

road mobile sources, and any other category of sources that the Administrator may identify; and

“(ii) reductions in such emissions will improve air quality in the petitioning State’s nonattainment area or areas at least as cost-effectively as reductions in emissions from each other principal category of sources of sulfur dioxide or nitrogen oxides to the maximum extent that a methodology is reasonably available to make such a determination.

In making the determination under clause (ii), the Administrator shall use the best available peer-reviewed models and methodology that consider the proximity of the source or sources to the petitioning State or political subdivision and incorporate other sources characteristics.

“(C) The Administrator shall develop an appropriate peer reviewed methodology for making determinations under subparagraph (B) by December 31, 2006.

“(D) The Administrator shall not make any findings with respect to an affected unit under this section prior to December 1, 2011. For any petition submitted prior to January 1, 2010, the Administrator shall make a finding or deny the petition by the December 31, 2011.

“(E) The Administrator, by rulemaking, shall extend the compliance and implementation deadlines in subsection (c) to the extent necessary to assure that no affected unit shall be subject to any such deadline prior to January 1, 2014.”

(b) TITLE III.—Section 307(d)(1)(G) of title III of the Clean Air Act is amended to read as follows:

“(G) the promulgation or revision of any regulation under title IV.”

(c) NOISE POLLUTION.—Title N of the Clean Air Act (relating to noise pollution) (42 U.S.C. 7641 et seq.) is redesignated as title VII and amended by renumbering sections 401 through 403 as sections 701 through 703, respectively and conforming all cross-references thereto accordingly.

(d) SECTION 406.—Title IV of the Clean Air Act Amendments of 1990 (relating to acid deposition control) is amended by repealing section 406 (industrial Sulfur dioxide emissions).

(e) MONITORING.—Section 821 (a) of title VIII of the Clean Air Act Amendments of 1990 (miscellaneous provisions) is amended to read as follows:

“(a) MONITORING.—The Administrator shall promulgate regulations within 18 months after November 15, 1990, to require that all affected sources subject to subpart 1 of part B of title IV of the Clean Air Act as of December 31, 2009, shall also monitor carbon dioxide emissions according to the same timetable as in section 405(b). The required monitoring may be no more stringent than that required by any two of the four most populous countries for units comparable to the affected units in the United States. The regulations shall require that such data be reported to the Administrator. The provisions of section 405(e) of title IV of the Clean Air Act shall apply for purposes of this section in the same manner and to the same extent as such provision applies to the monitoring and data referred to in section 405. The Administrator shall implement this subsection under 40 CFR Part 75 (2002), amended as appropriate by the Administrator.”

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 80—URGING JAPAN TO HONOR ITS COMMITMENTS UNDER THE 1986 MARKET-ORIENTED SECTOR-SELECTIVE (MOSS) AGREEMENT ON MEDICAL EQUIPMENT AND PHARMACEUTICALS, AND FOR OTHER PURPOSES

Mr. COLEMAN (for himself and Mr. BAYH) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 80

Whereas the revolution in medical technology has improved our ability to respond to emerging threats and prevent, identify, treat, and cure a broad range of diseases and disabilities, and has the proven potential to bring even more valuable advances in the future;

Whereas medical technology has driven dramatic productivity gains for the benefit of patients, providers, employers, and our economy;

Whereas investment from the United States medical technology industry produces the majority of the \$175,000,000,000 global business in development of medical devices, diagnostic products, and medical information systems, allowing patients to lead longer, healthier, and more productive lives;

Whereas the United States medical technology industry supports almost 1,000,000 Americans in high-value jobs located in every State, and the industry is a net contributor to the United States balance of trade, with a trade surplus of \$3,300,000,000;

Whereas Japan is one of the most important trading partners of the United States;

Whereas United States products account for roughly ½ of the global market, but garner only a ⅓ share of Japan’s market;

Whereas Japan has made little progress in implementing its commitments to cut product review times, improve their reimbursement system, and consult bilaterally on policy changes under the Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals, signed on January 9, 1986, between the United States and Japan;

Whereas, although regulatory reviews in Japan remain among the lengthiest in the world and Japan needs to accelerate patient access to safe and beneficial medical technologies, proposals currently under consideration in Japan would, in many cases, actually increase regulatory burdens on manufacturers and delay access without enhancing patient safety;

