this particular effort.

In a time when we are committing, obviously, billions in Federal resources to build democracies around the world—and I supported that; I had reservations about it but, nonetheless, that is critically important—we cannot ignore the needs of our own democracy. Obviously, I think we would all agree we need to do what we can as well, as a nation that prides itself on being the leader when it comes to the conduct of our elections, to try to get these systems working better than they have been.

Again, I thank my colleagues who have worked very hard on this matter. This was truly a bipartisan effort. It continues to be one. We have tried to work together on these matters over the last several years so as not to create any partisan feelings. I think that has been the case.

So today, in a bipartisan way, we are asking our colleagues to be supportive of this additional amount in the appropriations process so we can get the moneys back to our States.

I am sure every one of my colleagues has heard from their State and local officials. By the way, the States are doing a very good job. You may have read recent articles of how the States are getting up to speed, putting things in place, getting their implementation plans in order, and doing so with a great deal of expedition and care.

Several States have already utilized some of the newer approaches as a result of their own State efforts, which are proving to be very successful.

I think we are on the right track. I think we are doing the right thing. The National Governors Association, of course, reported the difficulties they are having with their budget problems, as I mentioned a moment ago.

I do not want to take a lot of time of my colleagues. I think they know what the issues are. I have talked to many of them.

Just last week, Senator MCCONNELL and I came to this floor to express our concerns that the Congress not leave here this session without providing sufficient resources to the States to implement the minimum requirements and other election priorities, for Federal elections enacted under the Help America Vote Act. Some of those requirements must be implemented in time for the Federal elections next year.

The States are living up to their end of the bargain—all States are well along in the development of their state plans and many are in the initial implementation stages of the effort. But we must live up to our side of the bargain.

In his budget request, the President recommended funding these programs in fiscal year 2004 at only one-half of the authorized amount, for a total of $500 million. To their credit, the Appropriations Subcommittee fully funded that request, and I thank the distinguished chairman, Senator SHELBY, and my friend and colleague, the ranking member, Senator MURRAY, for their efforts.

However, State and local budgets simply cannot absorb this $500 million shortfall. More importantly, any shortfall in fiscal year 2004 follows on a similar shortfall of over $600 million in the fiscal year 2003 appropriations. Unless we increase funding in this fiscal year, our commitment to the States to share in the funding of the new requirements for Federal elections will fall over $1 billion short.

In a time when we are committing billions of dollars in Federal resources to build democracies around the world, we simply cannot afford to shortchange our own. The basic premise of a democracy is that every citizen must have an equal voice in the determination of its government.

And in this Nation, that voice is expressed through the equal opportunity to cast a vote and have that vote counted. If America is to continue to be the leader and example for emerging democracies around the world, then our system of giving our citizens an equal voice—our system of elections—must meet this test.

Unfortunately, what we learned in the elections of 2000 was that not all Americans enjoy an equal voice. In fact, some citizens were denied a voice at all because of malfunctioning or outdated voting equipment, inaccurate and incomplete voter registration records, and allegations of voter intimidation and fraud.

The silver lining of the 2000 elections was that it created the opportunity to recognize the challenges confronting our system of Federal elections and the ability to respond with bipartisan determination to provide Federal leadership to overcome those challenges. And 98 members of the Senate responded to that opportunity by overwhelmingly passing the Help America Vote Act last year.

I once again want to thank my distinguished colleagues, and coauthors of the Help America Vote Act, Senator MCCONNELL and Senator BOND, for their bipartisan leadership in that effort and for their continuing commitment to see our promise for Federal funding fulfilled.

I especially want to recognize the leadership of my distinguished colleague, Senator MCCONNELL, whose unfailing leadership on this issue has help to bring us to this point. As then Chairman of the Rules Committee, he chaired the first hearings on election reform and introduced one of the first measures in Congress to offer assistance to the States.

And today we stand before you again, united by our desire to fulfil the commitment and promise of HAVA to the States, and to every American voter, to be a full partner in Federal elections. But rhetoric alone will not fulfill this commitment, nor will it fix the problems that came to light in the 2000 elections. It will take leadership and funds. And that is what the Help America Vote Act provides.

HAVA provides federal leadership in the form of new minimum requirements that all states must meet in the conduct of Federal elections. Those requirements will ensure that all voters can check their ballots and correct them before they are cast and counted. The requirements will ensure that no voter who believes he or she is registered and eligible to vote can be turned away from the polls—but must be given a provisional ballot to cast and then have verified pursuant to State law. And those requirements will ensure the accuracy of voter registration lists against fraud and mistakes through the creation of a single statewide registration list. In short, HAVA will strengthen our democracy by giving an equal voice to all citizens by making it easier to vote and harder to cheat.

Implementing these reforms will not be cheap and so for the first time in our history, Congress committed to being a full partner in the funding of these reforms by authorizing $3.8 billion to fund the implementation of these requirements.

Federal funding is critical to nationwide implementation of this Act and may well govern the success and effectiveness of the new law. To help pay for election reforms and avoid an unfunded mandate on the States, HAVA authorizes a total of nearly $4 billion over three fiscal years, including over $2 billion in fiscal year 2003; $1 billion in fiscal year 2004; and $645,000 in fiscal year 2005.

Of the $1.5 billion Congress appropriated last year to fund grants to the States, $650 million has been distributed to all 50 states, the District of Columbia, Guam, Puerto Rico, the U.S. Virgin Islands and American Samoa. I thank my colleagues for their support during the FY03 appropriations process, particularly Senator STEVENS, Chair of the Appropriations Committee and Senator BYRD, the Ranking Member, for providing this substantial down-payment on our commitment to the States.

But we now know that the FY03 appropriation will not provide sufficient funds for the States to fully implement their State plans and meet the new requirements of the law. And the shortfall in the first critical year of funding under HAVA is only compounded by the additional shortfall of $500 million in the bill before the Senate today.

Given the dire financial budget constraints faced by our states and counties, the total shortfall of over just over $1 billion in promised Federal support creates an unfunded mandate that is both unfair and unnecessary and

threatens to undermine the very reforms that were adopted last year.

According to the National Governors Association, the current financial health of state and local governments was at its lowest point since World War II last year and has worsened in the past 10 months. According to the Center on Budget and Policy Priorities, States have struggled to close deficits that have totaled approximately $190 billion over the past three years and the best estimate at this time is that they will face deficits of more than $40 billion in fiscal year 2005.

And the counties are in no better economic situation than the States. According to the National Association of Counties, nearly 72 percent of counties are facing budget shortfalls and 56 percent of counties are facing reductions in State funding for State-mandated programs. While counties are struggling to deal with the revenue reductions, the demand for county-provided services continues to rise.

State and local governments are willing and anxious to implement the new requirements; they simply cannot go it alone. And that was the historic message of the Help America Vote Act: the Federal Government will step up to our responsibility to be a full partner in funding Federal election reforms.

Full Federal funding for HAVA is crucial to ensuring that the reforms that Congress overwhelmingly approved, on a broad bipartisan basis, and the President endorsed with his signature, are implemented. The very integrity of our elections, and consequently our democracy, hangs in the balance.

Full funding of HAVA is critical to our national credibility for fairness and accuracy in Federal elections. It is fundamental to the integrity of our democratic process. This amendment not only fulfils out commitment to date, it assures that the very reforms Congress enacted last year will actually be implemented.

This effort is overwhelming supported by a bipartisan and powerful coalition of State and local election officials, in conjunction with all the major civil rights, disability, language minority, and other voter interest groups in the United States. I thank each and every one of them for their strong support in passing HAVA and their continuing commitment to see that Congress makes good on its promise to be a full partner in Federal elections by fully funding the provisions of HAVA. I ask unanimous consent that a letter from the Coalition be included in the RECORD following my remarks.

No civil right is more fundamental to our democracy than the right to vote and no need for Federal funding is more essential to securing that democracy than is the commitment made by this body to ensure the integrity and accuracy of our Federal elections.

I thank my colleagues for their continuing support of this effort and urge my colleagues to fulfill our commitment of last year to ensure the integrity of our Federal elections and the very foundation of our democracy by supporting this bipartisan amendment to fully fund the Help America Vote Act.

Mr. President, I ask unanimous consent to print a letter supporting this amendment in the RECORD.

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

MAKE ELECTION REFORM A REALITY—SUPPORT THE DODD-MCCONNELL AMENDMENT TO H.R. 2989

OCTOBER 23, 2003.

DEAR SENATOR: We, the undersigned organizations, strongly urge you to support an amendment to be offered by Senators Christopher Dodd (D–Conn.) and Mitch McConnell (R–Ky.) to increase funding for the Help America Vote Act (P.L. 107–252) (''HAVA'') in H.R. 2989, the FY 2004 Treasury-Transportation Appropriations bill. The Dodd-McConnell amendment will increase the level of HAVA funding in that bill from $500 million to $1.5 billion. We ask that you vote in favor of the amendment and vote against any Budget Act point of order that may be raised.

The Help America Vote Act was enacted with overwhelming bipartisan support in order to prevent the many problems of the 2000 election from ever happening again. Among its many reforms, it places significant mandates upon states and localities to replace outdated voting equipment, create statewide voter registration lists and provide provisional ballots to ensure that eligible voters are not turned away, and make it easier for people with disabilities to cast private, independent ballots.

To help pay for these reforms, HAVA authorizes a total of $3.9 billion over three fiscal years, including $2.16 billion for FY03 and $1.045 billion for FY04. To date, however, the actual funding of HAVA has been woefully inadequate. So far, only $1.5 billion of FY03 funding has been appropriated, and $830 million of that amount has yet to reach the states because the President has nominated and the Senate has not confirmed the members of the new Election Assistance Commission. Additionally, only $500 million is currently included in pending FY04 appropriations; once again, this is a sum that falls well below what is needed for successful implementation of HAVA. States and localities were assured by Congress that this new law would not evolve into a set of unfunded federal mandates. It is now time for Congress to honor its commitment to the states and to the American public at large.

Given the difficult fiscal circumstances facing state and local governments, immediate and full funding of HAVA is now needed in order to make essential progress before Election Day in 2004. Without the strong leadership that HAVA promised at the federal level, states and local governments simply do not have the ability to complete implementation of the important reforms that they are now required to make.

No civil right is more fundamental to America's democracy than the right to vote. As our nation spends billions of dollars helping to promote democracies abroad, Congress simply should not allow doubts about the legitimacy of our electoral processes continue to linger here at home.

We thank you for your support of funding for the ''Help America Vote Act,'' and we look forward to working with you on this critical issue. Should you have any questions, please contact Rob Randhava of the Leadership Conference on Civil Rights at (202) 466–6058, Leslie Reynolds of the National Association of Secretaries of State at (202) 624–3525, or any of the individual organizations listed below.

Sincerely,

Organizations Representing State and Local Officials

National Association of Secretaries of State
National Conference of State Legislatures
Council of State Governments
National Association of State Election Directors
National Association of Counties
National Association of Latino Elected and Appointed Officials Educational Fund
National League of Cities
International City/County Management Association
International Association of Clerks, Recorders, Election Officials and Treasurers
National Association of County Recorders, Election Officials and Clerks

Civil Rights Organizations

Alliance for Retired Americans
American Association of People with Disabilities
American Civil Liberties Union
American Federation of Labor—Congress of Industrial Organizations
Americans for Democratic Action
Asian American Legal Defense and Education Fund
Asian Law Alliance
Asian Law Caucus
Asian Pacific American Legal Center
Association of Community Organizations for Reform Now
Brennan Center for Justice at NYU School of Law
California Council for the Blind
Center for Governmental Studies
Center for Voting and Democracy
Common Cause
Demos: A Network for Ideas & Action
Disability Rights Education and Defense Fund
Leadership Conference on Civil Rights
League of Women Voters of the United States
Mexican American Legal Defense and Educational Fund
National Alliance of Postal and Federal Employees
National Asian Pacific American Legal Consortium
National Association for the Advancement of Colored People
National Association of Protection and Advocacy Systems
National Council of Churches
National Council of La Raza
Neighbor to Neighbor Action Fund
Organization of Chinese Americans
People For the American Way
Project Vote
Public Citizen
The Arc of the United States
United Auto Workers
United Cerebral Palsy
U.S. Action Education Fund
U.S. Public Interest Research Group

Mr. DODD. Again, my colleagues from Kentucky and Missouri and I would prefer to have some other way we could do this, but if we don't get it done now, it is going to be very difficult for us to meet these obligations at all. This additional amount in fiscal year 2004 will get us back on track and allow us to complete this process and to see the election cycle work in a way that all of us would be proud to see.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I rise today finding myself in a very unusual situation. As an ardent supporter of the budget resolution and enforcing the axiom of ''live within your means,'' I am very much opposed to blowing the budget caps, except under the rarest of circumstances. This is just such a circumstance.

At a time in which the United States is the key to developing a democracy in Iraq, this amendment ensures our democracy at home. While the United States is leading the repair of a country mired in corruption and suppression, this amendment provides the support to ensure the franchise of all Americans, and to combat the dissolution of that franchise.

As all my colleagues heard me say many a time, everyone who is eligible to vote, should vote and have their vote count, but they should do so only once. This amendment provides an additional $1 billion to implement the Help America Vote Act of 2002. The Transportation-Treasury appropriations bill as drafted sets aside $500 million for election improvement grants. This amount, when added to the fiscal year 2003 appropriation, falls $1 billion short of our commitment. This amendment fills that gap.

In enacting election reform last year, we all knew it would come at a significant financial cost and we all have heard repeatedly from State and local officials about the importance of full funding. The additional funds provided in this amendment will be used by States and localities to meet requirements which have a 2004 implementation date and continue their work on those with a 2006 date.

As a refresher to all my colleagues, the election reform legislation we passed last year protects the sanctity and security of the votes of all Americans in the following ways: Provisional ballots for all voters which are later verified for eligibility so no one is turned away from the polls; statewide databases to include information from registrants to ensure accurate and up to date lists of legally registered and eligible voters; mail-in voter registration procedures to include positive identification of not only the eligibility of the registrant, but the existence of that registrant; update and improvement of voting systems to achieve ease, access and security; and increased poll worker training, voter information and overall modernization of the entire voting process.