Whereas the general cost of doing business in Japan is among the highest in the world and is driven significantly higher by certain factors in the medical technology sector, and inefficiencies in Japanese distribution networks and hospital payment systems and unique regulatory burdens drive up the cost of bringing innovations to Japanese consumers and impede patient access to life-saving and life-enhancing medical technologies;

Whereas artificial government price caps such as the foreign average price policy adopted by the Government of Japan in 2002 restrict patient access and fail to recognize the value of innovation;

Whereas less than ¼ of 1 percent of the tens of thousands of medical technologies introduced in Japan in the last 10 years received new product pricing;

Whereas the Government of Japan has adopted artificial price caps that are tar-

geted toward technologies predominately marketed by United States companies and is considering altering pricing rules to enable further cuts to these products; and

Whereas these discriminatory pricing policies will allow the Japanese government to take advantage of United States research and development: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) urges Japan to honor its commitments under the Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals, signed on January 9, 1986, between the United States and Japan (hereafter in this resolution referred to as the “MOSS Agreement”), by—

(A) reducing regulatory barriers to the approval and adoption of new medical technologies; and

(B) establishing reasonable agency performance goals for premarket approvals and an appropriate, risk-based postmarket system consistent with globally accepted practices;

(2) urges Japan to honor its commitments under the MOSS Agreement to improve the reimbursement environment for medical technologies by actively promoting pricing policies that encourage innovation for the benefit of Japanese patients and the Japanese economy; and

(3) urges Japan to honor its commitments under the MOSS Agreement by—

(A) implementing fair and open processes and rules that do not disproportionately harm United States medical technology products; and

(B) providing opportunities for consultation with trading partners.

AMENDMENTS SUBMITTED & PROPOSED

SA 2143. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 150, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act; which was ordered to lie on the table.

SA 2144. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2799, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table.

SA 2145. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 2799, supra; which was ordered to lie on the table.

SA 2146. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2799, supra; which was ordered to lie on the table.

SA 2147. Mr. CRAIG (for himself and Mr. HAGEL) submitted an amendment intended to be proposed by him to the bill H.R. 2799, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2143. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 150, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ SENSE OF SENATE ON NONTAXATION OF E-MAIL.

(a) FINDINGS.—The Senate finds that—
(1) the Internet is an indispensable part of global electronic connectivity and will only become more useful and indispensable as new technologies continue to be developed;
(2) Internet usage continues to grow exponentially in the United States and around the world;
(3) the Internet is used by every age group in our population and its use continues to increase regardless of income, education, age, race, ethnicity, or gender;
(4) our citizens rely on the Internet for real-time information, news, communication and commerce;
(5) the Internet and e-mail have succeeded in linking people across the country and around the world for personal, commercial, cultural, educational, governmental and a variety of other types of interactions;
(6) millions of e-mails are sent across the United States on a daily basis;
(7) the use of e-mail has allowed Americans to communicate to one another more information more conveniently, frequently, and inexpensively;
(8) taxing of e-mail would be a detriment to the continued growth of the Internet; and
(9) taxing of e-mail would have a negative financial impact on our citizens who use email to communicate with their family, friends, and coworkers.
(b) SENSE OF THE SENATE.—It is the sense of the Senate that e-mail should not now, or in the future, be taxed by Federal, state, or local governments.

SA 2144. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2799, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, between lines 20 and 21, insert the following:

SEC. 413. A Mexican national described in section 212.1(c)(1)(i) of title 8 of the Code of Federal Regulations, as in effect on the date of enactment of this Act, shall be admitted as a nonimmigrant visitor for a period of 6 months.

SA 2145. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 2799, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 30, line 10, strike "\$36,994,000" and insert "\$41,994,000".

SA 2146. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2799, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

Insert at the appropriate place:

SECTION 1. TREATMENT AS AGENT OF A FOREIGN POWER UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 OF NON-UNITED STATES PERSONS WHO ENGAGE IN INTERNATIONAL TERRORISM WITHOUT AFFILIATION WITH INTERNATIONAL TERRORIST GROUPS.

(a) IN GENERAL.—Section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by adding at the end the following new subparagraph:

“(C) engages in international terrorism or activities in preparation therefor; or.”

(b) SUNSET.—The amendment made by subsection (a) shall be subject to the sunset provision in section 224 of the USA PATRIOT Act of 2001 (Public Law 107-56; 115 Stat. 295), including the exception provided in subsection (b) of such section 224.

SEC. 2. ADDITIONAL ANNUAL REPORTING REQUIREMENTS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) ADDITIONAL REPORTING REQUIREMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

- (1) by redesignating—
(A) title VI as title VII; and
(B) section 601 as section 701; and
(2) by inserting after title V the following new title VI:

“TITLE VI—REPORTING REQUIREMENT
“ANNUAL REPORT OF THE ATTORNEY GENERAL

“SEC. 601. (a) In addition to the reports required by sections 107, 108, 306, 406, and 502 in April each year, the Attorney General shall submit to the appropriate committees of Congress each year a report setting forth with respect to the one-year period ending on the date of such report—

“(1) the aggregate number of non-United States persons targeted for orders issued under this Act, including a break-down of those targeted for—

- “(A) electronic surveillance under section 105;
“(B) physical searches under section 304;
“(C) pen registers under section 402; and
“(D) access to records under section 501;

“(2) the number of individuals covered by an order issued under this Act who were determined pursuant to activities authorized by this Act to have acted wholly alone in the activities covered by such order;

“(3) the number of times that the Attorney General has authorized that information obtained under this Act may be used in a criminal proceeding or any information derived therefrom may be used in a criminal proceeding; and

“(4) in a manner consistent with the protection of the national security of the United States—

“(A) the portions of the documents and applications filed with the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted;

“(B) the portions of the opinions and orders of the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted.

“(b) The first report under this section shall be submitted not later than six months after the date of the enactment of this Act. Subsequent reports under this section shall be submitted annually thereafter.

“(c) In this section, the term ‘appropriate committees of Congress’ means—

“(1) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

“(2) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.”

“(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by striking the items relating to title VI and inserting the following new items:

“TITLE VI—REPORTING REQUIREMENT

“(Sec. 601. Annual report of the Attorney General.

“TITLE VII—EFFECTIVE DATE

“(Sec. 701. Effective date.”

SA 2147. Mr. CRAIG (for himself and Mr. HAGEL) submitted an amendment intended to be proposed by him to the bill H.R. 2799, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ DISTRICT JUDGESHIP FOR THE NORTHERN DISTRICT OF ALABAMA.

(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIP.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the northern district of Alabama.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Alabama and inserting the following:

“Alabama:
Northern 8
Middle 3
Southern 3.”

SEC. ____ DISTRICT JUDGESHIPS FOR THE DISTRICT OF ARIZONA.

(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate, 2 additional district judges for the district of Arizona.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Arizona and inserting the following:

“Arizona 14.”

SEC. ____ DISTRICT JUDGESHIPS FOR THE EASTERN AND SOUTHERN DISTRICTS OF CALIFORNIA.

(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate—

- (1) 3 additional district judges for the eastern district of California; and
(2) 1 additional district judge for the southern district of California.

(b) CONVERSION OF TEMPORARY JUDGESHIP TO PERMANENT JUDGESHIP.—The existing judgeship for the eastern district of California authorized by section 203(c) of the Judicial Improvements Act of 1990 (28 U.S.C. 133 note; Public Law 101-650) shall, as of the date of enactment of this Act, be authorized under section 133 of title 28, United States Code, and the incumbent in that office shall hold the office under section 133 of title 28, United States Code (as amended by this Act).

(c) TECHNICAL AND CONFORMING AMENDMENT.—

(1) IN GENERAL.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to California and inserting the following:

“California:
Northern 14

Eastern	10
Central	27
Southern	14."

(2) EFFECTIVE DATE.—This subsection shall take effect on the later of—

- (A) the date of enactment of this Act; or
- (B) July 16, 2003.

SEC. ____ DISTRICT JUDGESHIP FOR THE DISTRICT OF IDAHO.

(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIP.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of Idaho.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Idaho and inserting the following:

"Idaho"	3."
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SEC. ____ TEMPORARY JUDGESHIP FOR THE NORTHERN DISTRICT OF IOWA.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional judge for the northern district of Iowa.

(b) VACANCY NOT FILLED.—The first vacancy in the office of district judge in the northern district of Iowa occurring 10 years or more after the confirmation date of the judge named to fill the temporary district judgeship created by this subsection, shall not be filled.

SEC. ____ CONVERSION OF TEMPORARY JUDGESHIP TO PERMANENT JUDGESHIP FOR THE DISTRICT OF NEBRASKA.