One year ago next Wednesday marks the 1-year anniversary of the enactment of election reform legislation. Since that date, States and localities have been working tirelessly to meet the standards the Federal Government placed upon them. With the 2004 elections right around the corner, it is important we provide the necessary resources for full implementation of these important standards.

Once again, I commend both the Budget chairman and the Appropriations chairman who have been outstanding throughout the year, and I have been a stalwart supporter of their efforts. This, however, is that very rare instance which I believe warrants providing funding above that provided in the budget.

Win or lose on this amendment, we must honor our commitment to financially partner with the States to improve our elections process.

As I said, I find myself in an extremely awkward position. I support the chairman of the Budget Committee. I support the budget resolution. I support the great work that he has done in holding us to the budget resolution as we move along. And I wouldn't be in favor of waiving the budget but for an extraordinary circumstance.

The cold hard reality is this: When we passed the election reform bill a year ago this month, we promised the American people that in the fall of 2004, we would have the mechanisms in place to dramatically improve the election system, including having the anti-fraud provisions that the Senator from Missouri, Mr. BOND, and I fought so diligently for, that guarantees that every American has a right to vote but, as Senator BOND frequently put it, votes only once.

None of those provisions will go into place unless the amendment Senator DODD is offering is approved. I can tell you that everybody seems to be in favor of this, but nobody has been able to figure a way to get it done. I spent the afternoon talking to people in the administration who want to see it done, talking to the people in the House of Representatives right at the top who want to see it done, people on that side of the aisle who want to see it done, and people on this side of the aisle, but nobody is showing a clear path to how you get it done.

I think I am safe to say, on behalf of the Senator from Connecticut and the Senator from Missouri, we are here to offer this amendment to demonstrate, we hope, that a significant percentage of the Senate wants to see, at the end of the appropriations process, this money found to guarantee that we dramatically improve our election process, not sometime in the far distant future but next November.

I ask unanimous consent that Senator BOND, Senator HATCH, Senator ROBERTS, and Senator BURNS be added as cosponsors to the Dodd-McConnell amendment.

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

Mr. MCCONNELL. I know Senator BOND would like to speak as well. We are anxious to move ahead, and I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, the Senator from Connecticut has introduced a very important amendment that deserves the support of this body.

Events of the 2000 election in my home State and elsewhere pointed out that there are serious flaws in our election system that invite mischief and confusion. But last year, in a near unanimous vote, this body passed important legislation that will make it easier for Americans to vote and harder for those who would do such a thing, to cheat. The legislation offers a tremendous opportunity to modernize our election system, improve election technology and help State and local officials manage elections better. Once this legislation is in full effect, we will see a dramatic improvement in the reliability and integrity of elections. But funding is essential to move forward on the key aspects of this bill. With the funding, we can take large steps forward before the upcoming election.

So far, we have funded a significant downpayment on implementation of this law. The chairman has included a generous sum in this bill, and I thank him for his attention to the issue. We are here today to ensure that we are on target with the funding level and funds are flowing in advance of the 2004 election; we can have an impact on this election, move rapidly towards complete implementation and put the problems we experienced behind us for future elections.

I will take a minute to remind my colleagues of some of the more important components of this bill. First, this funding will go toward ensuring that every State has a modern, computerized statewide voter registration system. This is perhaps one of the most important aspects of this bill and one provision that cannot be implemented without funding.

Surprisingly, much of voter registration has missed out on the rapid advances in technology. In many States and jurisdictions they are still paper records. Compounded by Motor Voter's overly broad restrictions on removing names from lists, too many voting lists around the country have become clogged with fake names or names that should simply no longer be there. The result is inaccurate, unreliable, and unmanageable voter registration lists. As my colleagues and I learned while working on this bill, voter registration lists are the most basic element of any well-run election, and their accuracy is essential if elections are to be honest and voters are to have confidence in the outcome.

How bad are these lists? When we looked into this issue while working on this bill, West Virginia's Mingo and Lincoln Counties both had more registered voters than living people. Allegheny County, PA, had 18 municipalities with more registered voters than voting-age adults. The State of Alaska had 502,968 on the voter rolls, though census figures show only 437,000 Alaskans of voting age.

In Missouri we have found individuals who are registered at three, four, and even five different locations across the State—not to mention those that are registered twice in the same jurisdiction. At one point in the city of St.

Louis, we had 240,000 registered voters but only 200,000 people of voting age.

These are the problems that are a serious threat to the confidence people have that their vote will be counted and that the outcome of the election will be honest.

This bill also includes a requirement that voters using the ''by mail'' registration offered in Motor Voter will now have to identify themselves before casting a vote. How did all those names get on the lists? As some may remember from our discussions last fall, we even discovered the odd circumstances of voter rolls including the names of canines. How did this happen—because mail registration was available and could be used to anonymously put names on voter lists. Those same States that were required to accept registrations through the mail were also prohibited from authenticating those registrations. The election reform bill corrects that problem by requiring those who exercise their right to register by mail to provide some identification prior to voting. As previously stated, this contributed greatly to the troubled shape of voter rolls and the administration of elections. This bill fixes this, and we need to step up and ensure it is fully implemented.

This bill addresses a number of important issues, including dealing with judicial orders affecting polling place hours, providing provisional voting for those who have their names removed from voting rolls because of administrative error and ensuring that voting equipment have advanced audit trails to prevent manipulation of votes at the polling places. States will also be issuing identification numbers to registered voters to track voters and will be collecting information to ensure that voters are citizens and of proper eligibility status.

To summarize, the bill contains significant advances that will greatly enhance integrity and administration. It is important that these and all the provisions in this bill are fully implemented—the sooner the better. So thanks again to Senators DODD and MCCONNELL for their work and help pushing this bill and its funding forward. I urge my colleagues to support this amendment.

As has been stated by the Senator from Connecticut and the Senator from Kentucky, we had a very long and difficult process over better than 18 months to try to pull together a truly significant piece of legislation that would, in fact, make it easier to vote and tougher to cheat. A lot of people had lots of questions about the 2000 election. I happened to think that from my own personal experience, the fraudulent parts of that election were of extreme concern. And it is my view and understanding that in order for us to ensure, No. 1, that we have the voting equipment available for the 2004 Presidential election, and that we have the antifraud provisions in effect for the 2004 election, we need to appropriate this money.

We made the commitment. It is a question of ''pay me now or pay me later.'' Frankly, I urge my colleagues on this side of the aisle to say: Let's pay now rather than pay later. You can ask questions about how quickly the money is spent but, frankly, in order to trigger the antifraud provisions, we have to get the money now.

In many States around the country, Motor Voter has led to an amazing electoral turnout. People send in a postcard and say ''register me,'' or register whatever name is signed. There is no authentication required. States were even prevented from authenticating it. When you look at the list, West Virginia's Mingo and Lincoln Counties had more registered voters than living people, adults and children. Allegheny County, PA, had 18 municipalities with more registered voters than voting age adults. The State of Alaska had 503,000 on the voter rolls, though the census figures only show 437,000 Alaskans. In Missouri, we found some truly amazing things—three, four, even five different voter registrations by the same individual, some two or more times in the same jurisdiction; at one point the city of St. Louis, 240,000 registered voters but only 200,000 people of voting age. That is a heck of a trick. We found out when, fortunately, a very aggressive media went out and checked on it. We found vacant lots with people registered. We found 10, 15, 20 people registered from one location. In a subsequent election, a very popular alderman from the city of St. Louis re-registered to vote on the 10th anniversary of his death. That is a wonderful statement of theological implications, but it does not do much for political science.

Of course, many on this Senate floor were tired of seeing the picture of my favorite St. Louis voter, Ritzy Mekler, the 13-year-old cocker spaniel who was registered.

We have to stop that. The way we do it is to make all of the provisions of this bill effective for the very important 2004 elections.

I thank Senators DODD and MCCONNELL. I urge my colleagues to support the Dodd amendment.

Mrs. MURRAY. Mr. President, the events of the last Presidential election highlighted the importance of election reform and the need to replace antiquated and faulty voting machines. The Help America Vote Act, HAVA, was enacted last year to address these issues and to establish new minimum requirements that all States must meet in the conduct of Federal elections. My home State of Washington is struggling with implementing and paying for the requirements of HAVA due to our heavy reliance on vote-by-mail ballots.

Last year, the bill included $1.5 billion for election reform, but that funding was not part of the subcommittee's initial allocation. The full committee provided this funding in addition to our subcommittee allocation.

I am in agreement that the $1.5 billion is necessary and should be provided for election reform. But we do not have the available funding for that purpose in our bill, so it will be necessary to waive the Budget Act. During consideration of the budget resolution, I was not able to vote for election reform funding due to the competing needs of the agencies under the jurisdiction of this subcommittee. So I am comfortable with the amendment offered by Senator DODD, which waives the Budget Act for this important purpose.

Mr. HATCH. Mr. President, I truly wish that I did not have to address this body on this topic. Last February, I stood before this body and urged my colleagues to ensure the Help America Vote Act of 2002, HAVA, contained adequate funding, assuring the States that they will have the necessary resources to comply with the mandates contained in the new law.

In fact, the Senate adopted a Sense of the Senate amendment to reinforce our commitment to fund this act fully so that States and localities would not be hurt by yet another unfunded mandate. Our vote today should reflect that commitment.

As this body debated HAVA in February of 2002. I asked this pointed question: ''What if a future Congress fails to provide adequate funding for this legislation?'' Well, here we are just one Congress later and our States and localities—who were then experiencing budget shortfalls in early 2002 and are now facing budget crises—are now forced to make extremely difficult choices. We in Congress have fallen woefully short in delivering on our promise to fully fund the mandated portions of the bill.

Mr. President, I cannot tell you how many individuals in Utah have come up to me and expressed their great displeasure at the lack of funding for the HAVA law. The Congressional Budget Office has estimated the cost of HAVA at $3 billion. That is billion with a ''B.''

Let us look at the hard realities. Is it ethical for us, at a time when the majority of our States are facing serious financial difficulties, when some, such as my home State of Utah are cutting off health care benefits to children and closing prisons, to even suggest they foot the entire bill for these new mandates? I think not.

In this case, I'm sorry to have been correct. But, it is one Congress later and we are exactly where I warned that we would be. For the good of the States and the voters, we need to make available the resources necessary to fully implement HAVA.

I urge my colleagues to remember your commitment to your State and vote in favor of this amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first I congratulate Senator SHELBY for his management of this bill. This is an appropriations bill. The budget authority

of this bill is actually less than last year's level. And the outlays under this bill, as far as the outlays that are controlled, grew by 3.6 percent. So it is within the budget. It is within the budget that we have passed, and it is also within the budget agreement that the chairman of the Appropriations Committee made with the President.

This amendment is not. This amendment does bust the budget. This amendment does have a budget point of order that lies against it. But it also is not necessary. I heard my colleague say it is necessary. Let me state a different opinion than that.

In last year's appropriations bill, we appropriated $1.5 billion for election assistance. There is $833 million of that that has not been used. As a matter of fact, there is an election assistance commission that was formed under that legislation. The commissioners haven't even been appointed or confirmed. I understand they are going to be soon. I heard my colleague from Missouri say: We can't take the enforcement provisions unless we get this money. That is not correct. They need the commission. The commission hasn't been confirmed. I am not sure; maybe that is because the names weren't submitted. Maybe they were not confirmed because of a little disagreement between Democrats and Republicans. We have had trouble confirming some people this year. But I understand they are going to. I think that is good.

The facts are, there is $833 million of 2003 money that has not been spent. In the 2004 appropriations bill, there is $500 million that is in the bill. That is a total of $1.3 billion for this purpose that is available to be spent as soon as the appropriations bill is passed.

How much did the administration request? The administration requested $500 million. They requested $500 million which is in the bill. So by the time we pass this bill, there will be $1.3 billion to be spent. I would venture to say the States couldn't spend another billion if we tried. I wouldn't be surprised if they can't spend $1.3 billion in the next 12 months. They have only been able to spend less than $800 million this year. So now we want to increase that and make it $2.3 billion that they are going to spend in the next 12 months. I don't think they can do it. Certainly, it would be busting the budget.

Sometimes we have things we would like to do, but we can't do because we have fiscal constraints.

We have very large deficits and they are going to get larger if we come up and say, I am sorry, but, yes, there is a good cause here; and even though elections have always been basically administered and paid for by the States, we would love to have the Federal Government assume all the costs and throw out billions of dollars in the process. We have been very generous with $1.5 billion last year, $500 million this year, and $831 million yet to be spent. I think we have ample money and every reason to sustain the budget point of order that will soon be raised by the chairman of the Appropriations Committee.

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

Mr. SUNUNU. Mr. President, I join my colleague from Oklahoma in opposing this amendment. No one wants to see fraud or abuse in the democratic process. The Senator from Missouri talked about some pretty egregious examples, and it is not necessarily an easy amendment to oppose. But there is a lot of funding in the pipeline that is equally important, maybe more important.

This busts the budget, and this is subject to a point of order. I think we have to exercise restraint, discipline, and focus when we are dealing with budget issues. If the funds are a priority, we should find a way to provide the support and funding within the constraints of the budget resolution. But we cannot come to the floor with amendments for initiatives that sound very worthwhile but violate the budget resolution and take us over the budget limits and caps, which will continue to increase the deficit.

So I think we need to stay focused on that resolution and exercise some fiscal discipline. I appreciate the concerns in a place such as St. Louis, where cocker spaniels are voting, but I think we can address that with funding already in the pipeline. I hope the States are taking real action to address those kinds of situations of fraud and abuse. I will support my colleague from Oklahoma in opposing this amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I appreciate the comments of my colleague. Let me just say that this amendment is providing for the number of demands being made on the States. The Senator from Missouri points out what has to be done by the next calendar year, and, just a few weeks from now, on January 13, the Federal primary season, and State and locals are up against the requirements. We are going to get the nominees to the Election Assistance Commission confirmed, but this keeps us on track with the funding. We won't need to come back to this again for another year, but this has to be done now.