(a) IN GENERAL.—The existing judgeship for the district of Nebraska authorized by section 203(c) of the Judicial Improvements Act of 1990 (28 U.S.C. 133 note; Public Law 101-650) shall, as of the date of enactment of this Act, be authorized under section 133 of title 28, United States Code, and the incumbent in that office shall hold the office under section 133 of title 28, United States Code (as amended by this Act).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Nebraska and inserting the following:

"Nebraska"	4."
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SEC. ____ DISTRICT JUDGESHIPS FOR THE EASTERN DISTRICT OF NEW YORK.

(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate, 2 additional district judges for the eastern district of New York.

(b) TECHNICAL AND CONFORMING AMENDMENT.—

(1) IN GENERAL.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to New York and inserting the following:

"New York:	
Northern	5
Southern	28
Eastern	17
Western	4."

(2) EFFECTIVE DATE.—This subsection shall take effect on the later of—

- (A) the date of enactment of this Act; or
- (B) July 16, 2003.

SEC. ____ TEMPORARY JUDGESHIP FOR THE EASTERN DISTRICT OF NEW YORK.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate 1 additional judge for the eastern district of New York.

(b) VACANCY NOT FILLED.—The first vacancy in the office of district judge in the eastern district of New York occurring 10 years or more after the confirmation date of the judge named to fill the temporary district judgeship created by this subsection, shall not be filled.

SEC. ____ DISTRICT JUDGESHIP FOR THE DISTRICT OF SOUTH CAROLINA.

(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIP.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of South Carolina.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to South Carolina and inserting the following:

"South Carolina"	11."
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SEC. ____ DISTRICT JUDGESHIP FOR THE DISTRICT OF UTAH.

(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIP FOR THE DISTRICT OF UTAH.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of Utah.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Utah and inserting the following:

"Utah"	6."
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NOTICES OF HEARINGS/MEETINGS

PERMANENT SUBCOMMITTEES ON INVESTIGATIONS

Mr. COLEMAN. Mr. President, I announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs will hold two days of hearings entitled "U.S. Tax Shelter Industry: The Role of Accountants, Lawyers and Financial Professionals." The Subcommittee's hearings will examine the role of professional organizations like accounting firms, law firms, and financial institutions in developing, marketing and implementing tax shelters.

The hearings will take place on Tuesday, November 18 and Thursday, November 20, at 9:30 a.m. each day in Room 216 of the Hart Senate Office Building. For further information, please contact Elise Bean, Staff Director and Chief Counsel to the Minority of the Permanent Subcommittee on Investigations, at 224-9505.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

On Thursday, November 6, 2003, the Senate passed H.R. 2673, as follows:

Resolved, That the bill from the House of Representatives (H.R. 2673) entitled "An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes." do pass with the following amendment: Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I

AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, \$10,046,000: Provided, That not to exceed \$11,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

EXECUTIVE OPERATIONS

CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, energy and new uses, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), \$8,707,000.

NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, \$13,997,000.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, \$7,544,000.

HOMELAND SECURITY STAFF

For necessary expenses of the Homeland Security Staff, \$910,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, \$15,710,000.

COMMON COMPUTING ENVIRONMENT

For necessary expenses to acquire a Common Computing Environment for the Natural Resources Conservation Service, the Farm and Foreign Agricultural Service and Rural Development mission areas for information technology, systems, and services, \$118,789,000, to remain available until expended, for the capital asset acquisition of shared information technology systems, including services as authorized by 7 U.S.C. 6915-16 and 40 U.S.C. 1421-28: Provided, That obligation of these funds shall be consistent with the Department of Agriculture Service Center Modernization Plan of the county-based agencies, and shall be with the concurrence of the Department's Chief Information Officer.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, \$5,496,000: Provided, That the Chief Financial Officer shall actively market and expand cross-servicing activities of the National Finance Center.

OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

For necessary salaries and expenses of the Office of the Assistant Secretary for Civil Rights, \$794,000.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, \$15,445,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Administration, \$673,000.

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313, including authorities pursuant to the 1984 delegation of authority from the Administrator of General Services to the Department of Agriculture under 40 U.S.C. 486, for programs and activities of the Department which are included in this Act, and for alterations and other actions needed for the Department and its agencies to consolidate unneeded space into configurations suitable for release to the Administrator of General Services, and for the operation, maintenance, improvement, and repair of Agriculture buildings and