We authorized over $3.8 billion for this bill over three fiscal years. This will get us on track for FY03 and FY04 so the States can complete the job. As the Senators have said, this is not our preferred method for providing full funding. Everybody agrees we have to get it done. Contrary to what my friend from Oklahoma says, if we don't get it done now, it will make it that much more difficult to accomplish these goals and it will create huge problems. I will not go through the litany, but I hope my colleagues, when the point of order is made—and I will offer a waiver of that point of order—will support the States on this. I don't want to take much more time. The chairman has other obligations.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, I have a couple of points. The chairman of the Budget Committee, Senator NICKLES, is certainly doing his job, and I understand his concern. But I have just a couple of observations.

The Commissioners of the new Election Administration Commission have their hearing next Tuesday. They will be confirmed before we leave this fall. This money can and will be spent. It all goes out by formula, all across America—directly out by formula. It doesn't require them to use some discretion on it. It goes out directly by formula, and it will be spent because this is a Federal mandate. We are mandating that this money be spent for the reasons specified in the bill.

If you are interested in having, to the maximum extent, an honest election next year, then we need to provide adequate funding early in the year because the election is 13 months away, so that these mandates can be carried out in time to guarantee that we have next fall, to the maximum number extent possible, an honest election.

It is because of these extraordinary circumstances I find myself in a position I would not normally be in, which is supporting waiving the Budget Act.

I yield the floor.

Mr. STEVENS. Mr. President, I am tempted to remark about my friend from Missouri saying there are only 477,000 Alaskans, but I will let that go.

Mr. BOND. If the Senator will yield, I offer my sincere apologies. Would he accept it if I said ''of voting age'' and correct that statement?

Mr. STEVENS. It comes closer. I thank the Senator.

Mr. President, up my way there is a saying: The promise made is the debt unpaid.

This year, when I went to the President to increase the moneys allowed for education and a series of other items in this total budget, after a serious discussion, he agreed. I told him if he would make those changes, I would promise him I would see to it that there would be no funds appropriated in the regular process in excess of the amounts he requested. He has not requested this additional amount.

Therefore, the pending amendment No. 1928 offered by the Senator from Connecticut, Mr. DODD, increases the spending by $1 billion. This additional spending would cause the underlying bill to exceed the subcommittee section 302(b) allocation. Therefore, I raise a point of order against the amendment pursuant to section 302(f) of the Budget Act.

Parenthetically, I also say that, before we recess this year, we will have to provide this money and the Appropriations Committee will find some way to find it within the budget.

Mr. DODD. Mr. President, pursuant to section 904 of the Congressional

Budget Act of 1974, I move to waive the applicable sections of that act for the purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID (after having voted in the affirmative). Mr. President, I have a pair with the Senator from Nevada, Mr. ENSIGN. If he were present and voting, the Senator from Nevada, Mr. ENSIGN, would vote ''nay.'' If I were permitted to vote, I would vote ''yea.'' I, therefore, withhold my vote.

Mr. MCCONNELL. I announce that the Senator from Nevada (Mr. ENSIGN) is necessarily absent.

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

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

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

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

The yeas and nays resulted—yeas 63, nays 31, as follows:

[Rollcall Vote No. 409 Leg.]

YEAS—63

Akaka	Daschle	Leahy
Allen	Dayton	Levin
Baucus	DeWine	Lieberman
Bayh	Dodd	Lincoln
Bennett	Dole	Lugar
Biden	Dorgan	McConnell
Bingaman	Durbin	Mikulski
Bond	Feingold	Miller
Breaux	Feinstein	Murray
Bunning	Graham (FL)	Nelson (FL)
Burns	Graham (SC)	Nelson (NE)
Byrd	Grassley	Pryor
Cantwell	Harkin	Reed
Carper	Hatch	Roberts
Chafee	Inouye	Rockefeller
Clinton	Jeffords	Sarbanes
Coleman	Johnson	Schumer
Collins	Kennedy	Smith
Conrad	Kohl	Stabenow
Cornyn	Landrieu	Talent
Corzine	Lautenberg	Wyden

NAYS—31

Alexander	Frist	Sessions
Allard	Gregg	Shelby
Brownback	Hagel	Snowe
Campbell	Hutchison	Specter
Chambliss	Inhofe	Stevens
Cochran	Kyl	Sununu
Craig	Lott	Thomas
Crapo	McCain	Voinovich
Domenici	Murkowski	Warner
Enzi	Nickles	
Fitzgerald	Santorum	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED

Reid, for

NOT VOTING—5

Boxer	Ensign	Kerry
Edwards	Hollings	

The PRESIDING OFFICER. On this vote, the yeas are 63, the nays are 31. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1928) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I ask unanimous consent that Senators DURBIN, SCHUMER, LIEBERMAN, and EDWARDS be added as cosponsors.

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

Mr. DODD. Mr. President, let me thank all Members. Let me particularly thank my colleague from Kentucky and my colleague from Missouri, as well as the chairman of the Appropriations Committee, Senator STEVENS, who graciously said we would try to work this out.

I appreciate my colleagues doing what they did, and I appreciate those who didn't even vote with us. It is a very important moment. I am very grateful to everyone who gave us consideration. I am particularly grateful to the Members who cast their votes with us. I know it was a difficult vote, but it will do a lot for the States.

PROCUREMENT OF TANKER AIRCRAFT

Mr. REID. Mr. President, two Members who are on the Armed Services Committee have been waiting all day to give statements.

I ask unanimous consent that the chairman and ranking member of the committee be recognized for 6 minutes each to speak as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, does the Senator from Washington wish to join?

Mrs. MURRAY. Mr. President, if I could have an additional minute.

Mr. WARNER. I think we should reserve it for the other Senator from Washington, too.

Mrs. MURRAY. That is correct.

Mr. REID. Mr. President, I modify my request: 5 minutes to the Senator from Virginia, 5 minutes to the Senator from Michigan, 2 minutes to the Senator from Washington, and 2 minutes to Senator CANTWELL, if she wishes to speak.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WARNER. Mr. President, I thank our distinguished minority leader for that.

I have a draft in the form of an amendment which I hope to introduce into the Armed Services conference for purposes of incorporation in that bill. I ask unanimous consent that it be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. WARNER. Mr. President, I rise to describe this proposal concerning the administration's request to proceed with the lease of 100 aircraft.

Mr. MCCAIN. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will come to order.

The Senator from Virginia.

Mr. WARNER. Mr. President, for the past 2 years, this issue has had a rather contentious but serious debate—

Mr. MCCAIN. Mr. President, I apologize, but the Senate is still not in order.

The PRESIDING OFFICER. The Senate will please come to order.

The Senator from Virginia.

Mr. WARNER. Mr. President, for the past few years there has been a sort of contentious but serious and conscientious debate within the administration and the Congress as to how to resolve the problem for the Department of the Air Force.

What I regard as a compromise to the pending understanding would be the following: First, according to my sources, in many ways this has been corroborated by the various Departments which worked with us. It would provide up to perhaps $4 billion in savings. It would give prompt delivery of 100 new tanker aircraft. It would put this program back into the traditional procurement process, put this program back into the traditional budget process, put this program back into the traditional authorization process, and provide the Air Force with title—underline ''title''—ownership of at least 80 of the aircraft under this contract.

Pursuant to section 133 of the National Defense Authorization Act for fiscal year 2003, which established guidelines for the congressional review of any tanker lease, the Air Force, on July 10, submitted to the Congressional Defense Committees a new start notification of at least 100 aircraft.

Under section 133 of the Defense Authorization Act of 2003, all four committees must act favorably on this notification for the lease to proceed. Our Senate Armed Services Committee has yet to act. We conducted extensive oversight of this tanker lease program, holding a hearing on September 4.

During this hearing, I first put out my thoughts for public comment on the idea of leasing at that time up to 25 aircraft and purchasing the remainder. I have now modified that to 20 and 80.

Subsequent to this hearing, the committee explored numerous options and requested additional studies from the Congressional Budget Office, the General Accounting Office and the Air Force.

I commend the members of my committee for their careful review of this matter and coming up with this proposal despite the enormous pressure from many sectors to simply adopt the new start reprogramming request.

The proposal amendment to be included in the National Defense Authorization Act for fiscal year 2004 would provide for the approval of a lease for 20 aircraft and authorize a multiyear procurement program for the remaining 80 aircraft. Thus, the Air Force would still obtain 100 tankers, in keeping with the goal of the Administration's tanker lease proposal.

This approach allows the tanker program to get started with no lease payments required until fiscal year 2006 and no purchase payments required until fiscal year 2008, while still permitting the same schedule of deliveries as in the currently negotiated lease contract.

This proposal would also authorize the use of incremental funding for the 80 aircraft purchase. Incremental funding is an approach that should not be taken lightly by Congress, but it is one that has been used for other weapon systems acquisitions where there was a critical need.

I plan to continue to consult with all interested parties and work to get an agreement to include this proposal in the national defense authorization conference report. That action would provide the Air Force the option to immediately execute the program and being production of these 100 aircraft.

I urge the support of my colleagues.

EXHIBIT I

SEC. . PROCUREMENT OF TANKER AIRCRAFT.

(a) LEASED AIRCRAFT.—The Secretary of the Air Force may lease up to a total of 20 aircraft under the multiyear aircraft lease pilot program referred to in subsection (d).

(b) MULTIYEAR PROCUREMENT AUTHORITY.—(1) Beginning with the fiscal year 2004 program year, the Secretary of the Air Force may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract for the purchase of aircraft necessary to meet the requirements of the Air Force for which leasing of aircraft is provided for under the multiyear aircraft lease pilot program but for which the number of aircraft leased under the authority of subsection (a) is insufficient.

(2) The total number of aircraft purchased through a multiyear contract under this subsection may not exceed 80.

(3) Notwithstanding subsection (k) of section 2306b of title 10, United States Code, a contract under this section may be for any period not in excess of 10 program years.

(4) A multiyear contract under this subsection may be initiated or continued for any fiscal year for which sufficient funds are available to pay the costs of such contract for that fiscal year, without regard to whether funds are available to pay the costs of such contract for any subsequent fiscal year. Such contract shall provide, however, that performance under the contract during the subsequent year or years of the contract is contingent upon the appropriation of funds and shall also provide for a cancellation payment to be made to the contractor if such appropriations are not made.

(c) STUDY OF LONG-TERM AIRCRAFT MAINTENANCE AND TRAINING REQUIREMENTS.—(1) The Secretary of Defense shall carry out a study to identify alternative means for meeting the long-term requirements of the Air Force for—

(A) the maintenance of aircraft leased under the multiyear aircraft lease pilot program or purchased under subsection (b); and

(B) training in the operation of aircraft leased under the multiyear aircraft lease pilot program or purchased under subsection (b).

(2) Not later than April 1, 2004, the Secretary shall submit a report on the results of the study to the congressional defense committees.

(d) MULTIYEAR AIRCRAFT LEASE PILOT PROGRAM DEFINED.—In this section, the term ''multiyear aircraft lease pilot program'' means the program authorized under section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 101–117; 115 Stat. 2284).

Mr. WARNER. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, I thank the chairman of the Armed Services Committee for his extraordinary effort in putting together a proposal which I am pleased to support. For the reasons he gave, it is a much more honest approach to the acquisition of these tankers. There is no use pretending this is a lease when, in fact, it is intended to be a sale. It has been the intent of the Air Force they purchase it. It has been wrapped in the clothing of a lease but, in fact, the clear intention here and the only commonsense outcome is that it be a purchase, not a lease, because under the lease agreement, 80 percent of the cost of these planes would be laid out by the Air Force while only 20 percent of their useful life would have been actually used by the time the lease was over. It is obvious the intention and the commonsense approach was this is intended to be a purchase and it ought to be called what it is.

The proposal I am pleased to join in sponsoring is much more honest in terms of the intention. It also complies much more closely to what the normal budgeting procedures are around here. We do not want this to be a precedent for leasing. That distorts the entire budget process because it looks like it is free, in essence, for a couple years. These are not free. There is a huge cost. If we can reduce the real cost, as this proposal does, by acknowledging that it is really a purchase, by authorizing a multiyear acquisition, which is what we do after the leasing of the first 20, it seems to me we will save taxpayer dollars, we will commit to actually acquiring these tankers, but we will force the Air Force to be straightforward in the use of this country's resources. They are not going to be able to have something which looks free for a couple years because there is a small lease payment and then have this huge obligation in the outyears.

At the same time presumably they will want to buy more and more tankers. We address the long-term need to acquire tankers. We do it in a more straightforward way. We save money for the taxpayers.

I commend the two Senators from Washington, Senators MURRAY and CANTWELL, for being so persistent in moving this program forward. This outcome would not have happened without them. I also acknowledge Senator MCCAIN's role. He has insisted from the beginning this be reviewed in an honest way by the General Accounting Office, by the Congressional Budget Office, and by the Armed Services Committee. It has been his insistence we deal with this honestly. That has led to this proposal. I have not had a chance to speak with Senator MCCAIN personally or directly so I don't know what his reaction is. I hope it meets his expectations and his needs. I do acknowledge the fact that Senator MCCAIN is always playing it straight, looks at things straight, and wants an honest addressing of an issue. That is what we are now doing.

To the two Senators from Washington and the Senator from Arizona, I express my thanks, and particularly the chairman of the committee, who put together a proposal which I am pleased to join.

The members of the committee have spent considerable effort in reviewing the basic Air Force proposal to sign a long-term lease for 100 KC–767 tanker aircraft. Based on my review of the issues surrounding this proposal, I support Senator WARNER's intention to offer the proposal he outlined in the conference on the National Defense Authorization Act for fiscal year 2004.

Let me also recognize the strong and positive role that the two Senators from Washington, Senator PATTY MURRAY and Senator MARIA CANTWELL, have played in moving the leasing program forward. I know personally that they have spent many hours understanding the current Air Force tanker situation, and in working with other members of the Senate in moving this program forward.

The proposal to go forward with a lease of 20 aircraft now and providing, up-front, multiyear procurement authority for the Air Force to buy the remaining 80 tankers should help address several concerns.

First, it will help address our long-term need to replace the Air Force's existing fleet of tanker aircraft. We have spent many hours trying to understand the severity of the corrosion problem within the KC–135 tanker fleet. While the Air Force has not made a convincing case that there is an imminent risk to the fleet, the Air Force does have a long-term requirement for tankers that will ultimately require the fielding of replacement aircraft. For this reason, I believe that it is prudent to move forward now with an orderly replacement program.

Second, our approach would give the Air Force multiyear contracting authority now. This will reduce the acquisition cost for aircraft, significantly reducing the price to be paid by the

taxpayers. I believe that providing such multiyear contracting authority is a responsible step to take in the case of a program like this, which involves very little new development and very little program risk.

Third, the proposal that Senator WARNER and I are putting forward would address very real concerns with the lease proposal presented by the Air Force. I believe that what the Congressional Budget Office said is correct: this is not a real lease, but a purchase. The Air Force, not Boeing, will control the special purpose entity that borrows funds for this program. There is no doubt in anyone's mind that the Air Force intends to buy these aircraft at the end of the lease. We simply cannot afford to pay 90 percent of the value of the aircraft for less than 20 percent of the useful life.

Finally, our proposal would take a far more responsible approach to federal budget issues than the proposal put forward by the Air Force. The Air Force proposal would have pushed the cost of the tanker aircraft off until the next decade, creating a huge funding program for the next generation of Air Force leaders. Our approach would move the costs forward, requiring the Department of Defense to provide almost $5 billion more in current Future Years Defense Program. The Air Force case that it is urgent to replace these tanker aircraft will be a lot more convincing, if the Department of Defense is willing to put money up for the problem earlier, rather than taking a free ride on the back of future taxpayers and defense needs.

I hope that we will get agreement from the House conferees on the defense authorization on including this provision in the final authorization act. I believe that it will help address a significant problem identified by the Air Force, while acting more responsibly in preventing postponing too much funding to later years.

I thank Chairman WARNER for his leadership on this issue.

Mr. WARNER. I commend my colleague from Michigan. We have been working together some 25 years on this committee now. Last night we studied the final language I crafted with the help of others and my colleague decided to join us.

Senator MCCAIN wishes to follow the two distinguished colleagues from Washington. Again, I commend the Senator. We met last night on the floor. We talked about it. We worked into the evening with our staff. I very much appreciate the expressions the Senator is about to make.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, more than 2 years ago the Senate began a journey to help improve our military readiness by replacing the outdated Air Force asset with 100 new Boeing 767 air refueling tankers. In spite of the best efforts of the Air Force to maintain that tanker fleet, those planes are outdated and cost billions of dollar to maintain.

In the 2 years that have passed since we first began discussing replacing our Nation's tanker fleet, the KC–135s have grown older, more corroded, and less safe. It is a testament to the resourcefulness of the flying men and women of our Air Force that these planes are still flying as well as they are.

Over the past several days, Senator CANTWELL and I have engaged in a very productive series of meetings and discussions with Chairman STEVENS and Chairman WARNER, ranking Members Levin and Inouye. We were here late last night, as Senator WARNER indicated, and all day long working with our colleagues on a way to move this forward. I am really pleased we have worked our way through some very big issues. The leaders of our Senate Armed Services Committee agree we do need to provide the Air Force a way to begin to recapitalize its aging tanker fleet with new Boeing 767s. I am proud Senator WARNER and Senator LEVIN agree Boeing airframes will help our air men and women protect our Nation and advance our security around the world.

I had the honor of meeting with a number of people who fly these planes. I am proud we are finally working our way to bring some new planes to these brave young men and women.

These planes are critical. They are the backbone of America's air power capability. The importance of replacing them cannot be overstated. The Warner-Levin proposal is a great step in the right direction. It is finally going to allow Boeing to begin producing state-of-the-art KC–767 aircraft right away with delivery of the first four tankers in 2005.

There are outstanding issues remaining, but it is clear to me today that we have a commitment finally to move forward and the Air Force is going to get the tankers it so desperately needs.

I commend Senator WARNER, Senator STEVENS, Senator LEVIN, Senator INOUYE, and especially my colleague in Washington, Senator CANTWELL, who spent a tremendous amount of time trying to work this issue through with all of the details. I am proud to serve with her in the Senate. She is a testament to the people who are going to be building these planes and her advocacy for them, particularly over the last several days.

I yield to my colleague from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 2 minutes.

Ms. CANTWELL. Mr. President, I am sure there is no way I can convey in these minutes all of the important information that needs to be conveyed about this issue. I will highlight a few things.

This debate started in 2001 and still goes strong today. The testament of the many Members who were here on the floor is that we are trying to move ahead and move ahead with what is a very needed product.

I thank my colleague from Washington and my colleague from Illinois, Senator DURBIN, who is also interested in this issue.

The bottom line is we all know if we could buy these planes now and have the resources, we would do that. We all know buying the planes sooner makes them cheaper. The issue we have been struggling with is, where are the resources and how do we make this come together in a timely fashion to meet the need.

Senator MCCAIN has made all of us stop and think about this issue in ways we might not have thought. I don't think any Member wanted to or should have excluded the authorizing committee from playing its normal role and capacity of reviewing these projects. The fact of the matter is we now are 2 years into this process and we have to figure out a way to move forward. The Armed Services Committee is trying to do just that, trying to say 100 planes should be made through either a lease or procurement process as part of a contract and that we need to move forward soon on the start of that lease contract.

We are still a few days away from finally getting a product. I thank Senators WARNER and LEVIN for taking this step in the process outlined in 2001 of the authorizing committee giving its feedback on this original proposal by Congress to have a pilot lease program.

Mr. WARNER. How much time does this Senator have remaining?

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Virginia has 1 minute 42 seconds.

Mr. WARNER. Mr. President, first, I commend my two colleagues from Washington. While we only have 2 or 3 minutes to speak about this matter, I would hate to know the number of hours that each of them have expended.

Mr. President, I ask unanimous consent that we have 5 minutes allocated to the Senator from——

Mr. STEVENS. I object. We have to get back to the appropriations sometime.

Mr. WARNER. All right. Mr. President, I ask unanimous consent 3 minutes be given to the Senator from Arizona.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

The Senator from Arizona has 3 minutes.

Mr. MCCAIN. Mr. President, I yield 1 of my 3 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 1 minute.

Mr. NICKLES. Mr. President, I thank my friend and colleague from Arizona for his generosity.

I compliment Senator WARNER and Senator MCCAIN and Senator LEVIN and others. I think a purchase is so much more fiscally responsible, and it is such

more honest with the budget. We are going to save billions of dollars by doing the purchase. The lease, in my opinion, is, frankly, not the right way to do it if we are going to be honest with the taxpayers and honest in saving money for the system.

We need the airplanes. I am all in favor of moving forward with the airplanes. And certainly this is a much more logical deal.

I thank my colleague from Arizona.

The CBO, Congressional Budget Office, certainly concurs that a purchase is a much more fiscally responsible method of purchasing the airplanes.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 2 minutes.

Mr. MCCAIN. Mr. President, I thank my two leaders in the Armed Services Committee, Senator WARNER and Senator LEVIN, who have worked so hard on this issue. I appreciate everything they have done.

I also thank both Senators from Washington. I know this has been a very difficult process for them.

Mr. President, there are a number of lessons to be learned from this exercise. One of the lessons is—and I see the chairman of the Appropriations Committee here on the floor—we should not start this kind of process with a line on an appropriations bill. It should have gone through the authorizing committee. There should have been hearings and ventilation of a $20 to $30 billion acquisition. None of this problems would have arisen if we had gone through the proper authorizing committee rather than the Appropriations Committee assuming responsibilities which are not theirs.

I appreciate very much my two colleagues for asserting the authority of the authorizing committee where it belongs. I believe this is a good compromise. I would like to see better.

Obviously, I thank my colleagues again, especially the Senators from Washington, as well as the chairman and ranking member of the authorizing committee, for their hard work on this effort.

I yield the remainder of my time to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I simply conclude, we are here today because of the efforts of Senator MCCAIN to bring this matter to our attention, and I salute him for that purpose. And I thank all.

I yield back my time so the distinguished chairman can move ahead with the bill.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, since I have been mentioned personally, let me just say I will be happy to see the day when the Armed Services Committee brings the bill to the floor, goes through the normal process, and passes a bill and provides the budget authority and the outlays to do it. That has been the problem. This is air we are talking about now—air.

Does the Senator from Hawaii want time to speak on his amendment to this bill? How much time does the Senator want?

Two minutes? I yield the Senator up to 5 minutes. We are waiting for the balance of the papers.

I say to the Senator, we have tried to clear his amendment. We have not been able to clear his amendment because of a problem with jurisdiction on the House side. But I believe he would like to explain his amendment. We were willing to take it to conference, but we are told that it would not survive conference because of the jurisdictional problem on the House side.

I ask Senator AKAKA, does he wish to speak at this time?

I thank the Senator.

Does the Senator from New Mexico wish time?

Mr. BINGAMAN. Yes. I thank the Senator.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me take 2 minutes.

AMENDMENT NO. 1939

Mr. President, I have an amendment that I filed, No. 1939, which I understand is going to be acceptable to both the managers of the bill and will be included with other amendments that are approved in a few minutes.

I particularly compliment Senator SNOWE as the cosponsor of this legislation. She has been a long-time champion of commercial air service in rural areas, and I appreciate her leadership on the amendment.

The amendment is very simple. In fact, both the House and the Senate have passed the substance of this amendment previously in connection with the FAA reauthorization legislation.

The amendment that we are offering, that we appreciate people supporting, will preserve the Essential Air Service Program by preventing the Department of Transportation from implementing a new program that would require communities to pay in order to retain their commercial air service. I hope the Senate will again support it.

Congress established the Essential Air Service Program in 1978 to ensure that communities that had commercial air service before airline deregulation could continue to receive scheduled service. Without EAS, many rural communities would have no commercial air service at all.

All across America, small communities face ever-increasing hurdles to promoting their economic growth and development. Today, many rural areas lack access to interstate or even four-lane highways, railroads or broadband telecommunications. Business development in rural areas frequently hinges on the availability of scheduled air service. For small communities, commercial air service provides a critical link to the national and international transportation system.

The Essential Air Service Program currently ensures commercial air service to over 100 communities in 34 States. EAS supports an additional 33 communities in Alaska. Because of increasing costs and the current financial turndown in the aviation industry, particularly among commuter airlines, about 28 additional communities have been forced into the EAS program since the terrorist attacks in 2001.

In my State of New Mexico, five cities currently rely on EAS for their commercial air service. The communities are Clovis, Hobbs, Carlsbad, Alamogordo and my hometown of Silver City. In each case commercial service is provided to Albuquerque, the State's largest city and business center.

Back in June, during consideration of the FAA reauthorization bill, Senator INHOFE and I, with 13 bipartisan cosponsors, offered an amendment that struck out a provision in that bill that would for the first time require some communities to pay to retain their commercial air service. I believed that arbitrary proposal would have eliminated scheduled air service for many rural communities that participate in the Essential Air Service Program.

I was pleased the full Senate listened and adopted our amendment to the FAA reauthorization bill. In parallel, the full House of Representatives also voted to eliminate mandatory cost sharing language from the FAA reauthorization bill.

Most students of Government would tell you that when a majority of both Houses of Congress have voted against a particular measure, the conferees couldn't arbitrarily put it back in. Well they did. In another example of secret House-Senate back-room dealing, the Republican conferees excluded the minority members, flagrantly ignored the will of the majority in the House and the Senate, and restored the very cost-sharing language both Houses one month before had voted to reject.

I believe adding this extraneous and objectionable provision is an egregious violation of the conference process. A conference report on H.R. 2115 was filed 3 months ago and there has been no further action in either House of Congress. Clearly, this was flawed process and the result is an FAA conference report that can't pass either the House or the Senate.

It is not clear how the leaders will resolve the problems with the FAA conference report. Last month, 16 bipartisan Senators wrote to the House and Senate conferees opposing the mandatory cost sharing for EAS communities. Thirty-five bipartisan House Members signed a similar letter to conferees. I ask unanimous consent that both letters be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, September 29, 2003.

Hon. JOHN MCCAIN,
Chairman, Committee on Commerce Science and Transportation, Dirksen Office Building, Washington, DC.
Hon. ERNEST F. HOLLINGS,
Ranking Member, Committee on Commerce Science and Transportation, Dirksen Office Building, Washington, DC.
Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.
Hon. JAMES OBERSTAR,
Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

GENTLEMEN: We write out of grave concern for a provision added to the Vision 100—Century of Aviation Reauthorization conference report regarding the adoption of a local cost share for certain Essential Air Service communities. This addition to the conference report not only goes against the will of both the House and the Senate, but may also have a disastrous effect on many of our small rural airports. Therefore, we urge the conference committee to remove this language before bringing the report to the respective floors for a vote.

The local cost share provision was removed from S. 824 by a bipartisan amendment offered by 15 senators, which passed on a voice vote. Likewise, a similar local cost share provision was removed from H.R. 2115 by an amendment offered by Representatives McHugh, Peterson (PA) and Shuster.

It is our understanding that negotiations are currently under way to remove language from the conference report regarding the privatization of air traffic controllers. This provides the conference committee an excellent opportunity to remove the EAS local match provision that was already stricken on both the House and Senate floors and not included in either bill brought to the conference committee.

Additionally, this provision will have untold effects on many small rural communities. It is unacceptable to force communities to pay up to $100,000 in a local cost share, in addition to the many costs they currently incur in running a small local airport.

We respectively request the removal of Section 408 from the Vision 100—Century of Aviation Reauthorization Act conference report before it is brought to the House and Senate floors for consideration, and we look forward to working with you in the future to ensure rural communities continue to receive essential air service.

Sincerely,

Jeff Bingaman; Hillary Rodham Clinton; Blanche L. Lincoln; Mark Pryor; Charles Schumer; Arlen Specter; Olympia Snowe; Patrick Leahy; Jim Jeffords; Tom Harkin; Tom Daschle; Benjamin Nelson; Susan M. Collins; Mark Dayton; Charles Grassley; Chuck Hagel.

CONGRESS OF THE UNITED STATES,
Washington, DC, September 24, 2003.

Hon. JOHN MCCAIN,
Chairman, Committee on Commerce, Science, and Transportation, Dirksen Office Building, Washington, DC.
Hon. FRITZ HOLLINGS,
Ranking Member, Committee on Commerce, Science, and Transportation, Dirksen Office Building, Washington, DC.
Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.
Hon. JAMES OBERSTAR,
Ranking Member, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN YOUNG, CHAIRMAN MCCAIN, RANKING MEMBER OBERSTAR, RANKING MEMBER HOLLINGS: We write out of grave concern for a provision added to the Vision 100-Century of Aviation Reauthorization Conference Report regarding the adoption of a local cost share for certain Essential Air Service communities. This addition to the conference report not only goes against the will of both the House and the Senate, but may also have a disastrous effect on many of our small rural airports. Therefore, we urge the conference committee to remove this language before bringing the report to the respective floors for a vote.

As you know, the local cost share provision was removed in H.R. 2115 by an amendment offered by Representatives McHugh, Peterson (PA) and Shuster, which passed by a voice vote. Likewise, a similar local cost share provision was removed from S. 824 by an amendment offered by Senator Bingaman.

It is our understanding that negotiations are currently under way to remove language from the conference report regarding the privatization of air traffic controllers. This provides the conference committee an excellent opportunity to remove the EAS local match provision that was already stricken on both the House and Senate floors and not included in either bill brought to the conference committee.

Additionally, this provision will have untold affects on many small rural communities. It is unacceptable to force communities to pay up to $100,000 in a local cost share, in addition to the many costs they currently incur in running a small local airport.

We respectfully request the removal of Section 408 from the Vision 100-Century of Aviation Reauthorization Act Conference Report before it is brought to the House and Senate floors for consideration and we look forward to working with you in the future to ensure rural communities continue to receive essential air service.

Sincerely,

John E. Peterson; John McHugh; Bill Shuster; John Shimkus; Barbara Cubin; Ron Paul; Frank D. Lucas; Kenny C. Hulshof; Rob Bishop; Jim Gibbons; Allen Boyd; Jerry Moran.

Chris Cannon; Marion Berry; Charles F. Bass; John Tanner; Scott McInnis; Rick Renzi; Dennis A. Cardoza; Jim Matheson; Ed Case; Mike Ross; Lane Evans.

Bernie Sanders; Tom Latham; Ron Lewis; Doug Bereuter; Collin C. Peterson; Aníbal Acevedo-Vilá; Tom Udall; Timothy Johnson; John Boozman; Heather Wilson; Jo Ann Emerson; Bart Stupak.

Mr. BINGAMAN. Mr. President, I would also like to point out that the President has not issued a veto threat on this issue.

All Senators know that a conference report is not amendable. I would have preferred not to pursue an amendment on an appropriations bill, but the conferees ignored the majority in the House and Senate once before. Put simply, this amendment is our only opportunity to undo what the conferees have done.

Mr. President, the choice here is clear: If we do not preserve the Essential Air Service Program today, we could well see the end of all commercial air service in rural areas. The EAS program provides vital resources that help link rural communities to the national and global aviation system. Our amendment will help ensure affordable, reliable, and safe air service remains available in rural America. I hope all Senators will join us in opposing this attack on rural America.

Again, I appreciate the support of all Senators and the support of the two managers.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1936

Mr. SHELBY. Mr. President, I have a number of amendments I will be sending to the desk individually. They have been cleared on both sides by the managers. First is an amendment proposed for Senator DURBIN. I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. DURBIN, proposes an amendment numbered 1936.

The amendment is as follows:

(Purpose: To insert a provision relating to notification information concerning pharmacy services)

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

SEC. 6. MOTORIST INFORMATION CONCERNING PHARMACY SERVICES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall amend the Manual on Uniform Traffic Control Devices to include a provision requiring that information be provided to motorists to assist motorists in locating licensed 24-hour pharmacy services open to the public.

(b) LOGO PANEL.—The provision under subsection (a) shall require placement of a logo panel that displays information disclosing the names or logos of pharmacies described in subsection (a) that are located within 3 miles of an interchange on the Federal-aid system (as defined in section 101 of title 23, United States Code).

Mr. SHELBY. Mr. President, I urge adoption of the amendment.

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

The amendment (No. 1936) was agreed to.

AMENDMENT NO. 1937

Mr. SHELBY. Mr. President, I have an amendment on behalf of the Senator from Georgia, Mr. CHAMBLISS. I send it to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. CHAMBLISS, proposes an amendment numbered 1937.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . The Federal Aviation Administration shall give priority consideration to ''Paulding County, GA Airport Improvements'' for the Airport Improvement Program.

Mr. SHELBY. Mr. President, I urge adoption of amendment.

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

The amendment (No. 1937) was agreed to.

AMENDMENT NO. 1938

Mr. SHELBY. Mr. President, I have an amendment on behalf of the Senator from California, Mrs. FEINSTEIN. It has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mrs. FEINSTEIN, proposes an amendment numbered 1938.

The amendment is as follows:

(Purpose: To modify section 130 to extend the prohibition under that section to the use of funds to provide maximum hours of service for certain drivers engaged for motion picture or television production)

On page 33, strike lines 5 through 10 and insert the following:

SEC. 130. No funds appropriated or otherwise made available by this Act may be used to implement or enforce any provisions of the Final Rule, issued on April 16, 2003 (Docket No. FMCSA–97–2350), with respect to either of the following:

(1) The operators of utility service vehicles, as that term is defined in section 395.2 of title 49, Code of Federal Regulations.

(2) Maximum daily hours of service for drivers engaged in the transportation of property or passengers to or from a motion picture or television production site located within a 100-air mile radius of the work reporting location of such drivers.

Mr. SHELBY. Mr. President, I urge adoption of the amendment.

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

The amendment (No. 1938) was agreed to.

AMENDMENT NO. 1939

Mr. SHELBY. Mr. President, I have another amendment that I send to the desk on behalf of Senator BINGAMAN and others.

It has been cleared on both sides by the managers.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. BINGAMAN, Ms. SNOWE, Mr. SPECTER, Mr. NELSON of Nebraska, Mr. SCHUMER, Mr. JEFFORDS, Mr. PRYOR, Mr. LEAHY, Mr. DASCHLE, Mr. BAUCUS, Ms. COLLINS, and Mr. GRASSLEY, proposes an amendment numbered 1939.

The amendment is as follows:

(Purpose: To prohibit the obligation of funds for the establishment or implementation of an EAS local participation pilot program)

On page 14, between lines 2 and 3, insert the following new section:

SEC. 105. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to establish or implement a pilot program under which not more than 10 designated essential air service communities located in proximity to hub airports are required to assume 10 percent of their essential air subsidy costs for a 4-year period, commonly referred to as the EAS local participation program.

Ms. SNOWE. Mr. President, I rise today in strong support of the Bingaman-Snowe amendment to protect the Essential Air Service, EAS, program.

Throughout my time in Congress, I have been a strong supporter of EAS, which provides subsidized air service to 125 small communities in the country, including four in Maine—Augusta, Rockland, Bar Harbor and Presque Isle—that would otherwise be cut off from the Nation's air transportation network. As approved in May by the Senate Commerce Committee, the Federal Aviation Administration, FAA, Reauthorization bill reauthorized and flat-funded the program for 3 years, and includes changes to the program, which are drastically scaled back from what the administration proposed earlier this year for EAS ''reform.'' The administration had called for EAS towns to provide up to 25 percent matching contributions to keep their air service.

The Commerce Committee bill creates a number of new programs to help EAS communities grow their ridership, including a marketing incentive program that would financially reward EAS towns for achieving ridership goals. With regard to local cost-sharing—the centerpiece of the Administration's EAS proposal—the Commerce bill would create a pilot program to allow for a 10 percent annual community match at no more than 10 airports within a 100 miles of a large airport.

While the cost-sharing provisions in the Committee bill are much less strict than the administration proposal, and could only be applied to a EAS community under certain specific conditions, I remain concerned about the concept of requiring EAS towns—some of which are cash strapped and economically depressed—from kicking in hundreds of thousands of dollars annually to keep their air service. For example, if Augusta or Rockland, ME were to be chosen for the cost-sharing pilot program, they would have to come up with more than $120,000 annually to retain their air service.

As such, during floor consideration of the FAA bill, I supported Senator BINGAMAN's amendment to strike the cost-sharing section from the bill, and was pleased when it was approved unanimously by the full Senate. The House adopted an identical amendment offered by Representative PETERSON. And I felt so strongly about this issue that in late July I circulated a letter to the FAA conferees signed by 15 other Senators expressing strong opposition to having mandatory EAS cost-sharing language in the final legislative package. As such, I was extremely disappointed when that same language found itself into the FAA conference report issued on July 25.

That is why the amendment we have offered today is necessary. While the FAA bill has not been yet signed into law, I agree with my colleague that we need to take out an ''insurance policy'' and ensure that EAS local cost-sharing never gets off the ground.

The EAS program is not perfect, and Congress certainly needs to do all we can to keep the costs and subsidy levels associated with the program as low as possible. I look forward to working with members of the Commerce Committee and the Senate on the issue, but I continue to believe that requiring cost sharing in today's economy and today's aviation environment is clearly a wrong-headed approach. I urge my colleagues to support the Bingaman-Snowe amendment.

Mr. ROCKEFELLER. Mr. President, I rise to support the Bingaman-Snowe amendment, which would bar the Department of Transportation from using any funds to implement cost-sharing requirement for communities that receive subsidized air service through the Essential Air Service Program—EAS.

As ranking Democrat on the Aviation Subcommittee, I work very hard to improve air service for small and rural communities. Most recently, I worked with Senator LOTT on legislation to address this important issue. We introduced the Small Community and Rural Air Service Revitalization Act of 2003 to address the growing air services needs of small communities. The legislation became the basis for the small community air service provisions in Senate FAA reauthorization bill and ultimately the FAA Conference Report. The FAA Conference Report establishes a series of pilot programs to help communities improve their existing air service. I strongly believe that communities need new resources and tools to improve their air service options. The new initiatives established in the FAA Conference Report will allow communities the ability to improve their air service choices, and give a community a greater stake in the EAS program.

The Federal Aviation Administration—FAA—Conference Report includes a provision that allows the DOT to select up to 10 communities within 100 miles of a hub airport to pay 10 percent of the their Essential Air Service subsidy, even though both the Senate and the House voted against imposing a cost-sharing requirement.

Small Community and Rural Air Service Revitalization Act of 2003 also

included a pilot program that would allow DOT to require a cost-share for up to 10 communities within 100 miles of a hub. As I expressed in my statement on the introduction of this bill, I have significant reservation about forcing communities to pay for a service the Federal Government promised them. I expressed my strong reservations throughout the development and Senate consideration of the FAA reauthorization bill in this matter.

During Senate consideration of the FAA bill, Senator BINGAMAN and Senator INHOFE offered an amendment to strip the cost-sharing provision. Senators MCCAIN and LOTT accepted the amendment without debate as it was clear that a large majority of Senators did not support this provision. The House bill as passed by their Transportation Committee had a local match provision. The House stripped their cost-sharing provision as well on the floor so neither bill had a cost-sharing provision. Clearly, the will of Congress was that the Federal Government should provide the entire subsidy. During the conference negotiations on the FAA bill in which I was invited to participate, I argued against reinstating cost-sharing provisions, but the majority conferees insisted on this provision.

The adoption of this provision will prohibit cost-sharing in the upcoming fiscal year. It is a short-term solution to a larger problem that I hope we can ultimately address by reopening the FAA conference report.

Mr. SHELBY. Mr. President, I urge adoption of the amendment.

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

The amendment (No. 1939) was agreed to.

AMENDMENT NO. 1940

Mr. SHELBY. Mr. President, I send to the desk an amendment on behalf of the Senator from Indiana, Mr. BAYH. It has been cleared on both sides by the managers.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. BAYH, proposes an amendment numbered 1940.

The amendment is as follows:

(Purpose: To expand aviation capacity and alleviate congestion in the greater Chicago metropolitan area)

On page 14, between lines 2 and 3, insert the following:

SEC. 105. The Administrator of the Federal Aviation Administration may, for purposes of chapter 471 of title 49, United States Code, give priority consideration to a letter of intent application for funding submitted by the City of Gary, Indiana, or the State of Indiana, for the extension of the main runway at the Gary/Chicago Airport. The letter of intent application shall be considered upon completion of the environmental impact statement and benefit cost analysis in accordance with Federal Aviation Administration requirements. The Administrator shall consider the letter of intent application not later than 90 days after receiving it from the applicant.

Mr. SHELBY. Mr. President, I urge adoption of the amendment.

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

The amendment (No. 1940) was agreed to.

AMENDMENT NO. 1941

Mr. SHELBY. Mr. President, I send to the desk another amendment on behalf of Mr. REID of Nevada. It has been cleared on both sides by the managers.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. REID, proposes an amendment numbered 1941.

The amendment is as follows:

AMENDMENT NO. 1941

(Purpose: To require notice of regulations relating to travel agent service fees)

On page 14, after line 2 insert the following:

SEC. ____. None of the funds in this Act may be used to adopt rules or regulations concerning travel agent service fees unless the Department of Transportation publishes in the Federal Register revisions to the proposed rule and provides a period for additional public comment on such proposed rule for a period not less than 60 days.

Mr. SHELBY. Mr. President, I urge adoption of the amendment.

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

The amendment (No. 1941) was agreed to.

AMENDMENT NO. 1942

Mr. SHELBY. Mr. President, I have another amendment I send to the desk on behalf of Senator HOLLINGS of South Carolina. It has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. HOLLINGS, proposes an amendment numbered 1942.

The amendment is as follows:

(Purpose: Modify federal share for specific project under 49 U.S.C. 5307)

SEC. . Funds apportioned to the Charleston Area Regional Transportation Authority to carry out 49 U.S.C. 5307 may be used to lease land, equipment, or facilities used in public transportation from another governmental authority in the same geographic area: *Provided*, That the non-Federal share under section 5307 may include revenues from the sale of advertising and concessions: *Provided further*, That this provision shall remain in effect until September 30, 2004, or until the Federal interest in the land, equipment, or facilities leased reached 80 percent of its fair market value at disposition, whichever occurs first.

Mr. SHELBY. Mr. President, I urge adoption of the amendment.

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

The amendment (No. 1942) was agreed to.

AMENDMENT NO. 1943

Mr. SHELBY. Mr. President, I have another amendment I send to the desk on behalf of the Senator from Washington, Mrs. MURRAY. It has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mrs. MURRAY, proposes an amendment numbered 1943.

The amendment is as follows:

(Purpose: To clarify the use of GSA funds)

Under the heading Federal Buildings Fund, Limitations on Availability of Revenue:

Page 93, Line 21 and 22: Delete the word ''(design)''

Page 95, Line 15, after the words ''increases in prospectus projects'', delete '';'' and then insert,

'':*Provided further*, That the funds available herein for repairs to the Bellingham, Washington, Federal Building, shall be available for transfer to the city of Bellingham, Washington, subject to disposal of the building to the city,''

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

The amendment (No. 1943) was agreed to.

AMENDMENT NO. 1944

Mr. SHELBY. Mr. President, I send to the desk another amendment on behalf of Senator REED of Rhode Island. It has been cleared by the managers.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. REED, proposes an amendment numbered 1944.

The amendment is as follows:

(Purpose: To provide that no funds may be used to remove any area within a locality pay area established under section 5304 of title 5, United States Code, from coverage under that locality pay area)

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

SEC. 643. (a) None of the funds appropriated or otherwise made available by this Act may be used to remove any area within a locality pay area established under section 5304 of title 5, United States Code, from coverage under that locality pay area.

(b) Subsection (a) shall not apply to the Rest of U. S. locality pay area.

Mr. SHELBY. I urge adoption of the amendment.

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

The amendment (No. 1944) was agreed to.

AMENDMENT NO. 1945

Mr. SHELBY. Mr. President, I send an amendment to the desk on behalf of the Senator from Michigan, Mr. LEVIN. It has been cleared by both managers.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. LEVIN, proposes an amendment numbered 1945.

The amendment is as follows:

(Purpose: Technical modifications to previous transportation acts)

SEC. . Section 1108 of the Intermodal Surface Transportation Efficiency Act of 1991, item number 8, is amended by striking ''To relocate'' and all that follows through ''Street'' and inserting the following, ''For road improvements and non-motorized enhancements in the Detroit East Riverfront, Detroit, Michigan.''

SEC. . The funds provided under the Heading ''Transportation and Community and

System Preservation Program'' in Conference Report 106–940 for the Lodge Freeway pedestrian overpass, Detroit, Michigan, shall be transferred to, and made available for, enhancements in the East Riverfront, Detroit, Michigan.

SEC. . The funds provided under the Heading ''Transportation and Community and System Preservation Program'' in Conference Report 107–308 for the Eastern Market pedestrian overpass park, shall be transferred, to, and made available for, enhancements in the East Riverfront, Detroit, Michigan.

Mr. SHELBY. I urge adoption of the amendment.

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

The amendment (No. 1945) was agreed to.

AMENDMENT NO. 1946

Mr. SHELBY. Mr. President, I have another amendment I send to the desk on behalf of the Senator from Hawaii, Mr. AKAKA. It has been cleared by the managers.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. AKAKA, proposes an amendment numbered 1946.

The amendment is as follows:

(Purpose: To prohibit the use of funds for the Debt Indicator program)

On page 73, between lines 9 and 10, insert the following:

SEC. 218. None of the funds appropriated or otherwise made available by this Act may be used for the Debt Indicator program announced in Internal Revenue Service Notice 99–58.

Mr. AKAKA. Mr. President, certain tax preparers are lining their pockets with money that should be going toward the everyday needs of lower income families. These preparers are taking advantage of those that have sought assistance in claiming the Earned Income Tax Credit, EITC, by successfully marketing to them to obtain refunds through exorbitantly priced refund anticipation loans, RALs.

An estimated $1.75 billion intended to assist low-income families went to commercial tax preparers and affiliated national banks for tax assistance, electronic filing of returns, and high-cost refund loans in 1999, according to a report published by the Brookings Institution. In 2001, 40.7 percent of taxpayers who earned the EITC received their refund through RALs. The States that had the highest percentage of EITC returns with RALs included Mississippi, 61.5, South Carolina, 58.9, Georgia, 57.6, North Carolina, 57.5, and Louisiana, 56.8.

The Internal Revenue Service, IRS, reduces the risk that lenders take on RALs by providing them a Debt Indicator, DI, on all IRS e-file acknowledgements. The DI informs the lender whether or not an applicant owes Federal or State taxes, child support, student loans, or other government obligations, and this assists the tax preparer in ascertaining the applicant's ability to obtain their full refund so that the RAL is repaid. The vast majority of refunds are remitted to the preparer as prepared. Thus, interest rates for RALs that vary from 97 percent to more than 2000 percent are not justifiable when the IRS lowers the risk of the loans by providing the DI service.

In 1995, the use of the DI was suspended because of massive fraud in e-filed returns with RALs. After the program was discontinued, RAL participation declined. The use of the DI was reinstated in 1999, according to H&R Block, to ''assist with screening for electronic filing fraud and is also expected to substantially reduce refund anticipation loan pricing.'' Although RAL prices were expected to go down as a result of the reinstatement of the DI, this has not occurred. The Debt Indicator should be stopped.

The Akaka amendment would prohibit the use of funds in H.R. 2989, the Fiscal Year 2004 Transportation, Treasury, and Independent Agencies Appropriations Act, for the Debt Indicator program.

The Akaka amendment has been endorsed by the Consumer Federation of America and the National Consumer Law Center.

The DI is helping tax preparers make excessive profits of low- and moderate-income taxpayers who utilize the service. If the Debt Indicator is removed, then the loans become riskier and the tax preparers may not aggressively market them among EITC filers. The IRS should not be aiding efforts that take the earned benefits away from low-income families and allow unscrupulous preparers to take advantage of low-income taxpayers.

RALS are extremely short-term loans that unnecessarily diminish the EITC. There are alternatives to speeding up refunds such as filing electronically or having the refund directly deposited into a bank or credit union account. Using these methods, taxpayers can receive their returns in about 7 to 10 days without paying the high fees associated with RALs.

Mr. President, I ask unanimous consent that a letter and chart from the National Consumer Law Center be printed in the RECORD.

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

NATIONAL CONSUMER LAW CENTER, INC.,
Boston, MA, September 26, 2003.

Hon. DANIEL K. AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: The National Consumer Law Center (on behalf of its low-income clients) and the Consumer Federation of America write to support your amendment to H.R. 2989, which would prohibit the Treasury Department from using its appropriation for the Internal Revenue Service's Debt Indicator program. As you know, the Debt Indicator program mostly benefits refund anticipation loan (RAL) programs by letting tax preparers and RAL lenders know when a tax refund offset exists. Thus, IRS is abetting the making of RALs through the Debt Indicator. We believe that the IRS should not use tax dollars to increase the bottom line of RAL lenders and major tax preparation chains, especially when RALs are draining nearly 2 billion dollars from the pockets of taxpayers, including EITC refunds paid out of the U.S. Treasury.

Thus, we support your amendment to prohibit the use of Treasury appropriations for the Debt Indicator program. Thank you for your support.

Sincerely,

JEAN ANN FOX,
Consumer Federation of America.
CHI CHI WU,
National Consumer Law Center.

State	Total returns	Returns with EITC	Percentage of returns with EITC (in percent)	EITC amount	EITC returns with RAL	Percentage of EITC returns with RAL (in percent)	Estimated amount spent on RALs [1]
MS	1,133,337	340,750	30.1	679,173,550	209,703	61.5	23,067,330
SC	1,744,255	374,946	21.5	667,379,853	220,800	58.9	24,288,001
GA	3,490,461	698,572	20.0	1,286,447,525	402,635	57.6	44,289,879
NC	3,445,671	629,610	18.3	1,093,206,529	361,765	57.5	39,794,136
LA	1,826,048	476,771	26.1	950,671,006	270,713	56.8	29,778,430
AL	1,828,781	432,850	23.7	828,377,878	243,878	56.3	26,826,622
TN	2,481,776	476,925	19.2	815,853,086	253,982	53.3	27,938,067
AR	1,082,709	245,283	22.7	445,930,973	129,663	52.9	14,262,959
TX	8,753,021	1,819,895	20.8	3,395,348,844	931,042	51.2	102,414,624
DC	268,826	48,674	18.1	80,730,037	24,571	50.5	2,702,810
DE	372,408	48,262	13.0	80,153,733	22,996	47.6	2,529,560
VA	3,264,028	420,098	12.9	691,687,320	198.037	47.1	21,784,043
IN	2,761,978	362,912	13.1	586,977,962	169.177	46.6	18,609,451
KY	1,712,016	296,287	17.3	486,814,970	132,745	44.8	14,601,929
OK	1,413,476	264,972	18.7	456,176,187	118,179	44.6	12,999,663
OH	5,352,924	668,993	12.5	1,090,740,478	297,147	44.4	32,686,183
NV	922,925	128,334	13.9	205,250,510	56,230	43.8	6,185,315
IL	5,560,236	737,269	13.3	1,234,565,348	320,046	43.4	35,205,022
FL	7,277,069	1,301,554	17.9	2,229,476,116	527,553	40.5	58,030,873
MD	2,503,253	301,455	12.0	487,028,288	121,342	40.3	13,347,566
MO	2,493,440	371,513	14.9	615,491,828	149,165	40.2	16,408,104
WV	742,821	131,768	17.7	211,166,719	52.512	39.9	5,776,320
MI	4,429,446	545,878	12.3	898,838,168	216,780	39.7	23,845,825
AZ	2,090,660	320,323	15.3	548,919,742	120,484	37.6	13,253,194
NJ	3,928,676	430,933	11.0	703,663,754	158,094	36.7	17,390,340
PA	5,680,698	671,093	11.8	1,054,110,400	243,127	36.2	25,744,025

State	Total returns	Returns with EITC	Percentage of returns with EITC (in percent)	EITC amount	EITC returns with RAL	Percentage of EITC returns with RAL (in percent)	Estimated amount spent on RALs [1]
RI	485,337	56,755	11.7	89,592,629	20,252	35.7	2,227,720
SD	348,936	46,868	13.4	73,494,901	15,923	34.0	1,751,530
KS	1,185,320	141,878	12.0	226,103,432	47,563	33.5	5,231,928
CT	1,616,341	141,892	8.8	216,802,671	47,387	33.4	5,212,570
NM	751,161	167,993	22.4	288,708,541	53,725	32.0	5,909,764
WA	2,701,201	296,317	11.0	462,643,179	94,051	31.7	10,345,591
CO	1,995,152	214,500	10.8	327,073,673	65,428	30.5	7,197,047
WY	234,857	29,540	12.6	46,132,862	8,959	30.3	985,490
NE	769,173	89,976	11.7	142,314,214	26,896	29.9	2,958,508
WI	2,542,632	243,829	9.6	374,475,943	71,356	29.3	7,849,165
NH	617,876	50.743	8.2	73,956,472	14,542	28.7	1,599,620
MT	414,636	63,090	15.2	99,707,920	17,951	28.5	1,974,610
NY	8,324,967	1,293,346	15.5	2,203,061,849	354,015	27.4	38,941,700
ID	549,785	82,072	14.9	134,423,144	21,393	26.1	2,353,230
ME	601,852	74,560	12.4	113,883,846	19,396	26.0	2,133,560
UT	929,225	107,776	11.6	173,583,013	27,980	26.0	3,077,758
CA	14,207,549	2,139,205	15.1	3,654,040,481	550,722	25.7	60,579,468
IA	1,312,239	143,757	11.0	217,451,268	36,538	25.4	4,019,180
HI	547,225	65,567	12.0	94,672,158	16,460	25.1	1,810,555
ND	288,949	33,741	11.7	51,495,960	7,918	23.5	870,980
OR	1,516,321	191,404	12.6	300,227,699	43,328	22.6	4,766,088
AK	323,125	30,042	9.3	41,327,189	6,750	22.5	742,500
MA	2,976,492	257,069	8.6	381,021,580	57,258	22.3	6,298,429
MN	2,322,004	209,558	9.0	311,354,319	45,252	21.6	4,977,724
VT	297,379	32,269	10.9	46,336,387	5,718	17.7	628,980
Total	124,420,670	18,749,666	15.1%	31,968,066,136	7,629,127	40.7%	839,203,965

[1] Based on information from National Consumer Law Center, the price for a RAL on an average EITC return is $110 at one of the major commercial preparers.

NOTE.—That these estimates do not account for potential state-by-state differences in RAL prices.

Source: Brookings Institution Center on Urban and Metropolitan Policy calculations of IRS tax year 2001 data.

Mr. SHELBY. Mr. President, I ask unanimous consent to set that amendment aside.

The PRESIDING OFFICER. Without objection, the amendment is set aside.

AMENDMENT NO. 1947

Mr. SHELBY. Mr. President, I send to the desk an amendment on behalf of the Senator from Pennsylvania, Mr. SPECTER. It has been cleared.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. SPECTER, proposes an amendment numbered 1947.

The amendment is as follows:

(Purpose: To clarify that allocated funds may be used for the Corridor One Light Rail Project)

At the appropriate place in the bill, insert: ''SEC. ____. Notwithstanding any other provision of law, funds designated to the Pennsylvania Cumberland/Dauphin County Corridor I project in committee reports accompanying this Act may be available to the recipient for any project activities authorized under 49 U.S.C. 5307 and 5309.

Mr. SHELBY. Mr. President, I urge adoption of the amendment.

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

The amendment (No. 1947) was agreed to.

AMENDMENT NO. 1948

Mr. SHELBY. Mr. President, I send to the desk an amendment on behalf of the Senator from Delaware, Mr. CARPER.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama (Mr. SHELBY), for Mr. CARPER, proposes an amendment numbered 1948.

The amendment is as follows:

(Purpose: To express the sense of the Senate that the Secretary of Transportation must consider the impact on northern Delaware of aircraft noise related to the Philadelphia International Airport Capacity Enhancement Program)

At the appropriate place, insert the following:

SEC. ____. It is the sense of the Senate that the Secretary of Transportation must, in connection with the Philadelphia International Airport Capacity Enhancement Program, consider the impact of aircraft noise on northern Delaware—

(1) within the scope of the environmental impact statement prepared in connection with the Program; and

(2) as part of any study of aircraft noise required under the National Environmental Protection Act of 1969 and conducted pursuant to part 150 of title 14, Code of Federal Regulations, or any successor regulations.

AMENDMENT NO. 1946, WITHDRAWN

Mr. SHELBY. Mr. President, I ask unanimous consent to withdraw amendment No. 1946 that was previously set aside on behalf of the Senator from Hawaii, Mr. AKAKA.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

AMENDMENT NO. 1948

The PRESIDING OFFICER. Does the Senator urge adoption of the previous amendment?

Mr. SHELBY. I do.

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

The amendment (No. 1948) was agreed to.

AMENDMENT NO. 1949

Mr. SHELBY. Mr. President, I send to the desk an amendment on behalf of Senator GRASSLEY.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. GRASSLEY, proposes an amendment numbered 1949.

The amendment is as follows:

(Purpose: To provide that none of the funds appropriated or made available under this Act may be used to implement proposed regulations relating to the detail of executive branch employees to the legislative branch, and for other purposes)

At the appropriate place, insert the following:

SEC. ____. None of the funds appropriated or made available under this Act or any other appropriations Act may be used to implement the proposed regulations of the Office of Personnel Management to add sections 300.311 through 300.316 to part 300 of title 5 of the Code of Federal Regulations, published in the Federal Register, volume 68, number 174, on September 9, 2003 (relating to the detail of executive branch employees to the legislative branch). If such proposed regulations are final regulations on the date of enactment of this Act, none of the funds appropriated or made available under this Act may be used to implement, administer, or enforce such final regulations.

Mr. GRASSLEY. Mr. President, I rise to speak on the amendment Senator DOMENICI and I offered to address a regulation recently proposed by the Office of Personnel Management; a regulation that is wrong-headed.

Congress and the executive agencies have long enjoyed a mutually beneficial relationship where executive branch employees are detailed to congressional offices. These details typically exist for 1 to 2 years.

As a result, the executive branch has an opportunity to have its employees learn about the legislative process and oversight activities. Likewise, the legislative branch has an opportunity to utilize the expertise of executive branch employees. Everyone benefits.

The regulation proposed by the Office of Personnel Management will inevitably ruin the benefits of this long-term practice.

The regulation proposed by the Office of Personnel Management for example, seeks to reduce to 6 months the time that a detailee can spend in Congress. This is too short a time for even the most industrious of detailees to understand the intricacies of the legislative process and contribute to that process.

Moreover, this regulation attempts to limit the activities in which executive branch employees can engage while under the direct supervision of a Congressional office in an effort to micro-manage from afar. This is unacceptable.

Senator DOMENICI and I have offered an amendment to prohibit the use of any funds for the implementation of

this regulation that will severely reduce the number, availability and benefit of executive branch detailees to the legislative branch to the detriment of all.

I urge my colleagues to support this amendment.

I yield the floor.

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

The amendment (No. 1949) was agreed to.

AMENDMENTS NOS. 1950 THROUGH 1962, EN BLOC

Mr. SHELBY. Mr. President, I now offer a package of amendments that have been cleared on both sides, and I ask unanimous consent that they be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes amendments numbered 1950 through 1962, en bloc.

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

The amendments were agreed to as follows:

AMENDMENT NO. 1950

At the appropriate place in the bill add the following new section:

''SEC.____. Notwithstanding 31 U.S.C. 1346 and section 610 of this Act, the head of each executive department and agency shall transfer to or reimburse the Federal Aviation Administration, with the approval of the Director of the Office of Management and Budget, funds made available by this or any other Act for the purposes described below, and shall submit budget requests for such purposes. These funds shall be administered by the Federal Aviation Administration as approved by the Director of the Office of Management and Budget, in consultation with the appropriate interagency groups designated by the Director to ensure the operation of the Midway Atoll Airfield by the Federal Aviation Administration pursuant to an operational agreement with the Department of the Interior. The total funds transferred or reimbursed shall not exceed $6,000,000 and shall not be available for activities other than the operation of the airfield. The Director of the Office of Management and Budget shall notify the Committees on Appropriations of such transfers or reimbursements within 15 days of this Act. Such transfers or reimbursements shall begin within 30 days of enactment of this Act.''

AMENDMENT NO. 1951

(Purpose: To set aside an amount for air traffic control facilities, John C. Stennis International Airport, Hancock County, Mississippi.)

On page 14, between lines 2 and 3, insert the following:

SEC. 105. Of the total amount appropriated under this title for the Federal Aviation Administration under the heading ''FACILITIES AND EQUIPMENT'', $2,000,000 shall be available for air traffic control facilities, John C. Stennis International Airport, Hancock County, Mississippi.

AMENDMENT NO. 1952

(Purpose: To provide that unexpended funds made available for improvements to Council Grove Lake, Kansas, may be used to make improvements to Richey Cove, Santa Fe Recreation Area, Canning Creek Recreation Area, and other areas in the State of Kansas)

At the appropriate place, add the following:

SEC. ___. KANSAS RECREATION AREAS.

Any unexpended balances of the amounts made available by the Consolidated Appropriations Resolution, 2003 (Public Law 108–7) from the Federal-aid highway account for improvements to Council Grove Lake, Kansas, shall be available to make improvements to Richey Cove, Santa Fe Recreation Area, Canning Creek Recreation Area, and other areas in the State of Kansas.

AMENDMENT NO. 1953

(Purpose: To require the Internal Revenue Service to conduct a study on the earned income tax credit pre-certification program)

On page 70, between lines 17 and 18, insert the following:

SEC. 205. STUDY ON EARNED INCOME TAX CREDIT CERTIFICATION PROGRAM.

(a) STUDY.—The Internal Revenue Service shall conduct a study, as a part of any program that requires certification (including pre-certification) in order to claim the earned income tax credit under section 32 of the Internal Revenue Code of 1986, on the following matters:

(1) The costs (in time and money) incurred by the participants in the program.

(2) The administrative costs incurred by the Internal Revenue Service in operating the program.

(3) The percentage of individuals included in the program who were not certified for the credit, including the percentage of individuals who were not certified due to—

(A) ineligibility for the credit; and

(B) failure to complete the requirements for certification.

(4) The percentage of individuals to whom paragraph (3)(B) applies who were—

(A) otherwise eligible for the credit; and

(B) otherwise ineligible for the credit.

(5) The percentage of individuals to whom paragraph (3)(B) applies who—

(A) did not respond to the request for certification; and

(B) responded to such request but otherwise failed to complete the requirements for certification.

(6) The reasons—

(A) for which individuals described in paragraph (5)(A) did not respond to requests for certification; and

(B) for which individuals described in paragraph (5)(B) had difficulty in completing the requirements for certification.

(7) The characteristics of those individuals who were denied the credit due to—

(A) failure to complete the requirements for certification; and

(B) ineligibility for the credit.

(8) The impact of the program on non-English speaking participants.

(9) The impact of the program on homeless and other highly transient individuals.

(b) REPORT.—

(1) PRELIMINARY REPORT.—Not later than July 30, 2004, the Commissioner of the Internal Revenue Service shall submit to Congress a preliminary report on the study conducted under subsection (a).

(2) FINAL REPORT.—Not later than June 30, 2005, the Commissioner of the Internal Revenue Service shall submit to Congress a final report detailing the findings of the study conducted under subsection (a).

AMENDMENT NO. 1954

(Purpose: To set aside funds made available for Texas Statewide ITS Deployment and Integration for the deployment and integration of Intelligent Transportation Systems at Port of Galveston, Texas, and City of Lubbock, Texas)

On page 31, between lines 13 and 14, insert the following:

SEC. 115. Of the amounts made available under this title under the heading ''FEDERAL-AID HIGHWAYS'' for Texas Statewide ITS Deployment and Integration—

(1) $500,000 shall be made available for the deployment and implementation of an Intelligent Transportation System project at Port of Galveston, Texas; and

(1) $500,000 shall be made available for the deployment and implementation of an Intelligent Transportation System project at City of Lubbock, Texas.

AMENDMENT NO. 1955

(Purpose: To provide clarifying language that instructs the Federal Highway Administration to extend through February 29, 2004, existing research contracts funded under the TEA–21)

At the appropriate place, insert the following:

SEC.___. EXTENSION OF RESEARCH PROJECTS

(a) For Fiscal Year 2004 only, the Federal Highway Administration is instructed to extend and fund current research projects under Title V of TEA–21 through February 29, 2004.

AMENDMENT NO. 1956

(Purpose: To provide for the acquisition of an ASR–11 radar for the Jackson Hole, Wyoming Airport)

At the appropriate place, insert the following:

SEC.___. JACKSON HOLE, WYOMING RADAR UNIT.

(a) Priority consideration shall be given to the Jackson Hole, Wyoming, Airport for an ASR–11 radar unit or provisions shall be made for the acquisition or transfer of a comparable radar unit.

AMENDMENT NO. 1957

(Purpose: To provide funds for the FAA Technical Center)

At the appropriate place, insert the following:

SEC.____. Within the funds provided for the Federal Aviation Administration's Facilities and Equipment account, no less than $14,000,000 shall be available for the Technical Center Facilities in New Jersey.

AMENDMENT NO. 1958

At the appropriate place, insert the following:

SEC. ___. To the extent that funds provided by the Congress for the Memphis Medical Center light rail extension project through the Section 5309 ''new fixed guideway systems'' program remain available upon the closeout of the project, FTA is directed to permit the Memphis Area Transit Authority to use all of those funds for planning, engineering, design, construction or acquisition projects pertaining to the Memphis Regional Rail Plan. Such funds shall remain available until expended.

AMENDMENT NO. 1959

(Purpose: To make available from amounts available for the Federal Highway Administration for the Transportation and Community and System Pilot Preservation Program, $850,000 for interior air quality demonstration activities at the Bristol, Virginia, control facility to evaluate standard industrial fuel system performance and efficiency with drive-by-wire engine management and emissions systems)

Insert after section 114 the following:

SEC. 115. Of the amount appropriated or otherwise made available for Transportation, Planning, and Research, $850,000 shall be available for interior air quality demonstration activities at the Bristol, Virginia, control facility to evaluate standard industrial fuel system performance and efficiency with drive-by-wire engine management and emissions systems and $1,000,000 shall be available for the Market Street enhancement project in Burlington, VT.

AMENDMENT NO. 1960

(Purpose: To provide funding for Intelligent Transportation System Research)

On page 17, strike line 12 and insert the following:

GMU ITS, Virginia, $1,000,000

George Washington University, Virginia Campus, $1,000,000

AMENDMENT NO. 1961

At the appropriate place in the bill, insert:

SEC. . Of the funds made available or limited in this Act, $3,000,000 shall be available for improvements to Bowman Road and Johnnie Dodds Boulevard, Highway 17, Mt. Pleasant, SC; $1,000,000 shall be for the Arlewright Connector and no funds shall be available for the Northwest Bypass project.

AMENDMENT NO. 1962

At the appropriate place insert:

SEC. 361. Section 30303(d)(3) of the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended by inserting at the end:

''(D) Memphis-Shelby International Airport intermodal facility.''

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, while we are working through the last couple of amendments, let me say that I appreciate the work of Senator SHELBY, all of the staff on the majority and minority side who really have done tremendous work in putting this bill together. I thank all of them for the hard work they have done, as well as my colleague, Senator SHELBY, who has really done a good job today of moving this bill through. I thank him for that.

AMENDMENT NO. 1963

Mr. SHELBY. Mr. President, I have another amendment I send to the desk on behalf of the Senator from Georgia, Mr. CHAMBLISS. It has been cleared.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], on behalf of Mr. CHAMBLISS, proposes an amendment numbered 1963.

The amendment is as follows:

(Purpose: To provide from amounts available for Lee Gilmer Memorial Airport, Gainesville, Georgia)

At the appropriate place in the bill, insert: ''G.P. ____. Within available funds provided for ''Facilities and equipment,'' $1,500,000 shall be provided for a precision instrument approach landing system (ILS) at Lee Gilmer Memorial Airport, Gainesville, Georgia.''.

Mr. SHELBY. Mr. President, I urge adoption of the amendment.

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

The amendment (No. 1963) was agreed to.

Mrs. MURRAY. Mr. President, I move to reconsider the votes by which the previous amendments were agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1946

Mr. AKAKA. Mr. President, I rise today to speak on an issue of great importance. I offered an amendment, but I was advised that it would have been an obstruction to the bill. In the interest of not holding up the bill, I agreed to withdraw my amendment, but I intend to address this issue on another vehicle.

I thank Senators BINGAMAN, EDWARDS, and FITZGERALD for agreeing to be cosponsors of this amendment. My amendment is supported by the Consumer Federation of America and the National Consumer Law Center.

Mr. President, certain tax preparers are lining their pockets with money that should be going toward the everyday needs of lower-income families. These preparers are taking advantage of those who have sought assistance in claiming the Earned Income Tax Credit, EITC, by successfully marketing to them exorbitantly priced refund anticipation loans, RALs. Although these firms work to guide families through the sometimes complicated tax filing process, I am concerned about their aggressive marketing of RALs in low-income neighborhoods where EITC recipients often live. These loans take money away from the day-to-day, kitchen-table needs of lower-income families.

What is the extent of this problem? An estimated $839 million intended to assist low-income families went to commercial tax preparers and affiliated national banks for tax assistance, electronic filing of returns, and high-cost refund loans in 2001, according to a report published by the Brookings Institution. As you can see on the chart behind me, a total of 18.7 million returns were filed with EITC claims. Of these, 7.6 million or 41 percent of EITC taxpayers received their refund through RALs. I will ask to print in the RECORD a document compiled by Alan Berube from the Brookings Institution on usage of RALs among EITC recipients by State. If I may pick out some of the States where RALs are most prevalent. I would like to note that Mississippi tops the list, with 61.5 percent of EITC returns with RALs. South Carolina, Georgia, North Carolina, Louisiana, Alabama, Tennessee, Arkansas, Texas, and the District of Columbia round out the top 10, with slightly more than half of DC's EITC returns filed with RALs. Again, the point here is that RALs unfairly diminish the value of the EITC and take money away from working families, which is not justified by the service provided.

Mr. President, the EITC was created to support work and reduce poverty. According to the Center on Budget and Policy Priorities, the Federal credit lifts more children out of poverty than any other Government program. However, the EITC will not continue to boast this rate of success if it continues to be eroded by the artificially high cost of highly-marketed RALs. Rather than going to pay for household essentials like food, housing, clothing, and transportation, families are being convinced to spend this money unnecessarily on RALs, rather than waiting a few more days for a tax refund deposited at no cost to them.

Let me talk for a moment about the mechanics of how RALs work. A taxpayer approaches a company for tax preparation services, applies for the EITC, and is convinced to use the RAL, which provides families cash from their calculated refund within 1 to 2 days. In the RAL application process, the Internal Revenue Service, IRS, reduces the risk that lenders.

Take on RALs by providing them with a Debt Indicator, DI, on all IRS e-file acknowledgments. The DI informs the lender whether or not an applicant owes Federal or State taxes, child support, student loans, or other government obligations, and this assists the tax preparer in ascertaining the applicant's ability to obtain their full refund so that the RAL is repaid. The vast majority of refunds are remitted to the preparer as prepared. Thus, interest rates for RALs that vary from 97 percent to more than 2,000 percent are not justifiable when the IRS lowers the risk of the loans by providing the DI service. My amendment terminates the use of the Debt Indicator service. For anyone who is wondering whether ending RALs pose a hardship on the very families I am working to help, there are alternatives to speeding up refunds, such as filing electronically or having the refund directly deposited into a bank or credit union account. Using these methods, taxpayers can receive their returns in about 7 to 10 days without paying the high fees associated with RALs. With economic and financial literacy awareness—which I am also pursuing for all age levels—we can help people have better access to sound money management skills and practices that can help them to plan in advance for the minimal delay of a few days for their refund. However, at this point, we must work to encourage the use of no-cost alternatives and eliminate the abusive practice of RALs.

Once again, my amendment would terminate the Debt Indicator program. If we look at the history of this program, the path taken in my amendment is a fix that must be reinstated. In 1995, the use of the Debt Indicator was suspended because of massive fraud in e-filed returns with RALs. After the program was discontinued, RAL participation declined. The use of the Debt Indicator was reinstated in 1999. Remarks from H & R Block Chief Executive Officer Frank L. Salizzoni upon the reinstatement of the program state that the Debt Indicator:

. . .is good news for many of our clients who opt to receive the amount of their refund through Refund Anticipation Loans. The IRS program will likely result in substantially lower fees for this service.

However, according to a study conducted by the Consumer Federation of America and the National Consumer Law Center, that has not been the case for at least one of the major tax preparers. H & R Block and Household Bank's fees dropped for a year after the DI was reinstated. However, the trend reversed itself and the fees rose significantly from 2000 to 2001, which increased H & R Block's revenue from RALs by 49 percent. Per RAL revenue rose by 44 percent while RAL sales volume increased by only 2.7 percent. Therefore, the expected outcome that RAL prices would go down as a result of the reinstatement of the indicator has not occurred. Rather, it has gone in the opposite direction as the profit motive has presented itself.

It is important at this point to recall the ideal of actions by government agencies to ''do no harm.'' However, the Debt Indicator conveniently provides information about an individual's credit history that is in many cases only known by the Federal Government and is helping tax preparers make excessive profits of low- and moderate-income taxpayers who utilize the service. If the Debt Indicator is removed, then the loans become riskier and the tax preparers may not aggressively market them among EITC filers. The IRS should not be aiding efforts that take the earned benefits away from low-income families and allow unscrupulous preparers to take advantage of low-income taxpayers.

Again, I agree to withdraw my amendment at this time, but I encourage all of my colleagues to support my efforts to address this issue in order to protect low-income working families from the predatory practice of RALs and eliminate the ability of the IRS to facilitate the processing of RALs by ending the DI.

SPEED RAIL STUDY

Mr. KOHL. Mr. President, I would like to engage in a colloquy with the ranking member of the subcommittee, the Senator from Washington, PATTY MURRAY. I would like to refer to the Midwest Regional Rail Initiative which appears in the ''Next Generation High-Speed Rail Program'' at $250,000. This project is a collaborative effort of nine States in the Mid-West, AMTRAK and Federal Railroad Administration. This is a 3,000 mile system plan and I am concerned that $250,000 will not enable us to fully address the environmental and engineering associated with such a large regional system. Due to the extreme budget constraints facing this subcommittee I understand that it may be difficult to find additional resources for this study. However, I have been told that it would be helpful to the Mid-West Rail Coalition if prior contributions made by member States for planning activities prior to January 1, 2001 can be counted as the required State-match under this account. I am hopeful that you will support this effort as we move to conference on this appropriations bill.

Mrs. MURRAY. The Senator from Wisconsin has highlighted an important nine-State effort regarding high-speed rail and I will do all I can in Conference to accommodate the Senator's concerns.

EASTSIDE LIGHT RAIL TRANSIT

Mrs. FEINSTEIN. Mr. President, I rise to discuss the Eastside Light Rail Transit, LRT project in Los Angeles, which would receive $5,000,000 in New Starts funds contained in this appropriations bill. This six-mile, dual track light rail system will originate at Union Station in downtown Los Angeles, where it connects with the newly opened Pasadena Gold Line, and will travel east to Atlantic Boulevard. It will bridge State Route 101 Freeway and traverse the existing 1st Street Bridge over the Los Angeles River, then under the communities of East LA and Boyle Heights and return to the surface near the intersection of 1st and Lorena Streets.

The Eastside LRT project is the top fiscal year 2004 appropriations priority of the Los Angeles County MTA.

I understand that the administration's fiscal year 2004 budget includes $55,000,000 for the Eastside LRT project and it also states that the project is pending receipt of a Full Funding Grant Agreement, FFGA.

Mrs. MURRAY. That is correct.

Mrs. BOXER. The Eastside LRT project will provide vital transit service for tens of thousands of people, many of whom do not have access to an automobile. Almost 20,000 people are expected to ride the line once it has opened, providing a much needed transportation alternative and congestion relief in one of the lowest income areas of Los Angeles.

I understand that the Eastside LRT project is expected to receive its FFGA in the coming months, which will enable construction to move ahead rapidly.

Senator FEINSTEIN and I urge you to give every consideration to fund this project according to the levels that will be recommended in its forthcoming FFGA.

Mrs. MURRAY. My distinguished colleagues from California have told me of the importance of this project to their constituents in East Los Angeles, as well as to the LACMTA's expanding rail transit system. I will work with Chairman Shelby to help the committee meet this project's funding needs.

The PRESIDING OFFICER. Is there further debate on the bill? If not, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Nevada (Mr. ENSIGN) is necessarily absent.

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

Mr. REID. I announce that the Senator from California (Ms. BOXER), the Senator from North Carolina (Mr. EDWARDS), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Arkansas (Mrs. LINCOLN) are necessarily absent.

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

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

The result was announced—yeas 91, nays 3, as follows:

[Rollcall Vote No. 410 Leg.]

YEAS—91

Akaka	Dodd	Lugar
Alexander	Dole	McConnell
Allen	Domenici	Mikulski
Baucus	Dorgan	Miller
Bayh	Durbin	Murkowski
Bennett	Enzi	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Bond	Fitzgerald	Pryor
Breaux	Frist	Reed
Brownback	Graham (FL)	Reid
Bunning	Graham (SC)	Roberts
Burns	Grassley	Rockefeller
Byrd	Gregg	Santorum
Campbell	Hagel	Sarbanes
Cantwell	Harkin	Schumer
Carper	Hatch	Sessions
Chafee	Hutchison	Shelby
Chambliss	Inhofe	Smith
Clinton	Inouye	Snowe
Cochran	Jeffords	Specter
Coleman	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kohl	Sununu
Cornyn	Kyl	Talent
Corzine	Landrieu	Thomas
Craig	Lautenberg	Voinovich
Crapo	Leahy	Warner
Daschle	Levin	Wyden
Dayton	Lieberman	
DeWine	Lott	

NAYS—3

Allard	McCain	Nickles

NOT VOTING—6

Boxer	Ensign	Kerry
Edwards	Hollings	Lincoln

So the bill (H.R. 2989), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I ask unanimous consent that the Senate insist on its amendments, request a conference with the House, and the Chair be authorized to appoint conferees at a ratio of 9 to 8, which is the subcommittee plus STEVENS and INOUYE.

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

The Presiding Officer (Mr. CHAMBLISS) appointed Mr. SHELBY, Mr. SPECTER, Mr. BOND, Mr. BENNETT, Mr. CAMPBELL, Mrs. HUTCHISON, Mr. DEWINE, Mr. BROWNBACK, Mr. STEVENS, Mrs. MURRAY, Mr. BYRD, Ms. MIKULSKI, Mr. REID, Mr. KOHL, Mr. DURBIN, Mr. DORGAN, Mr. INOUYE conferees on the part of the Senate.

VOTE EXPLANATIONS

Ms. MURKOWSKI. Mr. President, I announce that on vote No. 406, the Feingold amendment, amendment No. 1904, which occurred earlier today, I was necessarily absent from the Senate on business. Had I been present to vote, I would have voted ''nay'' on the tabling motion for that amendment.

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

● Mrs. BOXER. Mr. President, today, I have a long-standing commitment to a remarkable project in the ongoing downtown Los Angeles redevelopment effort. Therefore, I am unable to be present for the votes today in the Senate.

However, if I had been present, I would have voted ''no'' on the motion to table the Dorgan amendment.

I would have voted ''yes'' on the motion to table the Feingold amendment.

I would have voted ''yes'' on both the Thomas and Mikulski amendments.

I would have also voted ''yes'' on the motion to waive the Budget Act with regard to the Dodd-McConnell amendment.

Finally, I would have voted ''yes'' on final passage of the Transportation appropriations bill.●

AMENDMENT NO. 1964

Mr. MCCONNELL. Mr. President, I ask unanimous consent that notwithstanding passage of H.R. 2989, the Transportation appropriations bill, the amendment at the desk by Senator COLLINS be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 1964) was agreed to, as follows:

AMENDMENT NO. 1964

(Purpose: To limit the use of funds for converting to contractor performance of executive agency activities and functions)

At the appropriate place, insert the following:

SEC. . (a) None of the funds appropriated by this Act may be used for converting to contractor performance an activity or function of an executive agency that, on or after the date of the enactment of this Act, is performed by executive agency employees unless the conversion is based on the results of a public-private competition process that requires a determination regarding whether, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the executive agency by an amount that equals or exceeds the lesser of (A) 10 percent of the cost of performing the activity with government personnel or, if a most efficient organization has been developed, 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees, or (B) $10,000,000. With respect to the use of any funds appropriated by this Act for the Department of Defense—

(1) Subsections (a), (b), and (c) of section 2461 of title 10, United States Code) do not apply with respect to the performance of a commercial or industrial type activity or function that—

(A) is on the procurement list established under section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47); or

(B) is planned to be converted to performance by—

(i) a qualified nonprofit agency for the blind or a qualified nonprofit agency for other severely handicapped (as such terms are defined in section 5 of such Act (41 U.S.C. 48b); or

(ii) a commercial business at least 51 percent of which is owned by an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))) or a Native Hawaiian Organization (as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15))).

(2) Nothing in this section shall effect depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code.

(3) The conversion of any activity or function of an executive agency in accordance with this section shall be credited toward any competitive or outsourcing goal, target or measurement that may be established by statute, regulation or policy and shall be deemed to be awarded under the authority of and in compliance with section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) or section 2304 of title 10, United States Code, as the case may be, for the competition or outsourcing of commercial activities.

(b) In this section, the term ''executive agency'' has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(c) Nothing in this section shall be construed to effect, amend or repeal Section 8014 of the Defense Appropriations Act, 2004 (Public Law 108–87).

UNANIMOUS CONSENT AGREEMENT—S. 1753

Mr. MCCONNELL. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, after consultation with the minority leader, but not before Monday October 27, the Senate proceed to consideration of Calendar No. 312, S. 1753, the National Consumer Credit Reporting System Improvement Act of 2003.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll

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

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

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

NASA GLENN AWARDS

Mr. DEWINE. Mr. President, I honor the scientists, engineers, and other innovators working with the NASA Glenn Research Center in Cleveland. They are working tirelessly to develop technologies and products that improve the lives of Americans—both in missions to space and in everyday applications here on Earth. Through commercialization initiatives, these products are brought from the laboratory into the marketplace, driving the creation of new jobs and economic growth nationwide.

NASA Glenn recently received six of Research & Design Magazine's ''R&D 100'' awards, which are awarded annually to the 100 most technologically significant products introduced into the marketplace. This is a tremendous accomplishment for the Glenn Research Center, its employees, and the numerous organizations and individuals who work in partnership with the Center. I recognize each of the award recipients and thank them for the their outstanding work:

NASA Glenn's Structures and Acoustics division, in collaboration with the University of Toledo and the Army Office, developed new high-load bearings capable of operating at over 1,000 degrees Fahrenheit. This new bearings technology has opened the door to two new patent applications, and is the result of the hard work and dedication of Gerald Montague, Andrew Provenza, Albert Kascak, Mark Jansen, Ralph Jansen, Ben Ebihara, and Dr. Alan Palazzolo.

A combined airport data and radar device developed by NASA Glenn in collaboration with ViGYAN, Inc., will provide new opportunities for pilots to access weather information while in the sky via a portable device called the ''Pilot Weather Advisor''. It was made possible by NASA Glenn's Engineering Design and Analysis Center, as well as the personal assistance of Glenn Lindamood.

Thanks to a system developed through a partnership between Zin Technologies and NASA Glenn, real time data plots from the International Space Station are now available to end users through a system known as the ''Microgravity Analysis Software System,'' MASS. NASA staff, including Kevin McPherson, Ted Wright, Ken Hrovat, Eric Kelly, Gene Lieberman, and Nissim Lugasy, teamed up with Zin Technologies' Tim Reckart to make the MASS project possible.

Drawing on NASA Glenn's renowned expertise with icing research, a New York-based company has recently brought the first new FAA approved deicing technology to market in 40 years. This new system will provide protection to sensitive aircraft materials, while also combining two long-recognized deicing techniques. NASA Glenn's Dean Miller and Andy Reehorst, as well as representatives from Cox & Company, developed this important innovation.

Advances in thermal protection technologies known as ''DMBZ–15,'' jointly developed by NASA Glenn and an Ohio firm, will improve the temperatures and wear resistance of aircraft engines and other propulsion systems, extending flight capabilities and